

TEXAS REGISTER

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Texas Register



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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date

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

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

Open Meetings - notices of open meetings.

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

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

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

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

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

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

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

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

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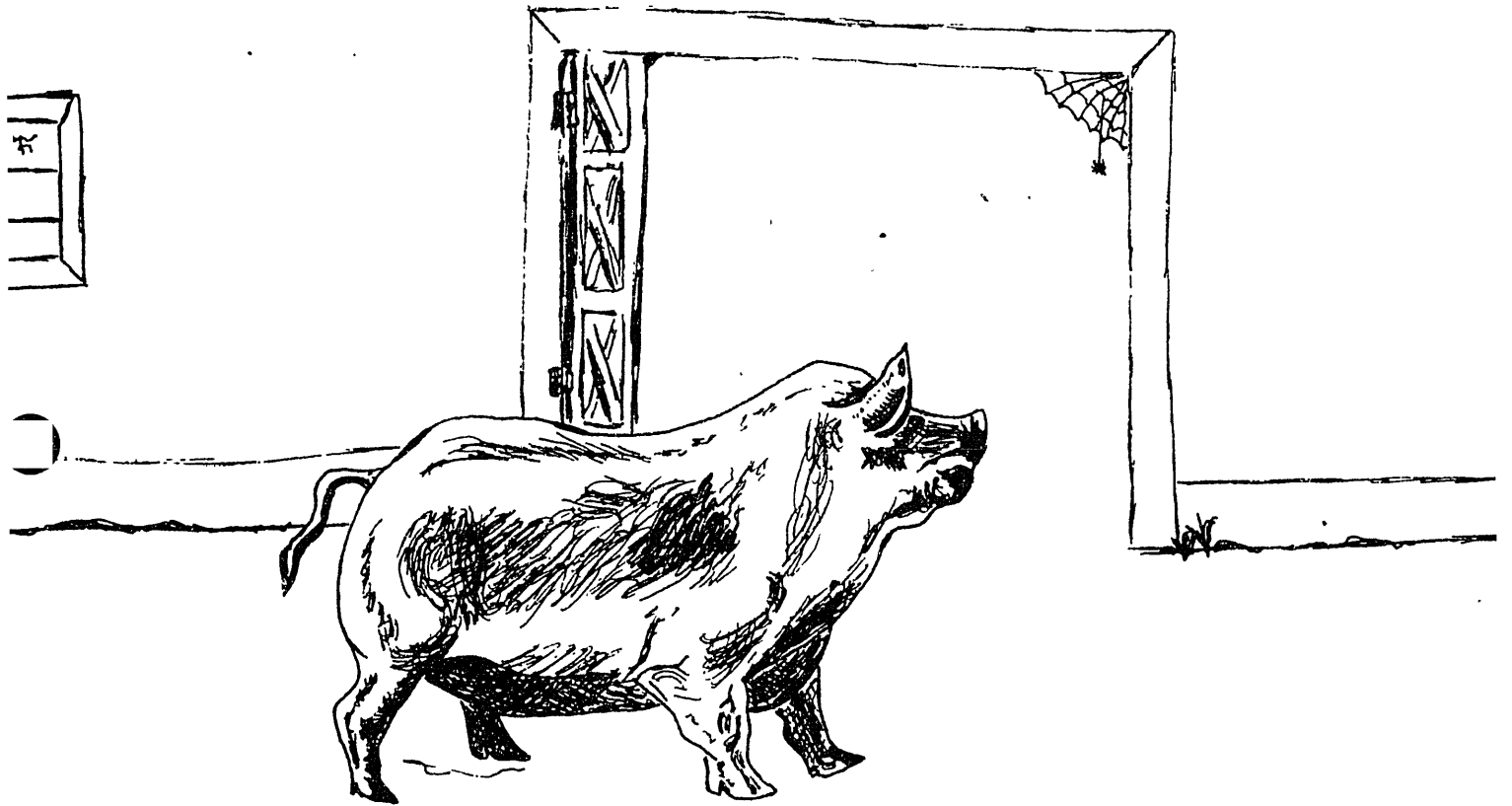
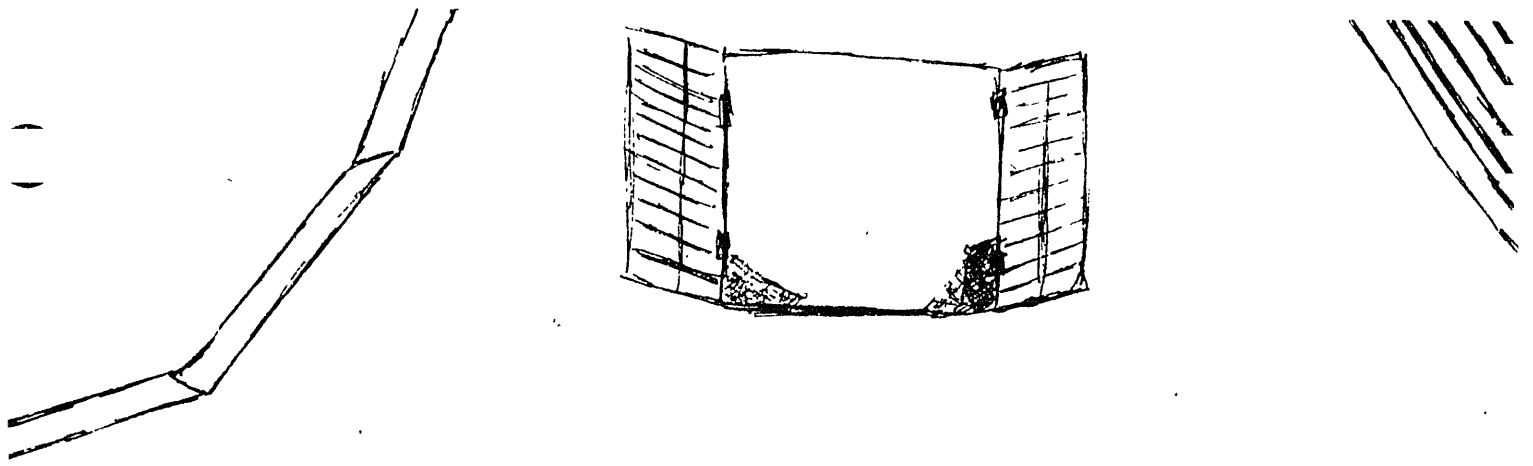
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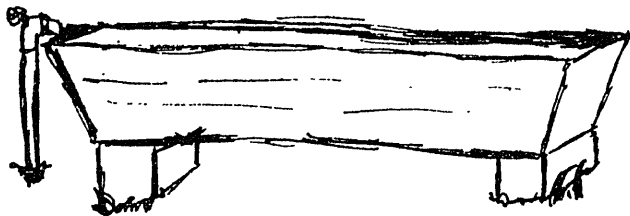
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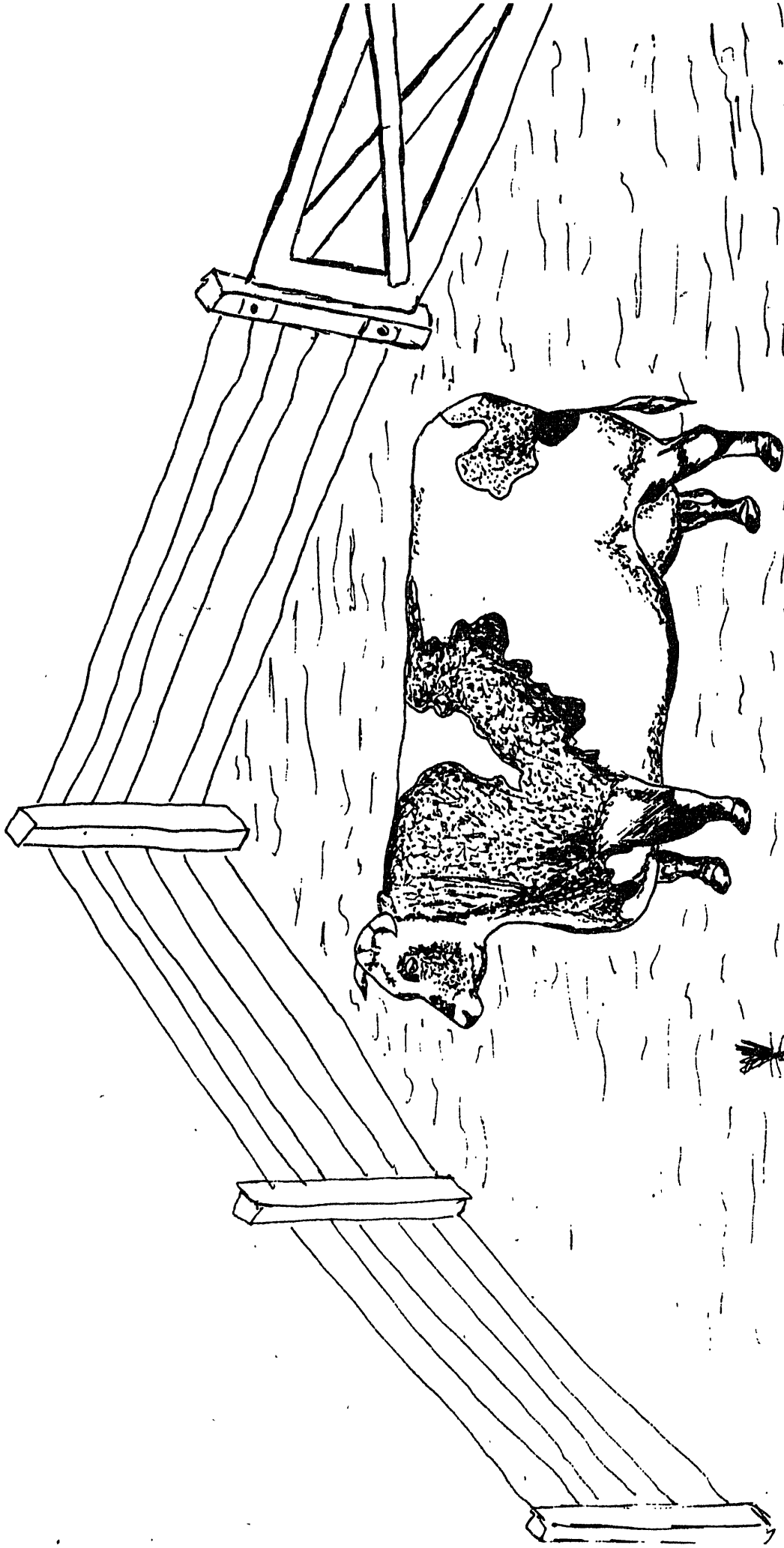
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Name: Danny Calderon
Grade: 10
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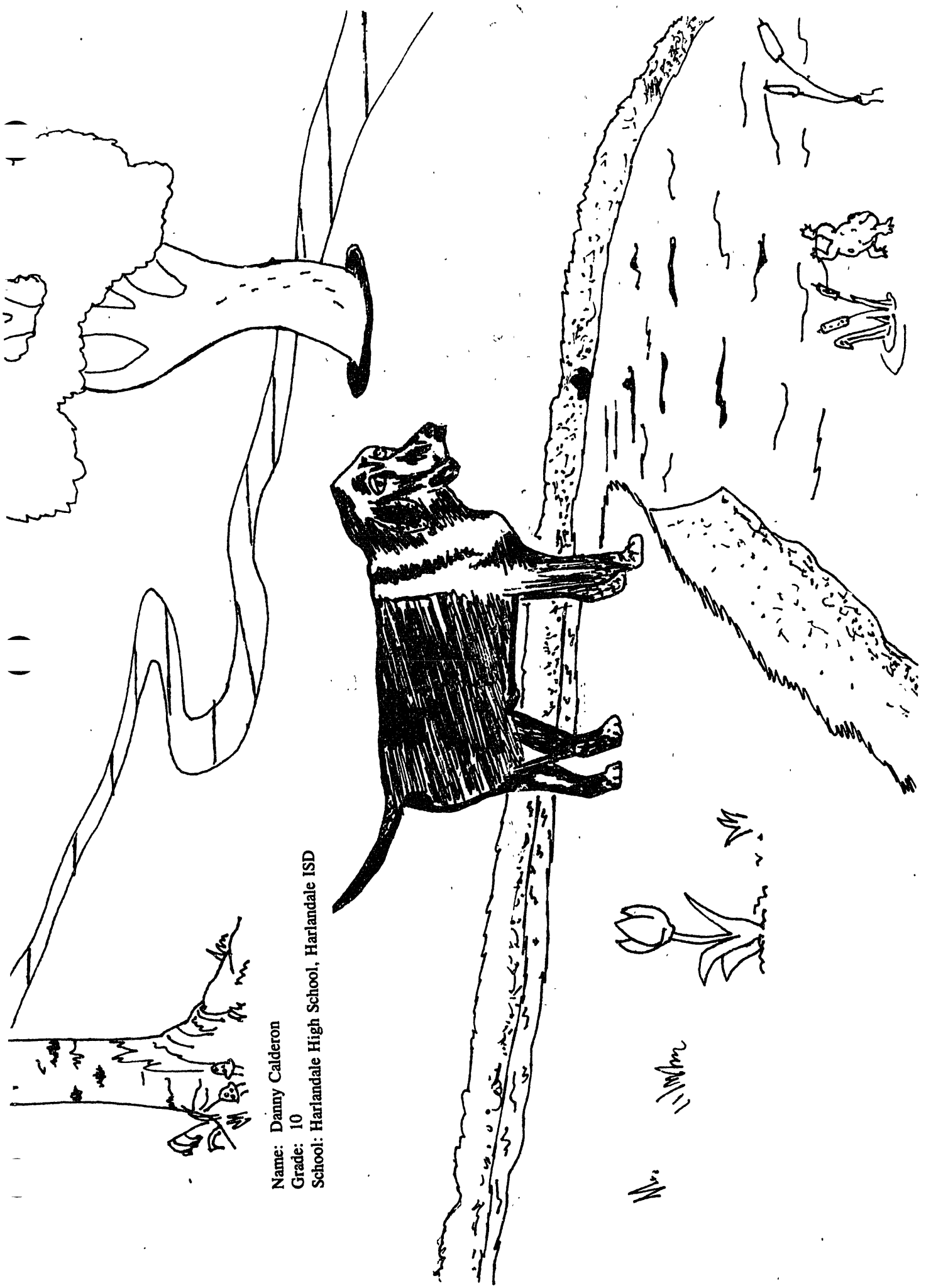




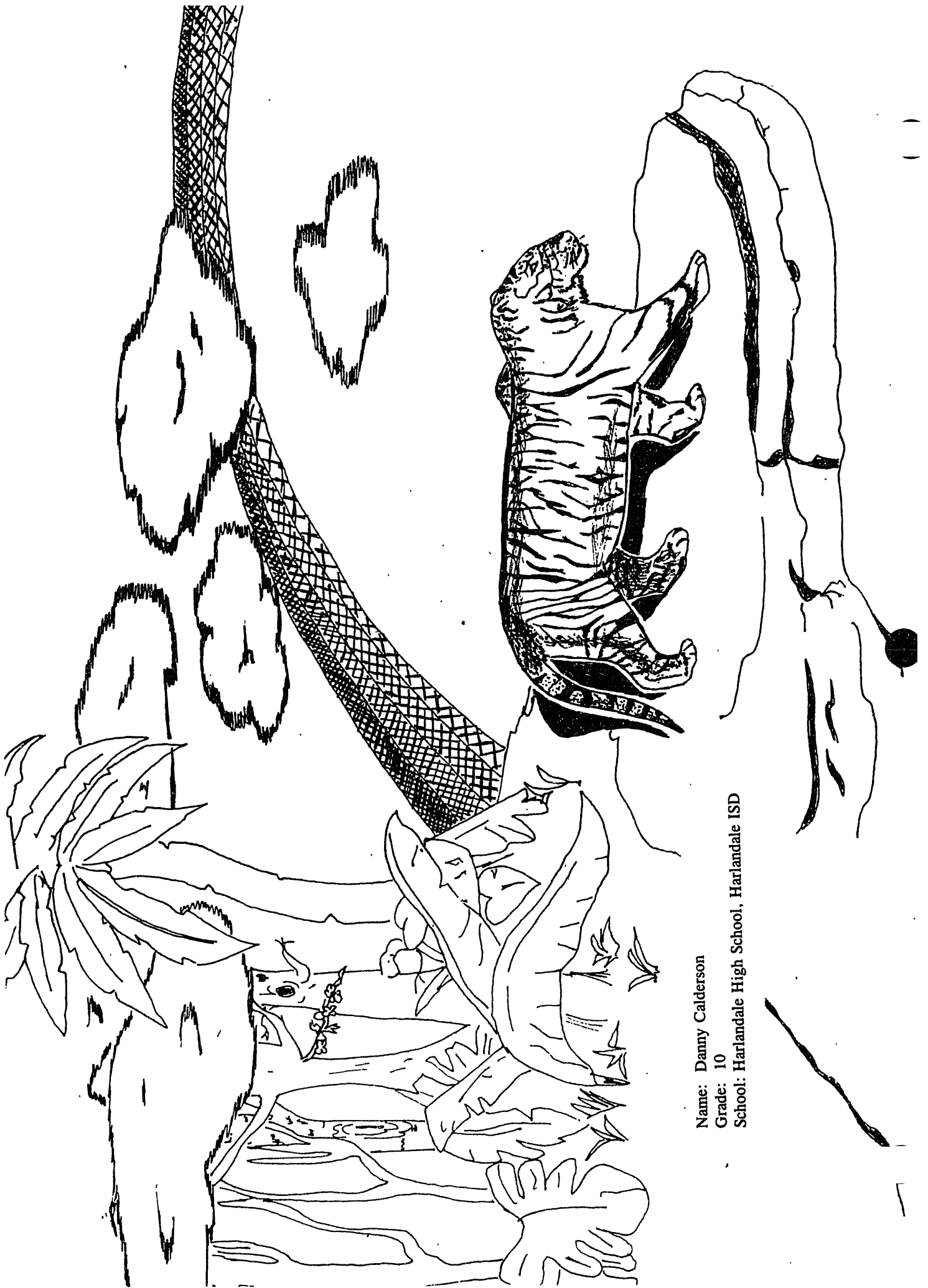
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Name: Danny Calderon
Grade: 10
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Name: Danny Calderson
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ATTORNEY GENERAL

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

Letter Opinions

LO95-070 (ID# 33122). Request from Carole Wayland, Midland County Auditor, 200 West Wall, Midland, Texas 79701, concerning whether the spouse of a county attorney may be employed by that official.

Summary of Opinion. Although a violation of the prohibition against nepotism had not occurred at the time that the spouse began employment in May, 1993, any continued employment subsequent to March, 1995, the date of marriage to the county attorney, was prohibited by the Government Code, §573.041. Further, the prior continuous employment exception is only available if the employee has completed the applicable period of prior continuous service during a time when the relative was not an employer with the power to hire or to fire the employee. See Attorney General Opinion DM-132 (1992).

TRD-9515425

LO95-071 (ID# 36748). The Honorable Mark W. Stiles, Chair, Calendars Committee, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether Article XVI, Section 65 of the Texas Constitution, the "resign to run" provision, is triggered by an announcement that a potential candidate is "seriously considering" a decision to run for a particular office, and a related question.

Summary of Opinion. An individual who utters or publishes the statement: "If the current county judge resigns or decides not to seek re-election, I will seriously consider running for county judge," does not thereby "announce his or her candidacy" for county judge for purposes of Article XVI, Section 65 of the Texas Constitution.

An individual who receives political contributions in connection with a campaign for a particular office is not precluded from using those contributions to finance a campaign for a different office.

TRD-9515424

LO95-072 (RQ-824). Honorable Al Edwards, Chair, Committee on Rules and Resolutions, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a municipality may use sales taxes levied pursuant to Texas Civil Statutes, Article 5190.6, §4B, to construct sanitary sewer lines in an existing residential subdivision.

Summary of Opinion. Texas Civil Statutes, Article 5190.6, §4B, authorizes the board of directors of a development corporation organized under Texas Civil Statutes, Article 5190.6 to determine whether the construction of sanitary sewer lines in an existing residential subdivision would promote or develop new or expanded business enterprises. Although it seems unlikely that the construction of sewer facilities in a residential subdivision would promote or develop new or expanded business enterprises, this office cannot exclude the possibility as a matter of law. The board's determination would be reviewed under an abuse of discretion standard.

TRD-9515423

LO95-073 (ID# 35922). Request from the Honorable Antonio O. Garza, Jr., Secretary of State, Executive Division, P.O. Box 12697, Austin, Texas 78711-2697, concerning status of party primary election workers under state law.

Summary of Opinion. The conduct of the primary elections is entirely regulated by state law. A party in its role of conducting the Texas primary elections functions as an agency of the state. The compensation of the party primary election workers is paid from state funds.

TRD-9515422

Opinions

DM-365 (RQ-623). Request from Honorable Rick Perry, Commissioner, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, concerning whether Texas Civil Statutes, Article 8613, which regulate the sale of motor vehicle fuel to disabled persons, is applicable to any vehicle that displays an appropriate "special device" or "disabled person" identification card.

Summary of Opinion. With few exceptions, Texas Civil Statutes, Article 8613, §2(a) and (b) obligate operators of gasoline stations with "full-serve" and "self-serve" facilities to provide refueling services at "self-serve" prices to those disabled drivers who display a special license plate or identification card issued pursuant to the Transportation Code, §502.253 and §681.002.

We have found no statutory basis upon which to opine that a service station operator has the express or implied authority, or duty, to inquire or determine whether the driver of a vehicle or the person to whom the disabled identification card or license plate was issued is actually disabled. However, we are not cognizant of any prohibition against merely inquiring whether a driver is in fact disabled.

Texas Civil Statutes, Article 8613, §2 provide the sole authority for determining disability with regard to the use of a disabled placard or license plate to receive refueling services. The Transportation Code, Chapter 502, Subchapter H, §681.011 do not provide a basis for recognizing an offense where a person who is not disabled obtains refueling services through the fraudulent use of another's disabled placard or license plate. However, failure to provide refueling services to a person who displays a disabled parking placard or specially designed license plate authorized by the Transportation Code, §502.253 and §681.002 may subject a managing individual or employee to crim-

inal prosecution. Texas Civil Statutes, Article 8613, §5.

TRD-9515421

DM-366 (RQ-784). Request from Kenneth H. Ashworth, Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711-2788, concerning whether a duly recorded abstract of a valid, nondormant, and undischarged judgment may constitute (1) a cloud on the judgment debtor's title to homestead property located in the county where the abstract is recorded and (2) a slander of the judgment debtor's homestead title.

Summary of Opinion. A duly recorded abstract of a valid, nondormant, and undischarged judgment may constitute a cloud on the judgment debtor's title to homestead property located in the county where the abstract is recorded but cannot in itself constitute a slander of the judgment debtor's homestead title.

TRD-9515420

◆ ◆ ◆

TEXAS ETHICS COMMISSION

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

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

Advisory Opinion Request

AOR-326 The Texas Ethics Commission has been asked to consider whether political contributions may be used to be for travel within the State of Texas for the Governor, the Governor and his immediate family, or the Governor's immediate family.

AOR-327 The Texas Ethics Commission has been asked to consider the application of the revolving door provisions in §572.054 of the Government Code to a former state Medicaid director.

AOR-328 The Texas Ethics Commission has been asked to consider the application of §36.10(a)(3) of the Penal Code, which permits certain state officers to accept benefits derived from a function in honor or appreciation of the recipient.

AOR-329 The Texas Ethics Commission has been asked to consider the circumstances in which a state officer may accept a fee for teaching.

AOR-330 The Texas Ethics Commission has been asked to consider whether an employee of a state agency may use work time to work on a lawsuit the employee has filed against the agency.

Issued in Austin, Texas, on November 20, 1995.

TRD-9515540 Lucia Dodson
 Executive Assistant
 Texas Ethics Commission

Filed: November 20, 1995

◆ ◆ ◆



Name: Mary Sanchez

Grade: 12

School: Harlandale High School, Harlandale ISD

EMERGENCY RULES

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

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 17. Vehicle Titles and Registration

Motor Vehicle Registration

• 43 TAC §17.23

The Texas Department of Transportation adopts on an emergency basis a change to existing 17.23, concerning temporary registration permits.

On August 31, 1995, the department adopted on an emergency basis new §17.23 concerning the issuance of temporary registration permits to be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The emergency new section also provided that on or after December 18, 1995, Mexican residents traveling in the commercial zones would no longer be exempt from registration fees and would, therefore, be required to obtain temporary registration permits.

In consideration of public comments from individuals, businesses, and members of the Texas legislature, and the expressed concern for the economy of certain regions of this state, the department filed the proposed version of §17.23 which allows the executive director of the department to enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions and upon the approval of the governor and the making of a determination that the economic benefits to the state outweigh all other factors considered.

To continue the rulemaking process, the department finds it necessary to withdraw the original version of emergency §17.23 to be effective immediately upon filing and which would have expired December 30, 1995. And in order to prevent a period of time when there would have been a lapse in rules, the department is simultaneously filing emergency new §17.23 to read the same as the final adoption of new §17.23.

New §17.23 establishes the department's policies and procedures for the application and issuance of all temporary registration permits that will be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of registration reciprocity, including temporary agricultural permits or additional weight permits, annual registration, 72-hour registration, 144-hour registration, one-trip registration, and 30-day registration. New 17.23 also provides that the department will issue a cardboard tag or windshield validation sticker which must be displayed on the vehicle at all times; provides that the department will issue a receipt as evidence of registration; prohibits the transfer of temporary permits between vehicles and/or owners; describes the process for lost, stolen, or mutilated permits; and authorizes the executive director of the department to enter into a written reciprocal agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents.

Transportation Code, Chapter 502, Subchapter G, authorizes the department to carry out the provisions of those laws governing the issuance of temporary motor vehicle registration including: additional weight permits for transporting the owner's seasonal agricultural products; 72-hour permits and 144-hour permits for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by the residents of the United States or Canada; 30-day temporary nonresident registration permits to move agricultural products produced in Texas; 30-day nonresident registration permits to nonresidents to move or harvest farm products produced outside of Texas; one-trip permits for unladen vehicles; and 30-day temporary registration permits for unladen vehicles.

Transportation Code, §502.354 provides that the executive director may enter into a reciprocal agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents.

Senate Bill 981, 74th Legislature, 1995, amended Texas Civil Statutes, Article 6675a-6c, now codified as Transportation Code, §502.353, to authorize the department to issue annual registration permits to be recognized as legal vehicle registration for the

movement of foreign commercial vehicles on Texas highways. Senate Bill 1420, 74th Legislature, 1995, amended Texas Civil Statutes 6675-6d, now codified as Transportation Code, §502.352, to authorize the department to issue 72/144-hour temporary permits for commercial vehicles owned by residents of Mexico.

It is necessary to adopt new §17.23 on an emergency basis to implement the cited legislative mandates in a manner that will serve the economic needs and welfare of the border regions and the state as a whole so that the economy is not seriously adversely affected, and to facilitate the cross-border service allowed under the North American Free Trade Agreement.

The emergency new section is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically Transportation Code, §502.352 and §502.353, as amended, which authorize the department to issue annual permits for the movement of foreign commercial vehicles on Texas highways and 72 and 144-hour temporary permits for the movement of commercial vehicles owned by residents of the United States, Mexico, or Canada.

§17.23. Temporary Registration Permits.

(a) Purpose and scope. Transportation Code, Chapter 502, Subchapter G, charges the department with the responsibility of issuing temporary registration permits which shall be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. In order for the department to efficiently and effectively perform these duties, this section prescribes the policies and procedures for the application and the issuance of temporary registration permits.

(b) Permit categories. The department will issue the following categories of temporary registration permits.

(1) Additional weight permits. The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary addi-

tional weight permits for the purpose of transporting the owner's own seasonal agricultural products to market or other points for sale or processing in accordance with Transportation Code, §502.351. In addition, such vehicles may be used for the transportation without charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.

(A) Additional weight permits are valid for a limited period of less than one year.

(B) An additional weight permit will not be issued for a period of less than one month or extend beyond the expiration of a license plate issued under Transportation Code, Chapter 502.

(C) The statutory fee for an additional weight permit is based on a percentage of the difference between the owner's regular annual registration fee and the annual fee for the desired tonnage computed as follows:

- (i) one-month (or 30 consecutive days)-10%
- (ii) one-quarter (three consecutive months)-30%
- (iii) two-quarters (six consecutive months)-60%
- (iv) three-quarters (nine consecutive months)-90%

(D) Additional weight permits are issued for calendar quarters with the first quarter to begin on April 1st of each year.

(E) A permit will not be issued unless the registration fee for hauling the larger tonnage has been paid prior to the actual hauling.

(F) Additional weight permits may not be issued to farm licensed trailers or semitrailers.

(2) Annual permits.

(A) Texas Civil Statutes, Article 6675a-6c, authorizes the department to issue annual permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The department will issue annual permits:

(i) for a 12-month period designated by the department which begins on the first day of a calendar month and expires on the last day of the last calendar month in that annual registration period; and

(ii) to each vehicle or combination of vehicles for the registration fee prescribed by weight classification in Transportation Code, §502.162 and §502.167.

(B) The department will not issue annual permits for the importation of citrus fruit into Texas from a foreign country except for foreign export or processing for foreign export.

(C) The following exemptions apply to vehicles displaying annual permits.

(i) Registered foreign semitrailers having gross weights in excess of 6,000 pounds used or to be used in combination with truck tractors or commercial motor vehicles with manufacturer's rated carrying capacities in excess of one ton are exempted from the requirement to pay the token fee and display the associated distinguishing license plate provided for in Transportation Code, §502.167. An annual permit is required for the power unit only.

(ii) Vehicles registered with annual permits are not subject to the optional county registration fee under Transportation Code, §502.172 or the optional registration fee for child safety under Transportation Code, §502.173.

(3) 72-hour permits and 144-hour permits.

(A) In accordance with Transportation Code, §502.352, as amended, the department will issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.

(B) A 72-hour permit or a 144-hour permit is valid for the period of time stated on the permit beginning with the effective day and time as shown on the permit registration receipt.

(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle safety inspection in accordance with Transportation Code, §548.051, except for:

(i) vehicles currently registered in another state of the United States, Mexico, or Canada; and

(ii) mobile drilling and servicing equipment used in the production of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift equipment, forklifts, and tugs.

(D) The department will not issue a 72-hour permit or a 144-hour permit to a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.

(4) Temporary agricultural permits.

(A) Transportation Code, §502.354, authorizes the department to issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:

(i) from the place of production to market, storage, or railhead not more than 75 miles distant from the place of production; or

(ii) to be used in the movement of machinery used to harvest Texas-produced agricultural products.

(B) The department will issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products, produced outside of Texas, but:

(i) marketed or processed in Texas; or

(ii) moved to points in Texas for shipment from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles distant from such point of entry into Texas.

(C) The statutory fee for temporary agricultural permits is one-twelfth of the annual Texas registration fee prescribed for the vehicle for which the permit is issued.

(D) The department will issue a temporary agricultural permit only when the vehicle is legally registered in the nonresident's home state or country for the current registration year.

(E) The number of temporary agricultural permits is limited to three permits per nonresident owner during any one vehicle registration year.

(F) Temporary agricultural permits may not be issued to farm licensed trailers or semi-trailers.

(5) One-trip permits. Transportation Code, §502.354, authorizes the department to temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public roadways for lack of registration or lack of registration reciprocity.

(A) Upon receipt of the \$5.00 fee, registration will be valid for one trip only between the points of origin and destination and intermediate points as may be set forth in the application and registration receipt.

(B) The department will issue a one-trip permit to a bus which is not covered by a reciprocity agreement with the state or country in which it is registered to allow for the transit of the vehicle only. The vehicle should not be used for the transportation of any passenger or property, for compensation or otherwise, unless such bus is operating under charter from another state or country.

(C) A one-trip permit is valid for a period up to 15 days from the effective date of registration.

(D) A one-trip permit may not be issued for a trip which both originates and terminates outside Texas.

(E) A laden motor vehicle or a laden commercial vehicle cannot display a one-trip permit. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

(6) 30-day temporary registration permits. Transportation Code, §502.354, authorizes the department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle operated on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

- (A) passenger vehicles;
- (B) motorcycles;
- (C) private buses;

(D) trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

(E) light commercial vehicles not exceeding a manufacturer's rated carrying capacity of one ton; and,

(F) a commercial vehicle exceeding one ton, provided the vehicle is operated unladen.

(c) Application process.

(1) Procedure. An owner who wishes to apply for a temporary registration permit for a vehicle which is otherwise required to be registered in accordance with §17.22 of this title (relating to Motor Vehicle Registration), must do so on a form prescribed by the director.

(2) Form requirements. The application form will at a minimum require:

(A) the signature of the owner;

(B) the name and complete address of the applicant; and

(C) the vehicle description.

(3) Fees and documentation. The application must be accompanied by:

(A) statutorily prescribed fees;

(B) evidence of financial responsibility:

(i) as required by Transportation Code, Chapter 502, Subchapter G, provided that all policies written for the operation of motor vehicles must be issued by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or

(ii) if the applicant is a motor carrier as defined by Section 18.2 of this title (relating to Definitions), in the form of a registration listing or an international stamp indicating that the vehicle is registered in compliance with Chapter 18, Subchapter B of this title; and

(C) any other documents or fees required by law.

(4) Place of application.

(A) All applications for annual permits must be submitted directly to the department for processing and issuance.

(B) Additional weight permits and temporary agricultural permits may be obtained by making application

with the department through the county tax assessor-collectors' offices.

(C) 72-hour and 144-hour permits, one-trip permits, and 30-day temporary registration permits may be obtained by making application either with the department or the county tax assessor-collectors' offices.

(d) Display of registration insignia. The department will issue a specially designed cardboard tag or windshield validation sticker, upon receipt of a complete application for a permit.

(1) Cardboard tags shall be displayed in a manner that is clearly visible and legible when viewed from outside of the vehicle. The tag shall be attached to or displayed in the vehicle to allow ready inspection.

(2) Windshield validation stickers shall be displayed on the inside of the front windshield in the lower left corner.

(3) A receipt will be issued for each registration insignia as evidence of registration to be carried in the vehicle during the time the permit is valid. If the receipt is lost or destroyed, the owner must obtain a duplicate from the department or from the county office who issued the original receipt. The fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.179.

(e) Transfer of temporary registration permits.

(1) Temporary registration permits are non-transferable between vehicles and/or owners.

(2) If the owner of a vehicle displaying a temporary registration permit disposes of the vehicle during the time the permit is valid, the permit must be returned to the department immediately.

(f) Replacement permits. Vehicle owners displaying annual permits may obtain replacement permits if an annual permit is lost, stolen, or mutilated.

(1) The fee for a replacement annual permit is the same as for a replacement number plate, symbol, tab, or other device as provided by Transportation Code, §502.184, as amended.

(2) The owner shall apply directly to the department in writing for the issuance of a replacement annual permit. Such request should include a copy of the registration receipt and replacement fee.

(g) Agreements with other jurisdictions. In accordance with Transportation Code, §502.054, the executive director of the department may enter into a written agreement with an authorized officer of a state, province, territory, or possession of a

foreign country to provide for the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions. The executive director may enter into such agreement only upon:

- (1) the approval of the governor; and
- (2) making a determination that the economic benefits to the state outweigh all other factors considered.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515589 Robert E. Shaddock
General Counsel
Texas Transportation

Effective date: December 1, 1995

Expiration date: December 30, 1995

For further information, please call: (512) 463-8630

Chapter 18. Motor Carriers

Subchapter B. Motor Carrier Registration

• 43 TAC §18.18

The Texas Department of Transportation adopts on an emergency basis a change to new existing §18.18, concerning temporary registration of an international motor carrier.

Texas Civil Statutes, Article 6675c, §3(j), authorize the department to provide for the temporary registration of an international motor carrier that provides the same proof of insurance as is required for a domestic motor carrier. Pursuant to that statute the commission previously adopted on an emergency basis new §18.18, effective September 1, 1995, which in subsections (d) and (e) provides that the temporary registration of international motor carriers will cease on December 18, 1995.

The emergency new section deletes subsections (d) and (e), thereby allowing for the continuance of the department's temporary international registration program beyond December 18, 1995.

The adoption on an emergency basis is necessary to serve the economic needs and welfare of the border regions and the state as a whole so that the economy is not seriously adversely affected, to provide for the effective registration of international motor carriers, and to protect the public safety.

The new section is adopted on an emergency basis under the Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically Texas Civil Statutes, Article 6675, §3(j), as amended, which authorize the department to provide for the temporary registration of international motor carriers that provide the same proof of insurance as is required for a domestic motor carrier.

§18.18. Temporary Registration of International Motor Carriers.

(a) Registration. In lieu of registering under §18.13 of this title (relating to Application for Motor Carrier Registration), an international motor carrier may apply for temporary registration in accordance with the provisions of this section.

(b) Application and issuance of registration stamp.

(1) Place of application. An international motor carrier may apply to an insurance agent for international temporary registration.

(2) Issuance. The insurance agent shall issue temporary registration upon the international motor carrier:

(A) providing proof of insurance at or above the levels required by §18.16(a) and (b) of this title (relating to Insurance Requirements); and

(B) paying a fee of \$10 for each commercial motor vehicle or tow truck to be operated in this state.

(3) Registration stamp. Upon compliance with paragraph (1) of this subsection, the insurance agent will issue the carrier an international registration stamp which will be valid for one trip of no more than seven days in duration.

(4) Use of stamp. The international registration stamp shall be affixed to the temporary insurance policy, and shall be carried in the vehicle at all times.

(c) Insurance agents.

(1) Purchase of stamps. An insurance agent may obtain international registration stamps from the department upon filing, in a form prescribed by the director, evidence of a master liability policy. The department will assign an identification number to the policy and to all stamps issued under the policy. Stamps may be obtained, in lots of five stamps per lot, either:

(A) by purchase, at a cost of \$10 per stamp; or

(B) by consignment, with monies collected upon the sale of the stamps to be remitted to the department as provided in paragraph (4)(B) of this subsection.

(2) Consignment.

(A) Qualifications. Only insurance agents who are duly licensed by the Texas Department of Insurance and who

maintain evidence of master insurance policies on file with the department may obtain and sell international registration stamps on consignment from the department.

(B) Surety bond. An insurance agent selling international registration stamps on consignment shall file a surety bond, in a form approved by the department, issued by a corporate surety authorized to do business in this state. The bond shall ensure the return of all unused stamps, and shall ensure full timely remittance of monies collected on the sale of stamps. The amount of the bond shall be at least two times the total value of stamps held on consignment at any given time. Written notice of renewal of a bond shall be given to the department before international registration stamps may be taken on consignment from the department.

(3) Recordkeeping.

(A) For each international registration stamp sold by an insurance agent, the agent shall record, on a form approved by the director:

(i) the name of the motor carrier to whom the stamp is issued;

(ii) the vehicle identification number, and the year, make, and license number of the vehicle for which the stamp is issued;

(iii) the date of sale; (iv) the port of entry; (v) the trip policy number; and

(vi) the effective period of the temporary insurance policy.

(B) Within 30 days of the sale of a stamp to a carrier, the agent shall submit to the department evidence of the sale, including the information required by subparagraph (A) of this paragraph.

(4) Fees.

(A) Charge. An insurance agent may not charge an international motor carrier more than \$10 for each international registration stamp.

(B) Sale on consignment. An insurance agent selling international registration stamps on consignment shall remit to the department the fee collected from the sale of a stamp no later than 30 days from the date the stamp is sold. If an insurance agent fails to remit monies to the department by the due date, the department shall discontinue issuing stamps to the agent on consignment, and may seek to enforce payment of the surety bond. No stamp shall be held on consignment for a period exceeding

one year from the date of consignment by the department.

(5) Design change. In the event of a design change on international stamps, the department shall redeem all unused stamps sold by the department, and shall exchange for new stamps all unused stamps consigned by the department. If a design change occurs, agents holding unused stamps shall send the stamps to the department for refund or exchange within 60 days after the effective date of the design change. Stamps not returned within the 60-day period are void.

(d) Enforcement of surety bond. The department will seek to enforce payment of the surety bond for failure to return all unused stamps and for failure to pay for all stamps issued on consignment.

Issued in Austin, Texas, on November 30, 1995.

TRD-9515494

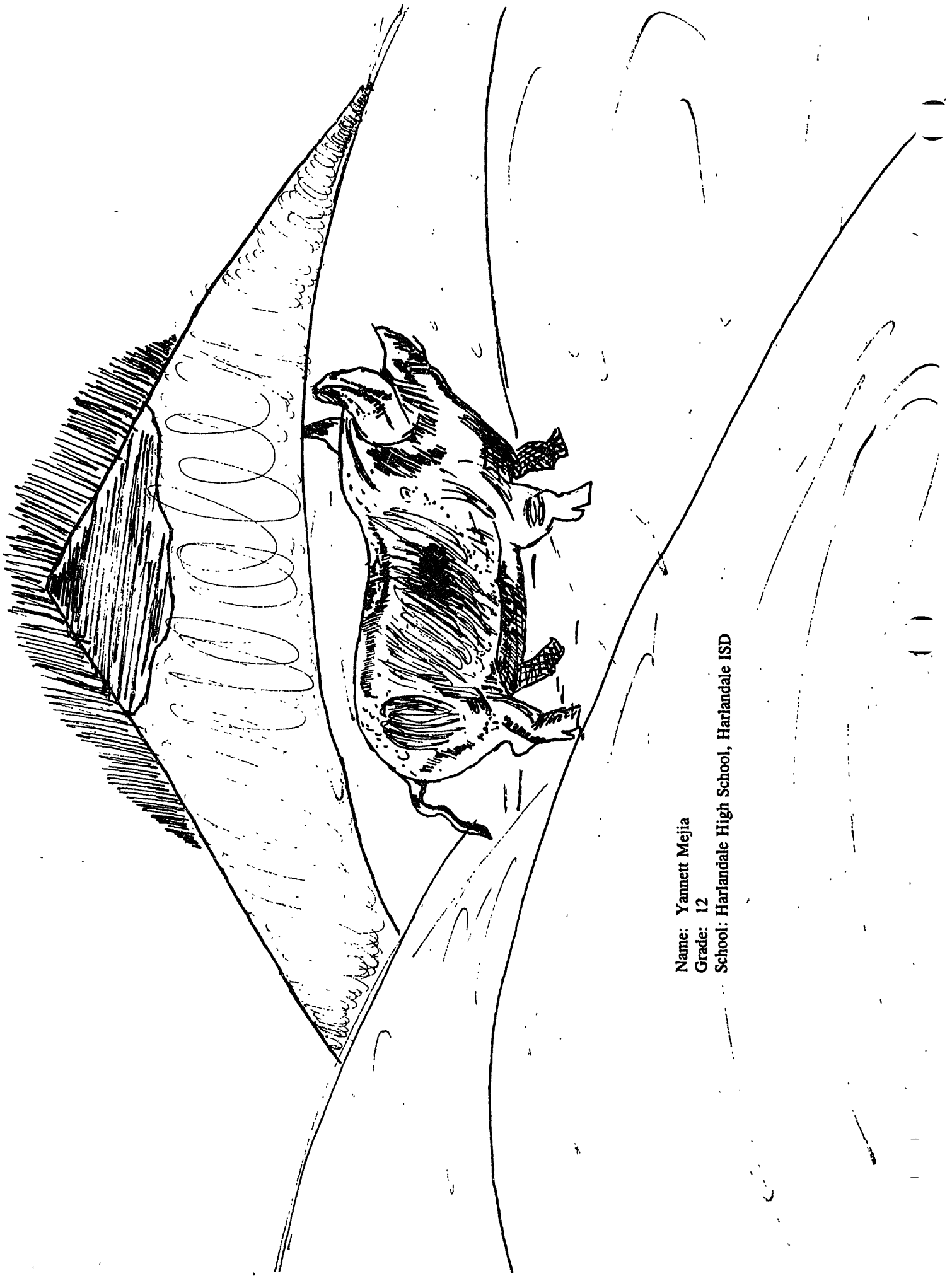
Robert E. Shaddock
General Counsel
Texas Department of
Transportation

Effective date: November 30, 1995

Expiration date: December 30, 1995

For further information, please call: (512)
463-8630

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PROPOSED RULES

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

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

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

• 10 TAC §9.9

The Texas Department of Housing and Community Affairs (TDHCA) proposes and amendment to §9.9, concerning the allocation of Community Development Block Grant (CDBG) non-entitlement area funds under the Texas Community Development Program. The amendments are being proposed to make changes to the application and selection criteria for the Colonia Fund.

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

Ms. Cedillo also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the equitable allocation of CDBG non-entitlement area funds to eligible units of general local government in Texas. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

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

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

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

§9.9. Colonia Fund.

(a) General provisions. This fund covers the payment of assessments, access fees, and capital recovery fees for low and moderate income persons for eligible water and sewer improvements projects, all other program eligible activities, and eligible planning activities projects to serve severely distressed unincorporated areas of counties which meet the definition of a colonia under this fund. A colonia is defined as: any identifiable unincorporated community that is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and was in existence as a colonia prior to November 28, 1990. For an eligible county to submit an application on behalf of eligible colonia areas, the colonia areas must be within 150 miles of the Texas-Mexico border region, except that any county that is part of a standard metropolitan statistical area with a population exceeding one million is not eligible under this fund.

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

(3) Eligibility for the Department's 1995 program year colonia economically distressed areas program fund (colonia EDAP fund) is limited to counties and cities that meet the following criteria: the county is eligible for the Department's colonia fund and the Texas Water Development Board's Economically Distressed Areas Program or in the case of an incorporated city, the city is located in a county that is eligible for the Department's colonia fund and the Texas Water Development Board's Economically Distressed Areas Program; to be eligible, a city applicant must have annexed the eligible colonia area since January 1, 1993, or must be in the process of annexing the eligible colonia area included in the application for the Department's colonia EDAP fund improvements; the county or city must have already received a funding commitment from the Texas Water Development

Board's Economically Distressed Areas Program for a water or sewer system improvements project for the colonia areas included in the application for the Department's colonia EDAP fund improvements; and the county or city must have already completed the engineering design phase for the water or sewer system project that was funded by the Texas Water Development Board's Economically Distressed Areas Program.

(b) Eligible activities. The only eligible activities under the colonia fund are:

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

(4) For the Department's 1995 program year colonia EDAP fund, the only eligible activity, besides eligible associated engineering and administrative costs, is the provision of assistance to income-eligible persons for connection to water or sewer systems funded through the Texas Water Development Board's Economically Distressed Areas Program. For the purposes of this fund, connection to the water or sewer system includes access fees and improvements on private property such as taps, meters, yard service lines, service connections, connection fees and other costs associated with the connection of a housing unit occupied by income-eligible persons to the water or sewer system.

(c) Types of applications. Eligible applicants may submit one application for the colonia EDAP fund, the colonia construction fund and the colonia planning fund. Eligible planning activities cannot be included in an application for the colonia construction fund. [The highest ranked applicants that submitted 1993 program year colonia demonstration fund applications, but did not receive 1993 program year contract awards after the completion of the 1993 program year colonia demonstration fund competition, will be considered for funding from 1994 program year colonia funds. The Department will not accept any new colonia demonstration fund applications during the 1994 and 1995 program years.]

(d) Funding cycle. The colonia construction fund and the colonia planning fund are [This fund is] allocated on a biennial basis to eligible county applicants for the 1994 and 1995 program years pursuant to a competition held during the 1994 program year. The colonia EDAP fund is distributed on a first-come, first-serve, basis for the 1995 program year. Applications for funding from the 1994 and 1995 program year allocations must be received by the Department by 5:00 p.m. on the dates specified in the most recent application guide for each separate colonia fund category.

(e) Selection procedures.

(1) On or before the application deadline, each eligible county may submit one application for the colonia EDAP fund, the colonia construction fund and the colonia planning fund. Copies of the application must be provided to the applicant's regional planning commission and the Department.

(2)-(7) (No change)

(8) The Department evaluates the information provided in each 1995 program year colonia EDAP fund application and following a final technical review, the Department staff makes 1995 program year funding recommendations to the executive director of the Department.

(9)[(8)] [When the 1995 program year Texas Community Development Program allocation becomes available, the] The executive director of the Department reviews the 1995 program year funding recommendations and announces the contract awards

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

(f)-(g) (No change.)

(h) Selection criteria (colonia EDAP fund). The following is an outline of the application information that is evaluated by a committee composed of Department staff.

(1) The severity of need within the colonia area(s) and how the proposed activities to install water and sewer improvements on private property resolve the connection of income-eligible persons

to the water and sewer systems financed through the Texas Water Development Board's Economically Distressed Areas Program.

(2) The effective use of the Department's colonia EDAP funds to provide water or sewer connections/yard lines to water/sewer systems funded by the Texas Water Development Board's Economically Distressed Areas Program.

(3) The Texas Community Development Program cost per low/moderate-income beneficiary.

(4) Whether the applicant has provided any local matching funds for administrative, engineering, or construction activities.

(5) Whether the applicant has adopted and enforced subdivision regulations or a subdivision ordinance.

(6) If applicable, the projected water and/or sewer rates after completion of the project based on 3,000 gallons, 5,000 gallons and 10,000 gallons of usage.

(7) The ability of the applicant to utilize the grant funds in a timely manner; the applicant's request should be timed so that the treatment, distribution, and/or collection systems funded by the Texas Water Development Board are nearly complete so that Texas Community Development Program funds for connections may be expended after a grant award is made.

(8) The availability of grant funds to the applicant for project financing from other sources.

(9) The applicant's past use of Community Development Block Grant or Texas Community Development Program funds over each of the past three years and the applicant's Community Needs Assessments or Final Statements, if applicable, for Community Development Block Grant or Texas Community Development Program applications during each of the past three years.

(10) The applicant's past performance on prior Texas Community Development Program contracts.

[(h) Selection criteria (colonia demonstration fund). The following is an outline of the selection criteria used by the Department for scoring 1993 program year colonia demonstration fund applications. The Department will not accept any new colonia demonstration fund applications during the 1994 and 1995 program years. Four hundred seventy-five points are available.

[(1) Community distress (total-60 points). All community distress factor scores are based on the unincorporated population of the applicant. An appli-

cant that has 125% or more of the average of all applicants in its region of the rate on any community distress factor, except per capita income, receives the maximum number of points available for that factor. An applicant with less than 125% of the average of all applicants in its region on a factor will receive a proportionate share of the maximum points available for that factor. An applicant that has 75% or less of the average of all applicants in its region on the per capita income factor will receive the maximum number of points available for that factor.

[(A) Percentage of persons living in poverty-15;

[(B) Per capita income-15;

[(C) Percentage of housing units without public sewer service-15; and

[(D) Percentage of housing units without public water service-15.

[(2) Benefit to low and moderate income persons (total-50 points). To determine the percentage of Texas Community Development Program funds benefiting low to moderate income persons, the number equal to the percentage of low to moderate income persons benefiting from the proposed project multiplied by the amount of Texas Community Development Program funds requested for construction activities is divided by the total amount of Texas Community Development Program funds requested. Points are awarded based on the percentage of Texas Community Development Program funds benefiting low to moderate income persons in accordance with the following scale:

[(A) 100% to 90% of funds benefiting low to moderate income persons-50;

[(B) 89.99% to 80% of funds benefiting low to moderate income persons-40;

[(C) 79.99% to 70% of funds benefiting low to moderate income persons-25;

[(D) 69.99% to 60% of funds benefiting low to moderate income persons-10; and

[(E) Below 60% of funds benefiting low to moderate income persons-0.

[(3) Percentage of minorities presently employed by the applicant divided

by the percentage of minority residents within the local community (total-25 points). In the event less than 5.0% of the applicant's population base is composed of minority residents or the applicant has less than five full-time permanent employees, the applicant will be assigned the average score on this factor for all applicants, or the score calculated on its actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

[(4) Matching funds (total-60 points). The percentage of matching funds (matching funds divided by the applicant's Texas Community Development Program request) committed to the project by an applicant is scored according to the following scale:

[(A) matching funds equal to or greater than 30% of grant request-60;

[(B) matching funds at least 20% but less than 30% of grant request-40;

[(C) matching funds at least 10% but less than 20% of grant request-20;

[(D) matching funds less than 10% of grant request-0.

[(5) Project activities (total 100 points). Each application is scored based on the activities included in the project. An applicant receives the points for an activity that has already been completed in the colonia area. Points are awarded for the following activities:

[(A) Project includes first time public water service or the colonia residents are already receiving public water service-20;

[(B) Project includes first time public sewer service or the colonia residents are already receiving public wastewater treatment service-20;

[(C) Project includes housing rehabilitation and/or affordable new housing component or the colonia housing units already meet standards-20;

[(D) Project includes first time street paving or the streets in the colonia are already paved with a permanent surface-10;

[(E) Project includes first time designed drainage structures or adequate drainage structures are already present in the colonia-10;

[(F) Project includes the construction of a community center in the colonia or a community center is already built in the colonia-10;

[(G) Project includes the development of parks/recreation facilities in the colonia or these facilities already exist in the colonia-10;

[(6) Project design (total-180 points). Each application is scored by a committee composed of Texas Community Development Program staff based on the oral presentation, the on-site inspection, and the following information submitted in the application:

[(A) the severity of need within the colonia area and how the proposed project resolves the identified need;

[(B) whether the project provides a comprehensive approach which provides for basic, recreational and other needs of the colonia residents;

[(C) whether the applicant has ever received funds from previous Texas Community Development Program colonia fund allocations;

[(D) the linkage of program funds with other federal, state, or local funding sources;

[(E) the involvement of local or nonprofit organizations;

[(F) the Texas Community Development Program cost per low to moderate income beneficiary;

[(G) whether the applicant has adopted and enforced subdivision regulations or subdivision orders;

[(H) if applicable the projected water and/or sewer rates after completion of the project based on 3,000 gallons, 5,000 gallons, and 10,000 gallons of usage;

[(I) the ability of the applicant to utilize the grant funds in a timely manner;

[(J) the availability of grant funds to the applicant for project financing from other sources;

[(K) the applicant's past use of Community Development Block Grant or

Texas Community Development Program funds over each of the past three years and the applicant's Community Needs Assessments or Final Statements, if applicable, for Community Development Block Grant or Texas Community Development Program applications during each of the past three years; and

[(L) the applicant's past performance on prior Texas Community Development Program contracts.]

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

Issued in Austin, Texas, on December 1, 1995.

TRD-9515539

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

Earliest possible date of adoption: January 8, 1996

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

TITLE 16. ECONOMIC REGULATION

Part VI. Texas Motor Vehicle Commission

Chapter 105. Advertising

• 16 TAC §§105.2, 105.4, 105.8,
105.10, 105.17, 105.24, 105.26

The Motor Vehicle Board of the Texas Department of Transportation proposes amendments to §§105.2, 105.4, 105.8, 105.10, 105.17, 105.24, 105.26, concerning regulation of motor vehicle dealers advertising motor vehicles for sale or lease. The amendments clarify the requirement that a specific used vehicle must be in the possession of the dealer if it is to be advertised for sale and that a discount may not be advertised on a used vehicle. The amendments to §§105.4, 105.8 and 105.17 expand advertising rules to include leased motor vehicles as well as those for sale, and §105.26 clarifies radio broadcast advertisement requirements for lease disclosures.

Brett Bray, Director, Motor Vehicle Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. There will be no significant impact on local economies or overall employment as a result of enforcing or administering the sections.

Mr. Bray also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the rules will be an increased ability to make informed choices regarding motor vehicles advertised for sale or

lease. There will be no effect on small business. There is no additional anticipated cost to persons required to comply with these sections as proposed.

Comments on the proposed rules (ten copies) may be submitted to Brett Bray, Director, Motor Vehicle Division, P.O. Box 2293, Austin, Texas 78768. The Texas Motor Vehicle Board will consider final adoption of the proposed rules at its meeting on January 18, 1996. The deadline for receipt of comments on the proposed amendments will be 5:00 p.m., on January 8, 1996.

The amendments are proposed under the Texas Motor Vehicle Commission Code, §3.06, which provides the Board with authority to adopt rules necessary and convenient to effectuate the provisions of the act.

Motor Vehicle Commission Code, §5.01A is affected by the proposed amendments.

§105.2. General Prohibition. A person advertising motor vehicles [licensee] shall not use false, deceptive, unfair, or misleading advertising. [Nor shall any other person advertising new motor vehicles use false, deceptive, unfair, or misleading advertising.]

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

Bait advertisement—An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the advertiser.

§105.5. Availability of Vehicles.

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

(c) Motor vehicle dealers may advertise a specific used vehicle or vehicles for sale if:

(1) The specific used vehicle or vehicles is in the possession of the dealer at the time the advertisement is placed; and

(2) The title certificate to the used vehicle has been assigned to the dealer.

§105.8. Layout. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or

display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualifications shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

§105.10. Dealer Price Advertising.

(a) The featured price of a new or used motor vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

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

(b)-(e) (No change.)

§105.17. Free Offers. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement or if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

§105.24. Savings Claims; Discounts.

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

(d) No person may advertise a savings claim or discount offer on used motor vehicles.

§105.26. Payment Disclosures—Lease.

(a) (No change.)

(b) An advertisement that promotes a consumer lease by a radio broadcast and includes any of the information in subsection (a)(1)-(3) of this section may disclose the information required in subsection (a)(A)-(E) of this section by means of a referral to [:] paragraph (1) or (2) of this subsection, as long as the radio broadcast discloses that the transaction is a lease and the amount of any payment required at the beginning of the lease or that no such payment is required, if that is the case.

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

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515594

Brett Bray
Director, Motor Vehicle
Division
Texas Motor Vehicle
Commission

Proposed date of adoption: January 18, 1996

For further information, please call: (512) 463-8630

Chapter 111. General Distinguishing Numbers

• 16 TAC §111.10

The Motor Vehicle Board of the Texas Department of Transportation proposes an amendment to §111.10, concerning regulation of motor vehicle dealer operating hours and dealership facilities. The amendment defines normal working hours and specifies the number of dealers who may occupy a business or residential structure.

Brett Bray, Director, Motor Vehicle Division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There will be no significant impact on local economies or overall employment as a result of enforcing or administering the section.

Mr. Bray also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the rule will be an enhanced ability to contact motor vehicle dealers regarding particular sales or sale problems. Individual dealers will be more readily associated with a particular dealership location. The enforcement of the basic requirement that dealers be actively and regularly engaged in business will be facilitated in that the amendment will define normal working hours and limit the number of dealers that may locate in any single business structure. Independent dealerships as small businesses clustered in common dealership facilities may have to relocate in the first year the amendment is in effect, incurring relocation costs. The one-time relocation cost of compliance per unit in inventory or per \$100 of sales should not differ between small and large dealerships.

Comments on the proposed rule (ten copies) may be submitted to Brett Bray, Director, Motor Vehicle Division, P.O. Box 2293, Austin, Texas 78768. The Texas Motor Vehicle Board will consider final adoption of the proposed rule at its meeting on January 18, 1996. The deadline for receipt of comments on the proposed amendment will be 5:00 p.m., on January 8, 1996.

The amendment is proposed under the Texas Motor Vehicle Commission Code, §3.01(a), which provides the Board with authority to enforce and administer the terms of Article 6686, Revised Statutes (now codified as the Transportation Code, Chapter 503), and §3.06, which provides the Board with authority to adopt rules necessary and convenient to effectuate the provisions of the Act. Transportation Code §503.032 and §503.038 are affected by the proposed amendments.

§111.10. Established and Permanent Place of Business. All dealers [A dealer] must meet the following requirements at each

location where vehicles are sold or offered for sale.

(1) Office requirements.

(A) A dealer's office facility must be open to the public during normal working hours. Normal working hours are defined as at least five days per week for a continuous period of time not less than four hours per day between the hours of 8:00 a.m. and 8:00 p.m. The dealer's business hours for each day of the week must be posted at the main entrance of the dealer's office, and the owner or a bona fide employee of the dealer must be at the dealer's location during the posted business hours for the purpose of buying, selling, exchanging, or leasing vehicles. In the event the owner or a bona fide employee is not available to conduct business during the dealer's posted business hours, a separate sign must be posted indicating the date and time such owner or a bona fide employee will resume dealer operations. In addition, such dealership must notify the division in writing of any subsequent change in the dealer's standard business hours. [The structure must be of sufficient size to accommodate the usual office furniture and equipment, such as a desk, file cabinet, chairs, etc. As a minimum, the office must be equipped with a desk and chairs from which the dealer transacts his business and be equipped with a working telephone instrument listed in the name under which the dealer does business.]

(B) With the exception of dealers holding only a wholesale license, no more than one dealer may be located in a business or residential structure. The structure must be of sufficient size to accommodate the usual office furniture and equipment, such as a desk, file cabinet, chairs, etc. As a minimum, the office must be equipped with a desk and chairs from which the dealer transacts his business and be equipped with a working telephone instrument listed in the name under which the dealer does business. If a dealer's office is located in a residential structure, the office must be completely separated from and have no direct access into the residential quarters and be in compliance with all applicable local zoning ordinances and deed restrictions. Such an office shall not be used as a part of the living quarters and must be readily accessible to the public without having to pass into or through any part of the living quarters.

(C) (No change.)

(D) If a dealer conducts business in conjunction with another business owned by the same person, the same telephone instrument may be used for both businesses. However, if the name of the

dealer differs from that of the other business, a separate telephone listing and a separate sign for the dealer is required.

(E) If a dealer conducts business in conjunction with another business not owned by the same person, the same telephone number may be used by both businesses; however, the dealer shall have a separate sign, a separate desk, a separate working telephone instrument, and a separate telephone listing in the name of the dealer. The dealer must either own the property or have a separate lease agreement from the owner meeting the requirements of paragraph (4) of this section.

(F) More than one, but no more than four dealers who hold only a wholesale license may [In those instances when two or more] occupy the same business structure [location] and conduct their respective dealer operations under different names, [one office structure for all dealers operating from such location will be acceptable]; provided, however, each wholesale dealer must, in addition to having a qualifying dealer's sign conspicuously displayed on the premises, and being open during normal working hours, have:

(i) (No change.)

(ii) a separate working telephone instrument and listing in the dealer's name; and,

[(iii)] a separate display space meeting the requirements of paragraph (3) of this section; and]

[(iii)][(iv)] a separate lease agreement meeting the requirements of paragraph (4) of this section.

(2)-(4) (No change.)

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515593

Brett Bray
Director, Motor Vehicle
Division
Texas Motor Vehicle
Commission

Proposed date of adoption: January 18, 1996

For further information, please call: (512) 463-8630

Part IX. Texas Lottery Commission

Chapter 401. Administration of the State Lottery Act

The Texas Lottery Commission proposes amendments to §§401.152 (relating to Application for License), 401.153 (relating to Quali-

fication for License), 401.156 (relating to Renewal for License), 401.157 (relating to Temporary License), 401.159 (relating to Summary Suspension of License), 401.301 (relating to General Definitions), 401.302 (relating to Instant Game Rules), 401.303 (relating to Grand Prize Drawing Rule), 401.304 (relating to On-Line Game Rules (General)), 401.352 (relating to Settlement Procedures), 401.355 (relating to Restricted Sales), 401.356 (relating to Sales Price of Tickets), 401.358 (relating to Promotional Tickets), 401.361 (relating to Required Purchases of Lottery Tickets), 401.362 (relating to Security Procedures), 401.363 (relating to Retailer Record), 401.364 (relating to Training), and 401.366 (relating to Compliance with All Applicable Laws).

Many of the amendments are being proposed to clarify language that became inconsistent when the Texas Lottery Commission, the agency, was created by House Bill 54, 72nd Legislature, First Called Session as amended by House Bill 1587, 73rd Legislature, Regular Session. Additionally, there are several instances in which the language is amended to reflect correct statutory references. Phrases within several of the rules are amended to correspond with the practices of the Texas Lottery Commission.

The language in §401.153 is amended to incorporate legislation promulgated by House Bill 3031, 74th Legislature, Regular Session, regarding the locations lottery tickets may be sold.

Richard Sookiasian, Budget Analyst, has determined that for the first five year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Kimberly L. Kiplin, General Counsel, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the clarification of confusing terminology. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No effect on local employment is anticipated.

Comments may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

Subchapter B. Licensing of Sales Agents

- 16 TAC §§401.152, 401.153, 401.156, 401.157, 401.159

The amendments are proposed under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt all rules governing the establishment and operation of the lottery.

These rules implement the Texas Government Code, §466.015.

§401.152. Application for License.

(a) (No change.)

(b) The executive director or his/her designee shall develop all forms and related documents including, but not limited to, an application form, release form to obtain a credit report, and/or any other background information relating to the applicant required to determine the applicant's eligibility for a license and whether the granting of a license to the applicant will best serve the public convenience. An applicant must disclose all criminal convictions for those individuals of whom an investigation is authorized under the Texas Government Code, §466.201 [State Lottery Act, §3.06], and which are requested in the application.

(c)-(d) (No change.)

(e) Every license application submitted to the director under this subchapter shall be accompanied by security as authorized by the Texas Government Code, §466.014(e) [State Lottery Act, §2.02(e)], in a form and amount determined by the director. If the director determines that the purposes of the Act would be best served through establishment and maintenance of a pooled fund for purposes of reimbursing the division for losses arising from the operation of licensed sales agents, the director may require security in the form of a mandatory contribution by each applicant. Any amount so contributed shall be refunded by the director to the applicant upon denial of the related application for any reason. The amount of any such contribution may, at the director's discretion, be refunded after receipt of a license by an applicant under this subchapter, if the licensee does not sell a ticket while licensed. Once a licensee has begun ticket sales under said license, that licensee's contribution under this subsection may not be refunded.

(f) (No change.)

§401.153. Qualifications for License.

(a) Before issuing a license to any person under this subchapter, the director shall consider:

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

(3) the sufficiency of existing sales agents to serve the public convenience. Consideration of this factor may include analysis of number and proximity of other sales agents in a given market area, and/or number of "minority businesses" (as that term is defined in the Texas Government Code, § 466.107(b) [State Lottery Act, §2.06(b)]) licensed in a given market area, with the possibility that additional licenses for any given market area may be denied if the area is determined to be adequately served by existing licensees;

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

(b) The director may grant or deny an application for a license under this subchapter based on any one or more factors listed in subsection (a) of this rule. In addition, the director shall deny an application for a license under this subchapter upon a finding that the applicant:

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

(4) has a spouse, child, brother, sister or parent [parent-in-law, or spouse's child who is] residing as a member of the same household in the principal place of residence of a person described in paragraph (1), (2), or (3) of this subsection;

(5) has violated the Act or a rule adopted by the commission [comptroller] in furtherance of the Act;

(6)-(10) (No change.)

(c) Without limiting the foregoing grounds for denial of a license under this subchapter, the director shall deny a license to any person whose location for the sales agency is either:

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

(3) on land owned by the State of Texas; or, a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state[, other than land used as a mass transportation facility that is used by commercial carriers]; or

(4) (No change.)

(d) Any applicant whose application is denied under this subchapter, or who is granted a license the terms of which are more restricted than those applied for, shall be notified by the director in writing of the denial or restriction and of the reasons therefor. The applicant may appeal the director's decision in accordance with rules adopted by the commission [comptroller] for that purpose.

§401.156. Renewal of License.

(a) A license issued under this subchapter may be considered for renewal by filing a renewal application with the director. In order to be considered, a sales agent must file a renewal application and pay the renewal fee before the sales agent's license expires [the renewal application must be received by the director no later than 30 days prior to the expiration date of the existing license]. Information not filed with the director before the sales agent's license expires may [on or prior to the 30th day prior to the date of expiration of an applicant's license shall] not be accepted for consideration in connection with the applicant's renewal application.

(b)-(e) (No change.)

§401.157. Provisional [Temporary] License. In addition to and without limiting the director's ability to issue licenses pursuant to §401.154 of this title (relating to Issuance of License; Terms), the director may issue provisional [temporary] licenses to applicants to become sales agents. A provisional [temporary] license shall expire on the date specified on the license [, but in no event later than September 1, 1993]. A provisional [temporary] license is subject to suspension or revocation in accordance with procedures established by rules issued by the commission [comptroller] under this title upon the commission's [comptroller's] finding of any factor under §401.153(b) of this title (relating to Qualifications for License), §401.158 of this title (relating to Suspension or Revocation of License), or §401.159 of this title (relating to Summary Suspension of License). [The denial of an application for a temporary license does not entitle the applicant to a hearing.]

§401.159. Summary Suspension of License.

(a) (No change.)

(b) A summary suspension properly commenced under rules adopted by the commission under this title is effective at the time the notice is served. If notice is personally served, the licensee shall immediately surrender the license to the commission or its representative. If notice is served by mail, the licensee shall immediately return the license to the commission. In addition, at the time the licensee is served with notice under this subsection, the licensee may be required by the director of the Lottery Operations Division to surrender to an authorized representative of the Lottery Operations Division all commission [division] property, return all unsold tickets in accordance with normal commission [division] policy, pay funds owed to the commission [division] by an authorized method, and take such further action as required by the director.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515475 Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 371-4856



Subchapter D. Lottery Game Rules

• 16 TAC 401.301-401.304

The amendments are proposed under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt all rules governing the establishment and operation of the lottery.

These rules implement the Texas Government Code, §466.015.

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

Director—The director of the lottery operations division of the Texas Lottery Commission [Texas lottery].

Division—The lottery operations division of the Texas Lottery Commission.

Executive director—The executive director of the Texas Lottery Commission.

Low-tier prize—A prize of less than \$25 [\$50].

Mid-tier prize—A prize of \$25 [\$50] or more but less than \$600.

Texas Lottery Commission—The agency created by House Bill 54, 72nd Legislature, First Called Session as amended by House Bill 1587 and House Bill 1013, 73rd Legislature, Regular Session. [The lottery division established in the Comptroller of Public Accounts under the State Lottery Act.]

§401.302. Instant Game Rules.

(a) Sale of instant game tickets.

(1) (No change.)

(2) Each instant game ticket shall sell for the retail sales price authorized by the executive director and stated in the individual game procedures.

(3) (No change.)

(b) Game procedures.

(1) The executive director may approve and publish individual game procedures prior to each instant game being introduced for sale to the public. Game procedures shall be published in the Texas Register and shall be made available upon request to the public.

(2)-(3) (No change.)

(c)-(i) (No change.)

(j) Game termination and prize claim period.

(1) The executive director or his/her designee, at any time, may announce the termination date for an individual game. If this occurs, no tickets shall be sold past the termination date.

(2)-(3) (No change.)

(k) Game report. Following the last day on which prizes may be claimed after termination of a game, the executive director or his/her designee shall prepare a report that shows, at a minimum, the total number of tickets sold and the number of prizes awarded in the game. The report shall be made available for public inspection.

(l) Governing law. In purchasing an instant game ticket, the lottery player agrees to comply with and abide by Texas law, all rules and final decisions of the Texas Lottery, and all procedures and instructions established by the executive director for the conduct of the instant game.

§401.303. Grand Prize Drawing Rule.

(a)-(e) (No change.)

(f) The number of preliminary draw and grand prize drawing winners selected to advance or to win a prize shall be specified in the draw procedures. The odds of winning an entry into these drawings for a prize of a specific amount need not be uniform throughout the game and are subject to change by the executive director.

(g) (No change.)

(h) Each grand prize drawing finalist will be notified by the Texas Lottery of the date of his/her appearance on the grand prize drawing. If a finalist is unable to attend, the finalist may appoint a proxy with the approval of the executive director.

(i) (No change.)

§401.304. On-Line Game Rules (General).

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

(d) Drawings and end of sales prior to drawings.

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

(3) The executive director shall determine for each type of on-line game the time for the end of sales prior to the drawings. On-line terminals will not process on-line tickets for that drawing after the time established by the director.

(4) The executive director or his/her designee shall designate the type of drawing equipment to be used and shall establish drawing procedures to randomly select the winning combination for each type of on-line game. Drawing procedures shall include provisions for the substitution of backup drawing equipment in the event the primary drawing equipment malfunctions or fails for any reason.

(5) The marketing division [lottery] director shall designate a drawing supervisor who shall oversee each drawing.

The drawing supervisor, along with a lottery security representative and an independent certified public accountant shall be responsible for conducting the drawing in compliance with the lottery's drawing procedures. The drawing supervisor, along with a lottery security representative and an independent certified public accountant, shall attest whether the drawing was conducted in accordance with proper drawing procedures at the end of each drawing.

(e)-(g) (No change.)

(h) Retailer settlement, obligations, and compensation.

(1)-(4) (No change.)

(5) If an on-line retailer fails to maintain a sufficient account balance to cover monies due the lottery for the established billing period, the retailer's license shall be summarily suspended. If an on-line retailer is summarily suspended three times in a 12-month period for insufficient funds, the retailer's license shall be revoked. If a retailer's license is revoked, it shall not be reissued for at least 12 months from the date all monies due the lottery are paid.

(6) (No change.)

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515476

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 371-4856

◆ ◆ ◆ • 16 TAC §§401.352, 401.355, 401.356, 401.361-401.364, 401.366

The amendments are proposed under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt all rules governing the establishment and operation of the lottery.

These rules implement the Texas Government Code, §466.015.

§401.352. Settlement Procedures.

(a) (No change.)

(b) Retailers shall file with the Texas Lottery, or its designated representative, reports of the retailer's receipts and transactions in the sale of lottery tickets on a form or in a manner as prescribed by the executive director or his/her designee.

§401.355. Restricted Sales.

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

(c) Retailers shall not accept a food stamp coupon or card for the purchase of a lottery ticket.

(d) Retailers shall not sell a ticket or pay a lottery prize to another person that the retailer knows is:

(1) an officer or an employee of the commission [comptroller];

(2)-(4) (No change.)

§401.356. Sales Price of Tickets. No person shall sell a lottery ticket at a price other than established by the Texas Lottery, unless authorized in writing by the executive director. No person other than a duly licensed retailer shall sell lottery tickets, but this shall not be construed to prevent a person who may lawfully purchase tickets from making a gift of lottery tickets to another.

§401.361. Required Purchases of Lottery Tickets. The Texas Lottery shall require each retailer to accept and sell a minimum number of lottery tickets. Failure or refusal of a retailer to order or accept delivery of a required minimum number of lottery tickets shall be grounds for summary suspension, suspension and/or revocation of the license. [one pack of lottery tickets for any 30-day period may result in the retailer's license being placed on probation, and the Texas Lottery shall notify retailer of such probation. If the retailer does not order or accept one pack of lottery tickets within 30 days after the date the notice of probation is sent by the Texas Lottery, the retailer's license shall be suspended, and the retailer shall pay all debts due the Texas Lottery within 30 days of such suspension.] The Texas Lottery may establish minimum sales requirements. The failure or refusal of a retailer to meet minimum sales requirements shall be grounds for summary suspension, suspension and/or revocation.

§401.362. Security Procedures.

(a) Each retailer shall bear sole responsibility for the security of all lottery tickets received and all lottery property accepted. A retailer shall notify the Security Division of the Texas Lottery not later than 24 hours after lottery tickets are lost, stolen, or destroyed. At the discretion of the director, a retailer who has complied with the notice requirement may be charged a fee of \$25, rather than the full price, for unactivated tickets that are lost, stolen, or destroyed through no fault of the retailer. A retailer shall bear

the full risk of loss for all activated tickets. A retailer shall be liable for prizes paid on counterfeit tickets. [A retailer shall provide reasonable security for all lottery tickets, Texas Lottery property, and Lottery operator property, and is responsible for all lottery tickets delivered to it upon the retailer's acknowledgment of receipt thereof. A retailer shall notify the Texas Lottery through the retailer hotline and local law enforcement within 24 hours of knowledge of any lost, stolen, missing, or counterfeit tickets. Retailers will be charged \$25 for unactivated packs of tickets that are lost, stolen, or missing. Retailers will be charged full price, less the applicable commission, for activated packs of tickets that are lost, stolen, or missing. Retailers may also be held liable for prizes paid on tickets that are obviously counterfeit.]

(b) (No change.)

§401.363. Retailer Record. Each retailer shall keep accurate and complete records of all transactions relating to the sale or receipt of lottery tickets [with the Texas Lottery], and such records shall be open to inspection by the Texas Lottery at all times during normal business hours. The Texas Lottery may make summaries or notes of any such records and may copy any such records either at the retailer's place of business, or if more convenient, off such premises so long as such records are returned within 48 hours of the time they are withdrawn from such place of business.

§401.364. Training. Retailers shall be required to send at least one person [and no more than three persons] to lottery training to be sponsored by the Texas Lottery and the lottery operator. [All representatives of the same retailer shall attend the same session.] All expenses or costs of attendance by employees of a retailer shall be paid by such retailer, including, but not limited to, costs of salaries, travel, lodging, meals, and materials. If employees of a retailer have previously attended lottery training, the Texas Lottery may not require attendance of such employees. In this event, the retailer shall certify to the Texas Lottery that at least one employee at the retailer's location has previously attended lottery training.

§401.366. Compliance with All Applicable Laws. Each retailer agrees to operate in a manner consistent with the State Lottery Act, applicable federal laws, Texas laws, [and] local ordinances, with all terms and conditions related to the retailer's license, with all requirements set forth in the most recent Retailer Manual, the rules and regulations promulgated by the commission [comptroller], and with his/her or its license agreements [agreement] with the Texas Lottery.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515477

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 371-4856

◆ ◆ ◆
**TITLE 22. EXAMINING
BOARDS**

**Part I. Texas Board of
Architectural Examiners**

Chapter 1. Architects

**Subchapter A. Scope; Defini-
tions**

• 22 TAC §1.10

The Texas Board of Architectural Examiners proposes an amendment to §1.10, concerning committees. The amendment is being proposed as the Chairman is no longer elected but appointed by the Governor, therefore, the board would not always have an immediate past chairman. The change would also allow equal representation of the constituencies represented on the board.

Cathy Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Hendricks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be equal representation of the professions and public. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy Hendricks, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§1.10. Committees.

(a) A standing rules committee consisting of [a minimum of three] board members, with equal representation of the constituencies represented on the board,

shall be appointed by the chairman at the annual meeting. Duties of the rules committee shall be:

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

(b) A standing personnel committee consisting of a minimum of four board members, of which at least two are current board officers, shall be appointed by the chairman at the annual meeting. [the current board officers and immediate past chairman shall have the following duties and responsibilities:] Duties of the personnel committee shall be:

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

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515478 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Subchapter C. Examinations

• 22 TAC §1.51

The Texas Board of Architectural Examiners proposes new §1.51, regarding disposal of examination materials. This new section is being proposed to reduce the amount of materials requiring storage.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the destruction of outdated material which will no longer require additional storage space. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

This rule is proposed under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed new section does not affect any other statutes.

§1.51. Disposal of Examination Material. Examination material of the candidate will be held for a period of one year before destruction. Candidates will be notified of the disposal date on their grade report.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515487 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Subchapter E. Fees

• 22 TAC §1.81

The Texas Board of Architectural Examiners proposes an amendment to §1.81, regarding NSF checks. This amendment establishes authority for the agency to charge a fee in order to recover costs for processing dishonored checks.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in recovery of costs incurred as shown: 1996, \$175; 1997, \$350; 1998, \$350; 1999, \$350; 2000, \$350.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be recovery of costs incurred and therefore a more efficient office. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$25 for a dishonored check.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§1.81. General.

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

(d) Any payment submitted to the board and returned as a dishonored check will be charged an administrative penalty fee as prescribed by the board.

The payment to replace a dishonored check must be paid with a money order or cashier's check. Any fees paid by dishonored checks are considered unpaid.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515481 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

• 22 TAC §1.82

The Texas Board of Architectural Examiners proposes an amendment to §1.82, regarding application and examination fees. This amendment establishes authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in revenue as shown: 1996, \$8,700; 1997, \$8,700; 1998, \$8,850; 1999, \$8,850; 2000, \$9,000.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be that it will allow the agency to be more responsive to requests from the public due to the upgrading of the information resources system. It will also allow the agency to furnish the public updated consumer information. The effect on small businesses would be that the agency could process information more efficiently. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$50 for registration.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§1.82. Application and Examination Fees.

(a) All applicants for registration by examination must remit [\$210] an application fee as prescribed by the board with their original application.

(b) When approved as a candidate, additional notices will require payment of examination or record maintenance fees as prescribed by the board.

(c) An initial registration fee for registration by examination will be charged as prescribed by the board.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515484 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Subchapter F. Architect's Seal

• 22 TAC §1.104

The Texas Board of Architectural Examiners proposes an amendment to §1. 104, regarding providing client information. This amendment provides the correct information regarding the location of our agency.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the accessibility of the agency. The effect on small business will be the agency will be more easily contacted for information regarding registrants or to file complaints. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§1.104. Statement of Certification.

(a) For client (consumer) information, each architect shall provide the client with the following written statement: "The Texas Board of Architectural Examiners,

P.O. Box 12337, Austin, Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, (512) 305-9000 [8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758,(512) 458-1363], has jurisdiction over individuals licensed under the Architects' Registration Law, Texas Civil Statutes, Article 249a."

(b) (No change.)

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515489 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Chapter 3. Landscape Architects

Subchapter A. Scope: Definitions

• 22 TAC §3.10

The Texas Board of Architectural Examiners proposes an amendment to §3. 10, concerning committees. The amendment is being proposed as the Chairman is no longer elected but appointed by the Governor, therefore, the board would not always have an immediate past chairman. The change would also allow equal representation of the constituencies represented on the board.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Hendricks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be equal representation of the professions and public. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.10. Committees.

(a) A standing rules committee consisting of [a minimum of three] board members, with equal representation of the constituencies represented on the board, shall be appointed by the chairman at the annual meeting. Duties of the rules committee shall be:

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

(b) A standing personnel committee consisting of a minimum of four board members, of which at least two are current board officers, shall be appointed by the chairman at the annual meeting. [the current board officers and immediate past chairman shall have the following duties and responsibilities:] Duties of the personnel committee shall be:

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

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515480 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Subchapter B. Registration

• 22 TAC §3.21

The Texas Board of Architectural Examiners proposes an amendment to §3. 21, regarding processing applications for examination.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the ability of the candidates to establish a permanent council record which they could transmit to other jurisdictions for reciprocity and it will be a more efficient method of application processing. There will be no effect on small business. The anticipated economic cost to persons who are required to comply with the rule as proposed would be a fee of \$75 paid to the Council of Landscape Architectural Registration Boards.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O.

Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.21. Eligibility.

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

(c) **Effective August 16, 1996 applicants for the June 1997 and subsequent Landscape Architect Registration Examination administrations shall process their applications through the Council of Landscape Architectural Registration Boards and not through this board.**

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515493

Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

◆ ◆ ◆
• 22 TAC §3.28

The Texas Board of Architectural Examiners proposes an amendment to §3. 28, regarding reciprocal registration. This amendment provides the correct title regarding the landscape architect examinations.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the clarification of confusing information. There will be no effect on small business. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.28. Reciprocal Transfer.

(a) (No change.)

(b) Criteria for reciprocal registration as outlined in subsection (a) (2) of this section includes:

(1) certification by individual state boards (in which candidate holds current registration) that the applicant has qualified for the CLARB [-UNE] examination either as a result of approved education in landscape architecture, or having had seven years of professional experience under a registered landscape architect, supported with references and has passed the examination;

(2) persons registered in their base state without examination through qualifications of having represented himself/herself to be a landscape architect for a period of time after September 1, 1969, (grandfather clause) are not eligible for registration by reciprocal transfer unless they have passed the CLARB [-UNE] examination;

(3) (No change.)

(c)-(g) (No change.)

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515492

Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

◆ ◆ ◆
Subchapter C. Written Examinations

• 22 TAC §3.51

The Texas Board of Architectural Examiners proposes an amendment to §3. 51, concerning disposal of examination materials. The amendment is being proposed to conform to the Council of Landscape Architectural Registration Boards requirements.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications as a result of enforcing or administering this rule.

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

be the destruction of outdated material which will no longer require additional storage space. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

This rule is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.51. Disposal of Examination Material. [Upon certification as a registered landscape architect, examination] **Examination material of the candidate will be held at the Council of Landscape Architectural Registration Boards (CLARB) office, Fairfax, Virginia for a period of one year before destruction.** [The examination materials of unsuccessful candidates will be held until all sections have been passed or the candidate has shown no further interest in seeking certification within a period of three consecutive examinations.]

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515488

Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

◆ ◆ ◆
Subchapter E. Fees

• 22 TAC §3.81

The Texas Board of Architectural Examiners proposes an amendment to §3. 81, regarding NSF checks. This amendment establishes authority for the agency to charge a fee in order to recover costs for processing dishonored checks.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in recovery of costs incurred as shown: 1996, \$25; 1997, \$50; 1998, \$50; 1999, \$50; 1999, \$50; 2000, \$50.

Ms. Hendricks also has determined that for each year of the first five years the section as

proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be recovery of costs incurred and therefore a more efficient office. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$25 for a dishonored check.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.81. General.

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

(d) Any payment submitted to the board and returned as a dishonored check will be charged an administrative penalty fee as prescribed by the board. The payment to replace a dishonored check must be paid with a money order or cashier's check. Any fees paid by dishonored checks are considered unpaid.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515483 Cathy L. Hendricks, ASID/IIDA Executive Director Texas Board of Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535



• 22 TAC §3.82

The Texas Board of Architectural Examiners proposes an amendment to §3. 82, regarding application and examination fees. This amendment establishes authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in revenue as shown: 1996, \$1,850; 1997, \$1,850; 1998, \$1,900; 1999, \$1,900; 2000, \$1,950.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be that it will allow the agency

to be more responsive to requests from the public due to the upgrading of the information resources system. It will also allow the agency to furnish the public updated consumer information. The effect on small businesses would be that the agency could process information more efficiently. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$50 for registration.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.82. Application and Examination Fees.

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

(c) An initial registration fee for registration by examination will be charged as prescribed by the board.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515486 Cathy L. Hendricks, ASID/IIDA Executive Director Texas Board of Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

◆ ◆ ◆ Subchapter F. Landscape Architect Seal

• 22 TAC §3.106

The Texas Board of Architectural Examiners proposes an amendment to §3. 106, regarding providing client information. This amendment provides the correct information regarding the location of our agency.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the accessibility of the agency. The effect on small business will be the agency will be more easily contacted for information regarding registrants or to file complaints. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§3.106. Statement of Certification.

(a) [In addition to the affixation of the landscape architect's seal on all contracts and contract documents, the licensee shall include for] For client (consumer) information, each landscape architect shall provide the client with the following written statement: "The Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, (512) 305-9000 [8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-4126], has jurisdiction over individuals licensed under the Landscape Architects Registration Law, Texas Civil Statutes, Article 249c."

(b) The board has ruled that a rubber stamp bearing the notice [referred to] in subsection (a) of this section will suffice[,] and recommends that the notice be placed on the last page of the written agreement under the landscape architect's signature[,] , or in the absence of a written agreement, the notice shall appear as part of the contract conditions in the project's contract documents, or in absence of both, by written notice to the client.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515491 Cathy L. Hendricks, ASID/IIDA Executive Director Texas Board of Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

◆ ◆ ◆ Chapter 5. Interior Designers

Subchapter A. Scope; Definitions

• 5 TAC §5.10

The Texas Board of Architectural Examiners proposes an amendment to §5. 10, concerning committees. The amendment is being proposed as the Chairman is no longer

elected but appointed by the Governor, therefore, the board would not always have an immediate past chairman. The change would also allow equal representation of the constituencies represented on the board.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Hendricks also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be equal representation of the professions and public. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.10. Committees.

(a) A standing rules committee consisting of [a minimum of three] board members, with equal representation of the constituencies represented on the board, shall be appointed by the chairman at the annual meeting. Duties of the rules committee shall be:

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

(b) A standing personnel committee consisting of a minimum of four board members, of which at least two are current board officers, shall be appointed by the chairman at the annual meeting. [the current board officers and immediate past chairman shall have the following duties and responsibilities:] Duties of the personnel committee shall be:

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

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515479 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call. (512) 305-8535

Subchapter E. Fees

• 22 TAC §5.91

The Texas Board of Architectural Examiners proposes an amendment to §5. 91, regarding NSF checks. This amendment establishes authority for the agency to charge a fee in order to recover costs for processing dishonored checks.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in recovery of costs incurred as shown: 1996, \$175; 1997, \$325; 1998, \$325; 1999, \$325; 2000, \$325.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be recovery of costs incurred and therefore a more efficient office. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$25 for a dishonored check.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.91. General.

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

(d) Any payment submitted to the board and returned as a dishonored check will be charged an administrative penalty fee as prescribed by the board. The payment to replace a dishonored check must be paid with a money order or cashier's check. Any fees paid by dishonored checks are considered unpaid.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515482 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

• 22 TAC §5.93

The Texas Board of Architectural Examiners proposes an amendment to §5. 93, regarding application and examination fees. This amendment establishes authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in revenue as shown: 1996, \$3,700; 1997, \$3,700; 1998, 3,800; 1999, 3,800; 2000, \$3,900.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be that it will allow the agency to be more responsive to requests from the public due to the upgrading of the information resources system. It will also allow the agency to furnish the public updated consumer information. The effect on small businesses would be that the agency could process information more efficiently. The cost to persons who are required to comply with the section as proposed would be a one time fee of \$50 for registration.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.93. Application and Examination Fees.

(a) All applicants for registration by examination must remit [\$10] an application fee as prescribed by the board with their original application.

(b) When approved as a candidate, additional notices will require payment of examination or record maintenance fees as prescribed by the board.

(c) An initial registration fee for registration by examination will be charged as prescribed by the board.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515485 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Subchapter F. The Interior Designer's Seal

• 22 TAC §5.114

The Texas Board of Architectural Examiners proposes an amendment to §5.114, regarding providing client information. This amendment provides the correct information regarding the location of our agency.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be the accessibility of the agency. The effect on small business will be the agency will be more easily contacted for information regarding registrants or to file complaints. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments may be submitted to Cathy L. Hendricks, ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

§5.114. Statement of Certification.

(a) For client (consumer) information, each interior designer shall provide the client the following written statement: "The Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, (512) 305-9000 [8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363], has jurisdiction over individuals licensed under the Interior Designers' Registration Law, Texas Civil Statutes, Article 249e."

(b) (No change.)

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515490 Cathy L. Hendricks,
ASID/IIDA
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-8535

Part III. Texas Board of Chiropractic Examiners

Chapter 71. Application and Applicants

• 22 TAC §§71.1-71.3, 71.5-71.12

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

The Texas Board of Chiropractic Examiners proposes the repeal of §§71.1-71.3 and §§71.5-71.12, concerning application and applicants.

The sections are repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by these repeals: Texas Civil Statutes, Article 4512b.

§71.1. Definitions.

§71.2. Application of License.

§71.3. Qualifications of Applicants.

§71.5. Approved Chiropractic Schools and Colleges.

§71.6. Time, Place, and Scope of Examination.

§71.7. Written Examinations.

§71.8. Practical and Theoretical Examinations.

§71.9. Grade Requirements.

§71.10. Reexaminations.

§71.11. Disqualification to Take Examination.

§71.12. National Board Examination.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515442 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 71. Applications and Applicants

• 22 TAC §§71.1-71.3, 71.5-71.12

The Texas Board of Chiropractic Examiners proposes new §§71.1-71.3 and §§71.5-71.12, concerning applications and applicants.

The proposed new rules will make record retention, the application process, public access and continuity of procedures more standardized while specifying all aspects regarding the subjects.

Patte B. Kent, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Kent also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more effective and efficient application and examination procedures. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The new sections implement Texas Civil Statutes, Article 4512b.

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

Applicant—An individual who applies to take the examination for licensure given by the board.

Board—The Texas Board of Chiropractic Examiners.

Board member—One of the appointed members of the decision-making body defined in this section as the board.

Examinee—An individual who has been approved, admitted to, and/or has taken the examination given by the board.

Executive Director—The Executive Director of the board.

Licensee—An individual who has been granted a license to practice chiropractic by the Texas Board of Chiropractic Examiners and whose license is active and not under suspension.

Practitioner—A doctor of chiropractic, a doctor of medicine, a doctor of osteopathy, a doctor of podiatry, or a doctor of dentistry who is licensed and authorized to practice under the laws of this state.

§71.2. Application for License.

(a) All individuals who wish to practice chiropractic in this state, and who are not otherwise licensed under law, must successfully pass an examination given by or at the direction of the Board.

(b) Individuals who seek to take such examination shall submit to the executive director a written application, on a form provided by the board, accompanied by a non refundable college credits verification fee of \$50, and an examination fee. The information contained in the application shall be verified by affidavit of the applicant. The college credit verification fee and the examination fee shall be in the form of a bank-certified check, cashier's check, or money order and shall be payable to the order of the board.

(c) Applications for examination must be legibly printed in ink or typewritten on the board form, which will be furnished by the executive director upon request.

(d) The completed application, required supporting materials, and fees must be received by the executive director in verified form not later than 60 days before the first day of the examination. Under extenuating circumstances, the Board or the Executive Director, at their discretion, may accept material supporting the application later than 60 days before the examination.

(e) The filing of an application and tendering of the fees to the Texas Board of

Chiropractic Examiners shall not in any way obligate the board to admit the applicant to examination until such applicant has been approved by the board as meeting the statutory requirements for admission to the examination for licensure.

(f) Any person furnishing false information on such application shall be denied the right to take the examination, or if the applicant has been licensed before it is made known to the board of the falseness of such information, such license shall be subject to suspension, revocation or cancellation in accordance with the Act, §14a.

(g) Any applicant required to take the examination any subsequent times after the second examination shall pay a fee of \$275 to the board. No application fee for examination will be returned to any applicant after the application has been approved by the board, because of the decision of the applicant not to sit for the examination or failure for any reason to take the examination.

§71.3. Qualifications of Applicants. All applicants must comply with the application process and qualification criteria of the Texas Chiropractic Act, Article 4512b, §10.

§71.5. Approved Chiropractic Schools and Colleges.

(a) The board may annually review and approve those chiropractic schools whose graduates are eligible for examination and licensure under the provisions of Texas Civil Statutes, Article 4512b, §10.

(b) A bona fide reputable, chiropractic school as that term is used in the Chiropractic Act, §10, is a school which either holds candidate status or is accredited by the Council on Chiropractic Education.

§71.6. Time, Place, and Scope of Examination.

(a) Regular examinations for licensure shall be given during the calendar year at the discretion of the board. Other examinations may be given by, or at the direction of, the board at other times at its discretion. All examinations shall be conducted in the English language. The board shall set the date, time, and place of each examination. A schedule of each examination session will be furnished to each examinee at the beginning of the examination.

(b) The examination shall consist of four parts: X-ray Written, X-ray Interpretation, Jurisprudence, and Clinical Competency.

(c) Examinees shall not be permitted to bring any books, notes, journals, or other help into the examination room, nor to communicate by word or sign with another

examinee while an examination is in progress without permission of the presiding examiner and within hearing of a designated representative of the board; nor shall an examinee leave the examination room except when so permitted by the presiding examiner.

(d) All examinees shall be known to the examiners only by number given to each examinee prior to the taking of the examination. There shall be no names or other method of identification on examination papers by which board members may be able to identify examinees until such time after the examinations have been graded.

(e) A license shall not be issued by the board to any examinee who has been detected in a deceptive or fraudulent act while an examination is in progress. One designated representative of the board shall be in the examination room at all times while an examination is in progress.

(f) Applicants shall not communicate any words or signs with another applicant while the examination is in progress without the permission of the presiding examiner, nor leave the examination room except when so permitted by the presiding examiner. Violations of this rule shall subject the offender to expulsion.

(g) One member of the board shall at all times be in the examination room while the examination is in progress and no persons except applicants, board members, employees of the board or persons having the express permission of the board shall be permitted in the examination rooms.

(h) When examination papers are delivered to the presiding examiner they become the property of the board or an agency designated by the Board and shall not be returned to the applicant. Each board member shall be responsible for their own examination papers until after final grading and awarding of general averages. All test papers must, at this point, be retained by the Board or an agency designated by the Board to be preserved for a period of one year after final grading in order to allow a candidate the opportunity to request an analysis of such person's performance, which request must be made in writing.

§71.7. Written Examinations.

(a) An examinee shall comply with all requirements set forth in the Chiropractic Act of Texas, §10.

(b) Examinees will be examined on the laws and board rules governing the practice of chiropractic in this state.

(c) The type of questions will be true-false, multiple choice, or essay. Certain time periods shall be assigned to each subject for completion.

§71.8. Practical and Theoretical Examinations.

(a) The subjects on which an examinee shall be examined in the practical and theoretical portion of the examination are x-ray, physical diagnosis, orthopedic/retrological, and technique and instrumentation.

(b) The practical and theoretical portion of the examination may be conducted orally, with the examinee responding to questions posed by one or more board members and/or appointed assistants sitting as an examination panel.

§71.9. Grade Requirements.

(a) An examinee, in order to become licensed by the board, must make a grade of not less than 75% on each part of the exam as described in §71.6 of this title (relating to Time, Place, and Scope of Examination).

(b) Each board member shall determine the credit to be given on answers to the subjects prepared by said board member with final review and approval by the board. The discretion of the board on examination matters shall be final.

§71.10. Reexaminations.

(a) An examinee who fails to satisfactorily pass an examination shall be permitted to take a subsequent examination upon such parts required in the original examination in which the examinee did not make a grade of 75% or better, provided the examinee applies for reexamination and pays a \$75 reexamination fee plus a professional fee of \$200 for a total of \$275 within one year from the date of the original examination, and provided further that the examinee takes the subsequent examination not later than one year from the date of the original examination. An examinee shall be required to make a grade of 75% or better in each of the parts of the subsequent examination.

(b) An examinee who fails to satisfactorily pass an examination, who does not apply for reexamination and pay the required reexamination fee within one year, and who does not take a subsequent examination not later than one year from the date of the original examination, must retake and satisfactorily pass the examination consisting of all parts described in §71.6 of this title (relating to Time, Place, and Scope of Examination).

(c) To be eligible for licensure, examinees in their final semester of chiropractic school must satisfactorily complete the remaining course of study resulting in graduation from chiropractic college within six months from the date of successful comple-

tion of the examination for licensure. Failure to complete the course of study in the required time disqualifies the examinee for licensure until such time examinee retakes the examination and successfully passes all sections to once again be eligible for licensure.

§71.11. Disqualification to Take Examination.

(a) An applicant who wishes to take an examination given by the board but who has been disqualified for failure to comply with these sections or for failure to meet the requirements of Texas Civil Statutes, Articles 4512b, shall be entitled to a hearing in accordance with the procedural rules of the board upon written request for a hearing made to the Board or Executive Director by the applicant.

(b) The applicant shall be given at least ten days notice of the date, time, and place of the hearing unless such notice is waived in writing by the applicant. If practicable, the hearing should be held before the time of the examination which applicant has applied to take. The applicant will be entitled to appear at the hearing and present evidence and be examined under oath.

§71.12. National Board Examination.

(a) The board determines that the written Examination by the National Board of Chiropractic Examiners complies in all material respects with the requirements of the Texas Chiropractic Act, Article 4512b. The passing score on each part of the National Board Examination is determined by a criterion-referenced standard setting approach, in which the passing score is set at a scaled score of 375.

(b) All applicants shall take and pass Parts I, II, III and Physiotherapy of the National Board Examination.

(c) Each applicant shall furnish a true and correct copy of the score report establishing that the applicant made a passing grade on each part of the National Board Examination.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515451 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 73: Licenses and Renewals

• 22 TAC §§73.1-73.5

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

The Texas Board of Chiropractic Examiners proposes the repeal of §§73. 1-73.5, concerning licenses and renewals.

The sections are repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by these repeals: Texas Civil Statutes, Article 4512b.

§73.1. Recording of License.

§73.2. Renewal of License.

§73.3. Continuing Education.

§73.4. Inactive Status.

§73.5. Failure to Meet Continuing Education Requirements.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515443 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

The Texas Board of Chiropractic Examiners proposes new §§73.1-73.5, concerning licenses and renewals.

The proposed new rules more completely define the processes and procedures affecting licensure and renewal.

Patte B. Kent, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Kent also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased efficiency in licensure application, issuance and renewal. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The new sections implement Texas Civil Statutes, Article 4512b.

§73.1. Recording of License.

(a) Licensees must notify the board of any change in street or post office address within 30 days in writing.

(b) Notification must be signed by the licensee and must include license number.

§73.2. Renewal of License.

(a) Unexpired license.

(1) License renewal fee shall be paid on or before the date published on the license renewal form provided by the Board. No licensee who is in default on repayment of a Texas guaranteed student loan shall be renewed unless:

(A) the renewal is the first renewal following the Board's notification that the licensee is in default; or

(B) the licensee presents to the Board proof that the licensee has entered into a repayment agreement on the defaulted loan or that the licensee is not in

default. A licensee is entitled to a hearing prior to non-renewal under this section.

(2) License renewal fee shall be paid by cashier's check or money order made payable to the Texas Board of Chiropractic Examiners.

(b) Expired license.

(1) If a license is not renewed on or before January 1 of each year, it becomes expired.

(2) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the board the required renewal fee and a late fee of \$60.

(3) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the board all unpaid renewal fees, and a late fee of \$120.

(4) If a person's license has been expired for one year or longer, the person may not renew the license but may obtain a new license by submitting to re-examination and complying with the current requirements and procedures for obtaining an initial license.

(5) The annual renewal application will be deemed to be the written notice of the impending license expiration forwarded to the person at the person's last known address according to the records of the board.

(c) Mandatory continuing education for renewal of license.

(1) The board may not issue a renewal license to a licensee who has not complied with the mandatory continuing education requirements, unless an exemption provided by §73.3 is applicable.

(2) If a licensee has not fulfilled the required continuing education requirements within the calendar year preceding the license renewal date, the license shall expire. To renew that expired license, the licensee may obtain and provide the board with certified attendance records that the licensee has, since the expiration of the license, completed sufficient hours of approved continuing education courses to satisfy any deficiency in the previous year. Education obtained for renewal of an expired license cannot be applied toward renewal of license for the following year.

(3) The licensee cannot practice chiropractic until such time as education is obtained and the expired license has been renewed.

(4) The licensee must pay to the board the license renewal fee plus late fees as applicable under (1)-(3) of this subsection.

(5) The Executive Director or the Board's designee shall determine if all requirements for renewal of license have been fulfilled, and will notify the licensee when the practice of chiropractic can resume.

(6) To practice chiropractic with an expired license shall constitute the practice of chiropractic without a license.

§73.3. Continuing Education. The following information is regarding continuing education courses for license renewal.

(1) Requirements.

(A) All licensees will annually attend and complete 16 hours of continuing education per calendar year. The calendar year is considered to begin January 1 and end December 31.

(B) Sixteen hours of continuing education, two of which will be presented by a Board representative, may be completed at any course or seminar elected by the licensee, which meets the criteria set forth in the Continuing Education guidelines of the Education Committee of this board.

(C) Only those topics listed as authorized procedures in the guidelines of the Education Committee of this board shall be acceptable in these courses or seminars.

(D) The two hours of continuing education to be presented by the board will be given at the following seminars:

(i) Texas Chiropractic Association-Lubbock;

(ii) Texas Chiropractic Association Convention;

(iii) Chiropractic Society of Texas Annual Convention;

(iv) Parker College of Chiropractic Homecoming;

(v) Texas Chiropractic College Homecoming.

(2) Verification.

(A) Verification of the hours will be provided to the board office by the licensee at the time of license renewal.

(B) Upon request by the board, the licensee will be responsible for providing verification of his continuing education for all years requested.

(C) Should the licensee fail to submit verification upon request by the board, it will be considered a violation of Texas Civil Statutes, Article 4512b, §8a(a).

(3) Qualifying exemption.

(A) Licensees who have not complied with the education requirements may not be issued a renewal license unless such person is entitled to an exemption. The following persons are exempt:

(i) a licensee who holds an inactive Texas license does not practice chiropractic in Texas. However, if at any time during the calendar year for which such exemption has been obtained such person desires to practice chiropractic, such person shall not be entitled to practice chiropractic in Texas until 16 hours of continuing education credits are obtained and the executive director has been notified of completion of such continuing education requirements;

(ii) a licensee who served in the regular armed forces of the United States during part of the 12 months immediately preceding the annual license renewal date;

(iii) a licensee who submits proof satisfactory to the board that the licensee suffered a serious or disabling illness or physical disability which prevented the licensee from complying with the requirements of this section during the 12 months immediately preceding the annual license renewal date; or

(iv) a licensee who is first licensed within the 12 months immediately preceding the annual renewal date.

(B) Written proof of attendance and completion of approved courses must be supplied by the licensed chiropractor to the board in conjunction with the renewal application for a chiropractic license.

§73.4. Inactive Status

(a) Licenses which can be placed on inactive status category are any licensees who are not currently practicing chiropractic in the state of Texas.

(b) The board may place a licensee's license in an inactive status category upon proper application by the licensee. Forms for inactive status category may be obtained from the board.

(c) A licensee on inactive status category is required to pay a license processing fee but is not required to complete license renewal courses during any period of inactive status.

(d) A licensee on inactive status

category may not perform any activity regulated by the board.

(e) A licensee on inactive status category who desires to re-enter active status must notify the board in writing. The board will remove the licensee from inactive status category upon payment of all applicable fees and the licensee meeting all requirements for active licensure.

(f) A license which has been on inactive status for a period of more than five years, may be reactivated only upon successfully passing the State board examination prior to re-activation.

(g) To place a license on inactive status at a time other than the time of license renewal the licensee shall:

(1) return the current renewal certificate to the Board Office; and

(2) submit a signed, notarized, statement stating that the licensee shall not practice chiropractic in Texas while the license is inactive, and the date the license is to be placed on inactive status.

(h) Re-activation of an inactive license.

(1) A holder of a license that is on inactive status may return the license to active status by:

(A) applying for active status on a form prescribed by the board;

(B) providing proof of completion certificates from approved continuing education programs as specified in §73.3 of this title (relating to Continuing Education) for the number of hours that would otherwise have been required for the renewal of the license. Approved continuing education earned within the calendar year prior to the licensee applying for the return to active status may be applied toward the continuing education requirement;

(C) paying the Active License Fee prior to beginning practice within the state.

(2) If the application for re-activation of the license is made at the time of license renewal, the applicant shall pay the license renewal fee specified in §75.7 of this title (relating to chiropractic fees).

(i) Prohibition against practicing chiropractic in Texas. A holder of a license that is on inactive status shall not practice chiropractic in this state. The practice of chiropractic by a holder of a license that is on inactive status constitutes the practice of chiropractic without a license.

§73.5. Failure to Meet Continuing Education Requirements

(a) A licensee who fails to meet the minimum continuing education requirements imposed by Texas Civil Statutes, Article 4512b, §8b(a), shall have his licensed placed in a probated status for a period of 12 months.

(b) During probation under this section, a licensee may continue to practice provided that he enrolls in and satisfactorily completes the required continuing education requirements within the probationary period.

(c) Upon proof to the board of completion of the required continuing educational requirements, the board shall fully reinstate the licensee's license.

(d) If a licensee fails to have his license reinstated during any probationary period, the licensee's license shall be canceled and the licensee must obtain a new license as provided by law.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515452

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

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Chapter 74. Chiropractic
Facilities

• 22 TAC §74.1

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

The Texas Board of Chiropractic Examiners proposes the repeal of §74.1, concerning chiropractic facilities.

The section is repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by this repeal: Texas Civil Statutes, Article 4512b.

§74.1. Chiropractic Facilities.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515444 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700



The Texas Board of Chiropractic Examiners proposes new §74.1, concerning chiropractic facilities.

The proposed new rule establishes the procedure as well as the jurisdiction for disciplinary action for facility registration.

Patte B. Kent, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule is in effect will be an estimated additional cost of \$35,000 and an estimated increase in revenue of \$50,000.

Ms. Kent also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the ability to regulate facilities providing chiropractic services to the public. The cost of compliance for small business and the largest businesses affected by the rule will be equal. The anticipated economic cost to persons who are required to comply with the section will be: \$25 per facility owner.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by this new section: Texas Civil Statutes, Article 4512b.

§74.1. Chiropractic Facilities.

(a) Any facility providing chiropractic care must be registered with the Texas Board of Chiropractic Examiners.

(b) Facility Registration must be renewed annually.

(c) Changes of physical address and/or ownership interest must be filed with the Board within 30 days of the change.

(d) Requirements for obtaining a Certificate of Registration:

(1) application shall be made on a form prescribed by the Board;

(2) provisions acceptable to the Board shall be made to assure that all chiropractic services are provided by or under the direction of a doctor of chiropractic who holds a currently valid license to practice chiropractic in Texas;

(3) names and addresses of all parties with an ownership interest in an office or place of business providing chiropractic services shall be registered with the Board including all documents revealing the nature of and principles involved in any individual proprietorship, partnership, joint venture and/or corporation;

(4) names and addresses of each doctor licensed by the Board who is employed, contracted or otherwise engaged to provide or direct the provision of chiropractic services shall be registered with the Board;

(5) no licensee, owner, partner or shareholder shall be less than 21 years of age;

(6) This board may deny a Certificate of Registration if the owner(s) has been convicted for any offense which, under the laws of Texas, is a felony or is an offense involving moral turpitude.

(e) It shall be a violation of this section:

(1) to operate an office or place of business offering chiropractic services without obtaining a Certificate of Registration as provided herein;

(2) to fail to comply with the requirements of subsections (a), (b), (c), and (d) of this section;

(3) to operate an office or place of business providing chiropractic services without complying with all provisions of this Act and with the Rules of the Board; or

(4) for an individual, other than the primary treating doctor of chiropractic, to control or attempt to control, in any way

whatsoever, the professional judgment of such treating doctor or his or her office staff with respect to patient care.

(f) A violation of this section constitutes the unauthorized practice of chiropractic and the Texas Board of Chiropractic Examiners may revoke or suspend a Certificate of Registration for any violations of the Act or Rules of the Board.

(g) This registration does not apply to Hospitals or Public Health Clinics registered with the Texas Department of Health or other state agencies, or colleges of chiropractic in this state engaged in internship.

(h) No licensee may receive more than one (1) Certificate of Registration regardless of the number of facilities owned.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515453 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700



Chapter 75. Rules of Practice

• 22 TAC §§75.1, 75.5-75.10

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

The Texas Board of Chiropractic Examiners proposes the repeal of §§75.1, and 75.5-75.10, concerning rules of practice.

The sections are repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by these repeals: Texas Civil Statutes, Article 4512b.

§75.1. Grossly Unprofessional Conduct.

§75.5. Witness Fees.

§75.6. Failure to Respond to Board Inquiries.

§75.7. Fees.

§75.8. Public Interest Information.

§75.9. Complaint Procedures.

§75.10. Administrative Fines and Penalties.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515445 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700



The Texas Board of Chiropractic Examiners proposes new §75.1 and §§75.5-75.10, concerning rules of practice.

The proposed new rules more accurately define those statutorily granted functions regarding rules of practice and enforcement of infractions of rule or statute.

Patte B. Kent, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Kent also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more effective and efficient enforcement of rules and statutes. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by these new sections: Texas Civil Statutes, Article 4512b.

§75.1. Grossly Unprofessional Conduct.

(a) It shall be considered grossly unprofessional conduct for a licensee:

(1) to maintain unsanitary or unsafe equipment;

(2) to fail to use the word "chiropractor," "Doctor, D.C.," or "Doctor of Chiropractic, D.C." in all advertising signs, letterheads, etc.;

(3) to engage in sexual misconduct with a patient within the chiropractic/patient relationship;

(4) to exploit patients through the fraudulent use of chiropractic services which result in financial gain for a licensee or a third party. The rendering of chiropractic services becomes fraudulent when the services rendered or goods or appliances sold by a chiropractor to a patient are clearly excessive to the justified needs of the patient as determined by accepted standards of the chiropractic profession;

(5) to submit a claim for chiropractic services, goods or appliances to a patient or a third-party payer which contains charges for services not actually rendered or goods or appliances not actually sold;

(6) to fail to disclose, upon request by a patient or his or her duly authorized representative, the full amount charged for any service rendered or goods supplied.

(b) Penalties for engaging in gross unprofessional conduct shall be determined in accordance with §75.10 of this title (relating to Administrative Fines and Penalties).

§75.5. Witness Fees. The Texas Board of Chiropractic Examiners will pay the expenses of a witness or deponent in an administrative proceeding who is not a party and who is subpoenaed or otherwise compelled to attend any hearings, depositions, or proceedings under the board's jurisdiction in the following manner:

(1) for any witness or deponent whose attendance is requested by a party other than the board, only those sums advanced to the board by the party requesting such attendance;

(2) for any witness or deponent whose attendance is requested by the board staff:

(A) travel expenses, if the place where attendance is required is more than 25 miles from the person's place of residence, in the following amounts:

(i) actual cost of public transportation; or

(ii) per mile reimbursement at a rate authorized by the state per mile based on round trip mileage from the person's place of residence;

(B) actual cost of lodging not to exceed \$55 a day; and

(C) per diem in the amount of \$40 for each day or part of the day the person's presence is required.

§75.6. Failure to Respond to Board Inquiries.

(a) Each licensee shall promptly respond to Board inquiries concerning complaints of professional misconduct by the licensee. All Board inquiries will be sent "Certified Return Receipt Requested" and must be accepted by the Doctor against whom the complaint is lodged or the doctor's designee. A duplicate copy of the complaint will be sent by the United States mail to the doctors' last known address, so doing raises a presumption of delivery.

(b) Responses shall be in writing and shall be directed to the attention of the board's enforcement committee.

(c) Failure to timely respond to a complaint shall be an independent ground for disciplinary proceedings.

§75.7. Fees.

Figure 1: 22 TAC §75.7

§75.8. Public Interest Information.

(a) In order for the public to have access to the board and the board's procedures by which complaints are filed with and resolved by the board, each licensee is required to: display a placard or sign furnished by the board containing the name of the board, mailing address, and telephone number for the purpose of directing complaints to the board.

(b) The placard or sign shall be conspicuously and prominently displayed in a location where it may be seen by all patients.

§75.9. Complaint Procedures.

(a) Filing complaints. Complaints may be filed with the agency in person at the board's office, or in any written form, including *submission* of a completed complaint form. The board adopts the following form in both English and Spanish as its official complaint form which shall be maintained at the board's office for use at the request of any complainant. At a minimum, all complaints shall contain information necessary for the proper processing of the complaint by the board, including, but not limited to:

(1) Complainant's name, address and phone number;

(2) Name, address and phone number of the chiropractor, chiropractic facility or other person, firm or corporation, if known;

(3) date, time and place of occurrence of alleged violation; and

(4) complete description of incident giving rise to the complaint.

Figure 1: 22 TAC §75.9(a)(4)

Figure 2: 22 TAC §75.9(a)(4)

(b) Complaint investigation and disposition.

(1) All complaints received shall be sent to the Texas Board of Chiropractic Examiners. The board shall distinguish between categories of complaints as follows:

(A) consumer and patient complaints against chiropractors or chiropractic facilities regarding alleged violations of the Texas Chiropractic Act, duly promulgated rules or orders;

(B) alleged unauthorized practice of chiropractic by unlicensed individuals, or by a licensee while a suspension order or restrictive sanction by the board is in effect;

(C) licensure or reinstatement applications;

(D) alleged advertising violations by chiropractors or chiropractic facilities, persons, or firms.

(2) A complaint shall not be dismissed without appropriate consideration. The board and complainant shall be advised of complaint dismissals.

(c) Enforcement Committee.

(1) The President shall appoint a committee as statutorily constituted to consider all complaints filed with the board. The committee shall be known as the Enforcement Committee. The Executive Director under the direction of the

Enforcement Chairperson shall supervise all investigations.

(2) Copies of the complaint and the respondents' response shall be sent to the members of the enforcement committee. The Enforcement Committee shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and documents, to issue commissions to take depositions, to administer oaths and to take testimony concerning all matters within the assigned jurisdiction.

(3) On receipt of a complaint, the members of the Enforcement Committee shall determine the disposition of the case using procedures approved by the board.

(4) Informal conferences shall be conducted by the Enforcement Committee as statutorily established. The licensee and/or the licensee's authorized representative should attend the informal conference and will be provided an opportunity to be heard.

(5) In any case where charges are based upon information provided by a person who filed a complaint with the board (complainant), the complainant may attend the informal conference, and shall be provided with an opportunity to be heard with regard to charges based upon the information provided. Nothing herein requires a complainant to attend an informal conference.

(6) Informal conferences shall not be deemed to be meetings of the board and no formal record of the proceedings at the conferences shall be made or maintained.

(7) Any proposed order shall be presented to the board for its review. At the conclusion of its review, the board shall approve, amend, or disapprove the proposed order. Should the Board approve the proposed order, the appropriate notation shall be made in the minutes of the board and the proposed order shall be entered as an official action of the board. Should the board amend the proposed order, the executive director shall contact the respondent to seek concurrence. If the respondent does not concur, the provisions of the next sentence shall apply. Should the board disapprove the proposed order, the case shall be rescheduled for purposes of reaching an agreed order, or in the alternative forwarded to the State Office of Administrative Hearings for formal action.

(d) Formal disposition of a contested case. All contested cases not resolved by informal conference, shall be referred to the State Office of Administrative Hearings.

(1) Notice. The respondent shall be entitled to reasonable notice of not less than ten days. Notice shall include the mat-

ters specifically required by the Administrative Procedures Act (APA), Government Code, Chapter 2001, to wit:

(A) a statement of the time, place, and nature of the hearing;

(B) a statement of the legal authority and jurisdiction under which the hearing is being held;

(C) a reference to the particular sections of the Act and rules involved; and

(D) a short and plain statement of the matters asserted.

(2) Notice of service. The notice of hearing and a copy of the formal complaint shall be served on the respondent's last known address at least ten days prior to the hearing. Service on the respondent shall be complete and effective if the document to be served is sent by registered or certified mail and by regular mail to the respondent at the address shown on the respondent's annual renewal certificate.

(3) Filing of documents. All pleadings and motions relating to any contested case pending before the State Office of Administrative Hearings shall be filed with the State Office of Administrative Hearings. They shall be deemed filed only when actually received.

(4) Motion for continuance. Continuances may be granted by the State Office of Administrative Hearings in accordance with procedural rules established by that agency.

(5) Transcription. Proceedings, all or any part of them, must be transcribed on the written request of any party. The agency may pay the cost of the transcript or assess the cost to one or more parties.

(6) Discovery. Requests for the issuance of subpoenas, requests for depositions and for production of documents, and other discovery matters shall be governed by the APA.

(e) Probation.

(1) The Board shall have the right and may, upon majority vote, rule that an order denying an application for license or any order canceling, suspending, or revoking any license be probated so long as the probated practitioner conforms to such orders and rules as the board may set out in the terms of the probation. The board, at the time of its decision to probate the practitioner, shall set out the period of time of its decision to probate the practitioner, shall set out the period of time which shall constitute the probationary period; provided, however,

that the board may at any time while the practitioner remains on probation upon majority vote rescind the probation and enforce the board's original action denying, suspending, or revoking such license for violation of the terms of the probation or for other good cause as the board in its discretion may determine. To rescind the probation shall require a formal disciplinary hearing and be conducted as a contested case within the meaning of the APA.

(2) The Texas Board of Chiropractic Examiners shall maintain a chronological and alphabetical listing of licensees who have had their license canceled, suspended, or revoked, and shall monitor each consent order in respect to each license holder's specific sanction. Any noncompliance observed as a result of monitoring shall be referred to the board.

(f) Reinstatement. Any practitioner whose license to practice has been revoked for a period of more than one year may, after the expiration of at least one year from the date that such revocation became final, apply to the board, on forms provided by the board, to have the revocation order withdrawn and to have the board reinstate a license to practice chiropractic. In considering the reinstatement of a revoked license, the board in its discretion may:

- (1) deny reinstatement of a revoked license;
- (2) reinstate a revoked license and probate the practitioner for a specified period of time under specified conditions; or
- (3) authorize reinstatement of the revoked license.

(g) The Enforcement Committee or a two-thirds vote of the Board may temporarily suspend a license to practice chiropractic in the State of Texas if evidence presented clearly indicates that continued practice constitutes a continued or imminent threat to the public welfare.

(1) Such suspension may occur without notice or hearing at such time as:

- (A) a disciplinary proceeding is scheduled not later than the 14th day after the date of suspension;
- (B) a second hearing shall be held not later than the 60th day after the date the suspension was ordered. If the second hearing is not held in the time required, the license is reinstated.

- (2) The licensee will be notified of actions taken against his license by certified mail.
- (3) The licensee may present information at the hearing which gives the

committee or Board appropriate information to continue or disregard the suspension.

(4) The license will remain suspended until such time as the committee shall take further disciplinary action.

(5) The licensee will not practice chiropractic during the duration of the suspension.

(6) During the suspension the enforcement and investigatory processes will continue.

§75.10. Administrative Fines and Penalties.

(a) In accordance with the Texas Chiropractic Act, §14e(a), administrative penalties may be assessed for violations of the Act or rule or order of the board. The Enforcement Committee as statutorily set by the board, may assess a penalty for each violation and present a report to the Board concerning the facts on which the determination was based and the amount of penalty. The range of penalty is \$250 to \$1,000.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation, including nature, circumstances, extent and gravity of any prohibited act, and hazard or potential hazard created to the health, safety, or economic welfare of the public;
- (2) the economic harm to property or the environment caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter future violations;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(c) Penalties imposed by the board pursuant to subsections (a) and (b) of this section may be imposed for each violation subject to the following limitations:

- (1) imposition of an administrative penalty not to exceed \$1,000 per day for each violation;
- (2) each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (d) The provisions of subsection (a)-(c) shall not be construed so as to prohibit other appropriate civil or criminal action and remedy and enforcement under other laws.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515454 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 76. Investigations

• 22 TAC §§76.1, 76.3-76.7

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

The Texas Board of Chiropractic Examiners proposes the repeal of §76.1 and §§76.3-76.7, concerning investigations.

The sections are repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by these repeals: Texas Civil Statutes, Article 4512b.

§76.1. Definitions.

§76.3. Request for Information and Records from Practitioners.

§76.4. Initiation of Investigations.

§76.5. Undercover Investigations.

§76.6. *Other Reports.*

§76.7. *Criminal Conviction.*

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515446

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700



The Texas Board of Chiropractic Examiners proposes new §76.1 and §§76.3-76.7, concerning investigations.

The proposed new rules more accurately define those statutorily granted functions regarding investigations.

Patte B. Kent, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Kent also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more effective and efficient investigations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by these new sections: Texas Civil Statutes, Article 4512b.

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

Act—Texas Civil Statutes, Article 4512b, Practice of Chiropractic.

APA—The Government Code, Chapter 2001.

Board—The Texas Board of Chiropractic Examiners.

Board member—One of the appointed members of the decision-making body defined in this section as the board.

Licensee—An individual who has been granted a license to practice chiropractic by the Texas Board of Chiropractic Examiners and whose license is active and not under suspension.

Practitioner—A doctor of chiropractic, who is licensed and authorized to practice under the Act.

§76.3. *Request for Information and Records from Practitioners.*

(a) Chiropractic records. A licensee shall furnish copies of chiropractic records, or a summary or narrative of the records, or the original records if the board provides the licensee with a medical record release form signed by the patient, or a parent or legal guardian if the patient is a minor, or a legal guardian if the patient has been adjudicated incompetent to manage his personal affairs, or an attorney ad litem appointed for the patient, as authorized by the Texas Mental Health Code (Texas Civil Statutes, Articles 5547-1 et seq); the Mentally Retarded Persons Act of 1977 (Texas Civil Statutes, Article 5547-300); §9, Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Texas Civil Statutes, Article 5561c); §2, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Texas Civil Statutes, Article 5561c-1); Texas Probate Code, Chapter 5; and Family Code, Chapter 11; or a personal representative if the patient is deceased, provided that the written consent specifies the following:

(1) the information or chiropractic records to be covered by the release;

(2) the reasons or purposes for the release; and

(3) the person to whom the information is to be released. The patient, or other person authorized to consent, has the right to withdraw his consent to the release of any information. Withdrawal of consent does not affect any information disclosed prior to the written notice of the withdrawal. Any person who received information made confidential by this Act may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release information was obtained. These records shall be furnished to the board within two weeks of the date of the board's request.

(b) Renewal of licenses. A licensee shall furnish a written explanation of his or her answer to any question asked on the application for license renewal, if requested by the board. This explanation shall include all details as the board may request and shall be furnished within two weeks of the date of the board's request.

(c) Impaired practitioners.

(1) The board shall require a licensee to submit to a mental and/or physical

examination by the appropriate health care provider designated by the board if the board has probable cause to believe that the licensee is impaired. An impaired practitioner is considered to be one who is unable to practice chiropractic with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material; or as a result of any mental or physical condition.

(2) Probable cause may include, but is not limited to, any one of the following:

(A) sworn statements from two people, willing to testify before the board, that a certain licensee is impaired;

(B) evidence that a licensee left a treatment program for alcohol or chemical dependency before completion of that program;

(C) evidence that a licensee is guilty of intemperate use of drugs or alcohol;

(D) evidence of repeated arrests of a licensee for intoxication;

(E) evidence of recurring temporary commitments to a mental institution of a licensee; or

(F) chiropractic records showing that licensee has an illness or condition which results in the inability to function properly in his or her practice.

§76.4. *Initiation of Investigations.*

(a) Any person, public officer, association, or board may file reports of alleged violations of the Act or of these sections.

(b) Anonymous reports of alleged violations will be evaluated individually before an investigation is initiated.

(c) The agency on its own initiative may undertake an investigation with reasonable cause.

§76.5. *Undercover Investigations.*

(a) Undercover investigations will be conducted only when other investigative techniques have failed or are not efficient or appropriate. Undercover investigations shall NOT be used indiscriminately.

(b) If an investigator determines an undercover investigation is needed on a specific complaint, the investigator shall submit a written request to the Enforcement Committee Chair which will contain:

(1) the specific complaint addressed;

(2) the information which an undercover investigation may reveal;

(3) the relevance of the information listed in paragraph (1) and paragraph (2) of this subsection;

(4) all previous attempts to gather the information in paragraphs (1)-(3) of this subsection by alternate techniques or the reason alternative techniques are not appropriate or efficient;

(5) what undercover investigative acts will be performed and by whom.

(c) The Enforcement Committee Chair and Executive Director will evaluate the need and appropriateness of the request and will consult with the Enforcement Committee prior to approval of the request.

(d) The Executive Director and Enforcement Committee Chair will assume direct responsibility for an investigation while undercover activities are being conducted.

§76.6. Other Reports.

(a) Relevant information required to be reported to the board pursuant to the Act, indicating that a practitioner's practice of chiropractic poses a continuing threat to the public welfare shall include a narrative statement describing the time, date, and place of the acts or omissions on which the report is based.

(b) A report that a practitioner's practice of chiropractic constitutes a continuing threat to the public welfare shall be made to the board as soon as possible after the Enforcement Committee reaches that conclusion and is able to assemble the relevant information.

§76.7. Criminal Conviction.

(a) Upon initial conviction of a felony or of a misdemeanor involving moral turpitude, or the initial finding of the trier of fact of a practitioner's guilt in such a criminal proceeding, the board may suspend the practitioner's license. Upon final conviction, the board may revoke the practitioner's license. In either case, the board shall secure a certified true and correct abstract of record of the court that considered the case.

(b) A misdemeanor involving moral turpitude shall be defined as an offense involving baseness, vileness, or depravity in the private and social duties one owes to others or to society in general, or an offense committed with knowing disregard for justice, honesty, principle, or good morals.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 30, 1995.

TRD-9515455

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 77. Advertising and Public Communication

• 22 TAC §§77.1-77.3

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

The Texas Board of Chiropractic Examiners proposes the repeal of §§77.1-77.3, concerning advertising and public communication.

The sections are repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by these repeals: Texas Civil Statutes, Article 4512b.

§77.1. Definitions.

§77.2. Publicity.

§77.3. Miscellaneous.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515447

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

The Texas Board of Chiropractic Examiners proposes new §§77.1-77.3, concerning advertising and public communication.

The proposed new rules will more clearly define the role and responsibility of the licensee.

Patte B. Kent, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Kent also has determined that the public benefit anticipated as a result of enforcing the sections will be a clearer definition of the statutory boundaries of the licensee. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by these new sections: Texas Civil Statutes, Article 4512b.

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

Board-The Texas Board of Chiropractic Examiners.

Executive director-The executive director of the Texas Board of Chiropractic Examiners.

Licensee-A person who is licensed to practice chiropractic in the State of Texas by the Texas Board of Chiropractic Examiners.

Print media-Newspapers, magazines, classified telephone directories, city, county, and suburban directories, and all other similar publications.

Public communication-Any written, printed, visual, or oral statement or other

communication made to or distributed, or intended for distribution, to a member of the general public or the general public at large.

§77.2. Publicity. A licensee shall not, on behalf of himself, his partner, associate, or any other licensee affiliated with him, use or participate in the use of any form of public communication which contains a false, fraudulent, misleading, deceptive, or unfair statement of claim, or which has the tendency or capacity to mislead or deceive the general public.

§77.3. Miscellaneous.

(a) A licensee shall, on the date of providing goods or services to a patient, disclose to the patient in writing the full amount of the licensee's charges.

(b) Compliance with this rule may be in any written form reasonably calculated to notify the patient of the actual charges for the goods or services provided.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515448 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

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Chapter 78. Chiropractic Radiologic Technologists

• 22 TAC §78.1

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

The Texas Board of Chiropractic Examiners proposes the repeal of §78.1, concerning chiropractic radiologic technologists.

The section is repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal impli-

cations for state or local government as a result of enforcing or administering the repeal.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by this repeal: Texas Civil Statutes, Article 4512b

§78.1. Registration of Chiropractic Radiologic Technologists.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515448 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call. (512) 305-6700

◆ ◆ ◆
The Texas Board of Chiropractic Examiners proposes new §78.1, concerning chiropractic radiologic technologists.

The proposed new rule will more clearly define the duties of, certification procedure and renewal process for chiropractic radiologic technologists.

Patte B. Kent, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Kent also has determined that the public benefit anticipated as a result of enforcing the section is to provide the public with radiologic technologists who are certified and monitored as statutorily required. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide

the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by this new section: Texas Civil Statutes, Article 4512b.

§78.1. Registration of Chiropractic Radiologic Technologists.

(a) Any person performing radiologic procedures under the supervision of a chiropractor must register with the Texas board of Chiropractic Examiners. This section does not apply to registered nurses or to persons certified under the Medical Radiologic Technologists Certification Act.

(b) The fee for registration required under this section shall be set and approved annually by the board, and, payable to the Texas Board of Chiropractic Examiners by cashier's check or money order upon submission of the registration application.

(c) Registration may be suspended, revoked, not renewed, or denied for the following:

(1) violation of the rules of the Texas board of Chiropractic Examiners;

(2) violation of the Medical Radiologic Technologist Certification Act;

(3) violation of the rules of the Texas Department of Health;

(4) violation of the Texas Chiropractic Act;

(5) violation of the rules of the registrant's licensing agency; and

(6) nonpayment of registration fees.

(d) Each chiropractic radiologic technologist shall renew the registration annually. The technologist shall complete 12 clock hours of continuing education prior to the expiration of the initial registration and six clock hours annually prior to the expiration of each subsequent registration. The continuing education shall meet the requirements of the rules of the Texas Department of Health relating to continuing education for medical radiologic technologists.

(e) All registrants must comply with the rules of the Texas Department of Health for the Control of Radiation.

(f) All registrants who perform radiologic procedures must meet the minimum training and supervision standards promulgated by the Texas Department of Health, 25 TAC §§143.1-143.14, unless they perform said procedures under the supervision issued by a licensed chiropractor.

(g) Procedures that include cineradiography are limited to use by a doctor who has passed a course in its use, approved by the Texas Board of Chiropractic Examiners.

(h) Any nonstatic procedure has the potential to be more dangerous and hazardous and by definition may only be performed by a practitioner or a certified medical radiologic technologist.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515457 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption. January 8, 1996

For further information, please call. (512) 305-6700



Chapter 79. Provisional Licensure

• 22 TAC §79.1

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

The Texas Board of Chiropractic Examiners proposes the repeal of §79.1, concerning provisional licensure

The section is repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by this repeal: Texas Civil Statutes, Article 4512b.

§79.1. General Requirements for Provisional Licensure.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515449 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700



The Texas Board of Chiropractic Examiners proposes new §79.1, concerning provisional licensure

The proposed new rule will more clearly define the processes and procedures required for persons seeking provisional licensure through the Board.

Patte B. Kent, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule is in effect will be an estimated additional cost of \$2,500 and an estimated increase in revenue of \$8,900.

Ms. Kent also has determined that the public benefit anticipated as a result of enforcing the section is to protect the public by providing specific procedures by which practitioners from other jurisdictions may become licensed in Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by this new section: Texas Civil Statutes, Article 4512b

§79.1. General Requirements for Provisional Licensure.

(a) Requirements for provisional license. A candidate may apply for a provisional license under the following circumstances.

(1) The applicant must be licensed in good standing as a doctor of chiropractic in another state, the District of Columbia, or a territory of the United States, that has licensing requirements that are substantially equivalent to the require-

ments of the Texas Chiropractic Act, and must furnish proof of such licensure on board forms provided. For the purposes of this chapter, the term "substantially equivalent" means that the jurisdiction from which the doctor is requesting provisional licensure has equivalent practices and requirements in the following areas:

- (A) scope of practice;
- (B) continuing education;
- (C) license renewal;
- (D) enforcement practices;
- (E) examination requirements;
- (F) undergraduate education requirements;
- (G) Chiropractic education requirements.

(2) The applicant must have passed the National Board of Chiropractic Examiners Examination Part I, II, III and Physiotherapy and must request a true and correct copy of the applicant's score report be sent directly to the Texas Board of Chiropractic Examiners;

(3) The applicant must not have failed a licensure exam conducted by the board.

(4) The application must be accompanied by the affidavit required by the Texas Chiropractic Act, §9(a).

(b) Sponsorship. A candidate for provisional licensure must be sponsored by a doctor of chiropractic who is currently licensed by the board with the following conditions applicable.

(1) Prior to practice in Texas, on forms provided by the board, the sponsor licensee will certify to the board the following:

(A) that such candidate will be working within the same office as the licensee, under direct supervision of the sponsor licensee;

(B) that such sponsor licensee is aware of the Texas Chiropractic Act and rules governing provisional licensure and that the sponsorship will cease upon the invalidity of the provisional license.

(2) Sponsor licensee will be held responsible for the unauthorized prac-

tice of chiropractic should such provisional license expire.

(c) The applicant must have practiced chiropractic for two years prior to applying for Texas license.

(d) The application must be completed within one year of initial application date.

(e) The applicant must have been licensed by examination in the jurisdiction from which the applicant desires a provisional license.

(f) Hardship. An applicant for a provisional license may be excused from the requirements of sponsorship if the Board determines that compliance constitutes a hardship to the applicant.

(g) Application and fee.

(1) The candidate for provisional licensure will be subject to all application requirements required by §71.2 of this title (relating to Application for Licensure) and subject to the applicable fees established under §75.7 of this title (relating to Chiropractic Fees).

(2) No provisional license can be issued until all application forms and fees are received in the Board Office and the application is approved.

(3) A provisional license expires upon the earlier to occur of the passage of 180 days or notice by the board of the candidate's successful passage or failure of any or all examinations required. It shall be the responsibility of the candidate and sponsor to return the provisional license to the Board Office upon expiration.

(4) The candidate's failure to sit for the first scheduled board examination following application for examination invalidates the provisional license, unless in the discretion of the board, sufficient and reasonable evidence regarding nonappearance exists.

(5) Each candidate for provisional license shall receive only one nonrenewable license prior to the issuance of a chiropractic license.

(6) The holder of a provisional license must sit for and pass the jurisprudence part of the Texas Examination with a grade of 75% or better during the term of the provisional license.

(h) If at any time during the provisional licensure period it is determined that the holder of such provisional license has violated the Texas Chiropractic Act or board rules, such provisional license will be subject to termination.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515458

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 80. Practice of Chiropractic

• 22 TAC §80.1

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

The Texas Board of Chiropractic Examiners proposes the repeal of §80.1, concerning Practice of Chiropractic.

The section is repealed to comply with Senate Bill 673 (Article 4512b, §24(a)) adopted by the 74th Legislature and effective June 18, 1995. Senate Bill 673 requires that the Texas Board of Chiropractic Examiners review and amend, in conformance with this Act, all rules adopted by the Board on or after September 1, 1994. New rules will be adopted to replace those being repealed.

Patte B. Kent, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Kent also has determined there will be no public benefit or costs as a result of repealing the affected section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patte Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate rules and regulations as deemed necessary.

The following is the statute that is affected by this repeal: Texas Civil Statutes, Article 4512b.

§80.1. Delegation of Authority.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515450

Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Chapter 80. Miscellaneous

• 22 TAC §80.1

The Texas Board of Chiropractic Examiners proposes new §80.1, concerning miscellaneous items.

The proposed new rule will more clearly define the practice, title, and specifications within the profession.

Patte B. Kent, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Kent also has determined that the public benefit anticipated as a result of enforcing the section will be to more accurately define the profession. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patte B. Kent, Executive Director, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules for the protection of the public.

The following is the statute that is affected by this new section: Texas Civil Statutes, Article 4512b.

§80.1. Delegation of Authority.

(a) Except as provided in this section, a licensee shall not delegate to a non-licensee authority to perform chiropractic adjustments or manipulations.

(b) A licensee may delegate authority to perform chiropractic adjustments or manipulations to a student enrolled in an accredited chiropractic college, provided that:

(1) the chiropractic adjustment or manipulation is performed as part of a regular curriculum; and

(2) the chiropractic adjustment or manipulation is performed under the supervision of a licensee who is physically present at the time of the adjustment.

(c) A licensee shall have the authority to delegate to any qualified and properly trained person or persons acting under the licensee's supervision any other task or procedure which is within the scope of practice, as defined in Vernon's Annotated Civil Statutes, Article 4512b, §1.

(d) A licensee shall not delegate any authority to a licensee whose license has been suspended or revoked during the effective period of the suspension.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515459

Patte B. Kert
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 305-6700

Part XI. Board of Nurse Examiners

Chapter 217. Licensure and Practice

• 22 TAC §217.20

The Board of Nurse Examiners proposes an amendment to §217.20, concerning Minimal Procedural Standards During Peer Review.

During the 74th Legislative Session, House Bill 883 was passed which added vocational nurses to the Nursing Practice Act under Article 4525b, Peer Review. The language indicates that whenever peer review involves RNs and LVNs, the peer review committee shall include LVNs as members.

Peer review was enacted as a part of the Nursing Practice Act in 1987 and institutions implemented peer review for both RNs and LVNs, although LVNs were not specified in the statute. This resulted in a lack of immunity from suit when peer review committees handled LVNs.

The proposed amendment will cure the immunity problem so that committees who handle both RNs and LVNs can be free from suit/liability.

Katherine A. Thomas, MN, RN, executive director, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

There will be no effect on local government nor businesses to comply with the rule.

Ms. Thomas also has determined that for each year of the first five years the rule as proposed will be in effect the public is not affected.

Written comments on the proposed amendment may be submitted to Katherine Thomas, Executive Director, Board of Nurse Examiners, Box 140466; Austin, Texas 78714.

The amendment is proposed under the Nursing Practice Act (Texas Civil Statutes, Article 4514), §1, which provides the Board of Nurse Examiners with the authority and power to

make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

Article 4525b is affected by this amendment.

§217.20. Minimum Procedural Standards During Peer Review.

(a)-(d) (No change.)

(e) The 74th Legislature expressly included vocational nurses in the peer review provisions of Texas Civil Statutes, Article 4525b. The procedural standards found in subsections (a)-(d) of this section apply to LVNs.

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

Issued in Austin, Texas, on December 1, 1995.

TRD-9515502

Katherine A. Thomas, MN,
RN
Executive Director
Board of Nurse Examiners

Proposed date of adoption: January 8, 1996

For further information, please call: (512) 305-6811

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care

Subchapter P. Drug Research Contracts

• 25 TAC §§405.381-405.388

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

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§405.381-405.388, concerning drug research contracts.

The proposed repeals would allow for the proposal of new sections governing research in department facilities.

Don Green, chief financial officer, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals. There will be no significant local economic impact.

Karen Hale, assistant commissioner, has determined that for each year of the first five

years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals is the adoption of department rules that ensure the protection of the rights and welfare of human subjects involved in research at department facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Health and Safety Code, Chapters 533, 552, and 593.

§405.381. Purpose.

§405.382. Application.

§405.383. Definitions.

§405.384. Negotiation of Grants from Pharmaceutical Companies.

§405.385. Rule Compliance for Drug Studies Requiring Use of Human Subjects.

§405.386. Agreed Protocol Required for Undertaking of Drug Evaluation.

§405.387. Distribution.

§405.388. Effective Date.

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515604

Ann Utley
Chair, Texas MHR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 206-4516

Subchapter Q. Departmental Procedures for the Protection of Human Subjects Involved in Research

• 25 TAC §§405.401-405.411

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

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§405.401-405.411, concerning departmental procedures for the protection of human subjects involved in research.

The proposed repeals would allow for the proposal of new sections governing research in department facilities.

Don Green, chief financial officer, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals. There will be no significant local economic impact.

Karen Hale, assistant commissioner, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals is the adoption of department rules that ensure the protection of the rights and welfare of human subjects involved in research at department facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Health and Safety Code, Chapters 533, 552, and 593.

§405.401. Purpose and Application.

§405.402. Philosophy and Research Principles.

§405.403. Definitions.

§405.404. Exempt Research.

§405.405. Informed Consent.

§405.406. Establishment of the Central Office Research Review Committee; Duties and Functions.

§405.407. Establishment of the Institutional Review Board; Duties and Functions.

§405.408. Research Involving Children.

§405.409. Exhibits.

§405.410. Distribution.

§405.411. References.

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515605

Ann Utley
Chair, Texas MHMR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 206-4516

Subchapter P. Research in Department Facilities

• 25 TAC §§405.401-405.411, 405.414-405.417

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§405.401-405.411 and §§405.414-405.417, concerning research in department facilities. The new sections are proposed contemporaneously with the proposed repeal of existing Chapter 405, Subchapter P, concerning drug research contracts; Chapter 405, Subchapter Q, concerning department procedures for the protection of human subjects involved in research; and Chapter 405, Subchapter R, concerning general procedures for approval of research.

The proposed new sections provide for the review and approval of proposed research to be done at the Institutional Review Board (IRB) level, with no additional approval from the department's central office. A Central IRB would be established to provide facilities that do not have access to or membership for an IRB an opportunity to have research conducted at their facility. Facilities would have a choice in establishing their own local IRB, using a university IRB, or using the Central IRB. The Office of Research Administration (ORA) at Central Office would be responsible for approving an IRB as the facility's designated IRB. Federal regulations would be adopted by reference to provide explicit direction regarding IRBs, ethics, research approval, exempt research, informed consent,

and misconduct in science. Additional guidelines would be required regarding informed consent/coercion of vulnerable populations and allegations of misconduct in science.

Don Green, chief financial officer, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. Implementing the rules may require a shift in staff time, but it should not require additional staffing. Minor semi-annual training and travel expenses may be incurred; however, these amounts do not appear to be significant.

Karen Hale, assistant commissioner, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the adoption of department rules that ensure the protection of the rights and welfare of human subjects involved in research at department facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Health and Safety Code, Chapters 533, 552, and 593.

§405.401. Purpose.

(a) The purpose of this subchapter is to establish uniform guidelines for the review, conduct, and oversight research that:

(1) ensure the protection of the rights and welfare of human subjects involved in research;

(2) govern the review of all research involving human subjects conducted within, by, and in conjunction with, the facilities of the Texas Department of Mental Health and Mental Retardation;

(3) provide for the creation and utilization of designated Institutional Review Boards (IRBs) for each facility that elects to be involved in the conduct of research; and

(4) provide for the review of allegations of misconduct in science by individuals conducting research covered by this subchapter.

(b) This purpose is accomplished by adopting by reference Title 45, Code of Federal Regulations, Part 46 (Protection of

Human Subjects) revised June 18, 1991, referenced as Exhibit A, in addition to the specific guidelines set forth in this subchapter.

§405.402. Application.

(a) This subchapter applies to all research involving:

(1) human subjects of any department facility; or

(2) facility resources (e.g., employees, property, or non-public information).

(b) This subchapter does not apply to research conducted at community mental health and mental retardation (MHMR) centers. Community MHMR centers conducting research, however, must comply with 45 Code of Federal Regulations (CFR) 46 because they are recipients of federal funds.

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

Adverse effect—An undesirable and unintended, although not necessarily unexpected, result of therapy or other intervention (e.g., headache following spinal tap or intestinal bleeding with aspirin therapy).

Assent—Affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

Department—The Texas Department of Mental Health and Mental Retardation.

Designated institutional review board (IRB)—The IRB chosen by the facility and approved by the Office of Research Administration in accordance with this subchapter.

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

Facility—Any state hospital, state school, state center, or any other entity which is now or hereafter made a part of the department.

Facility chief executive officer (CEO)—The superintendent or designee of a state hospital or state school, the director or designee of a state center, or the chief executive officer or designee of another entity.

Facility rights officer—An employee appointed by the facility CEO to protect and advocate for the rights of persons receiving services from a facility.

Human subject—A living individual about whom an investigator conducting research obtains data through intervention or interaction with the individual, or identifiable private information as defined in §46.102(f) (45 CFR 46), referenced within Exhibit A.

Informed consent—The knowing consent of an individual or an individual's le-

gally authorized representative, so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary for informed consent are outlined in §46.116 (45 CFR 46), referenced within Exhibit A.

Institutional review board (IRB)—A board established in accordance with the provisions of §405.405 of this title (relating to Designated Institutional Review Board (IRB)) for the purpose of reviewing and approving research proposals.

Investigation (of misconduct in science)—The formal examination and evaluation of all relevant facts to determine if misconduct in science has occurred.

Legally authorized representative—An individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research

Misconduct in science—

(A) The fabrication, falsification, plagiarism, deception, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research; or

(B) The material failure to comply with federal requirements that uniquely relate to the conduct of research.

Office of Research Administration (ORA)—The office in the department's Central Office responsible for overseeing the administration of research at department facilities.

Principal investigator—The person designated as responsible for conducting a research project.

Research—A systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this subchapter, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

Vulnerable populations—Individuals who are particularly susceptible to coercion or undue persuasion.

§405.404. General Principles.

(a) Participation in research that can advance scientific knowledge of mental disorders is integral to the mission of the department. The department recognizes and accepts its obligation to protect the rights of human subjects involved in research. The department uses, as a minimum standard, the preservation of those rights that are constitutionally and legally guaranteed and

protected, and adopts the policy that the guiding principle for all research involving human subjects is the safety, well-being, and dignity of the subject.

(b) To ensure the protection of human subjects involved in research at its facilities, the department adopts by reference Title 45, Code of Federal Regulations, Part 46 (Protection of Human Subjects) revised June 18, 1991, referenced as Exhibit A and relies on the provisions of this subchapter.

(c) For ethical guidelines relating to the protection of human subjects involved in research at its facilities, the department adopts by reference "The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research, Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research" (April 18, 1979), referenced as Exhibit B.

(d) The department recognizes and expresses a commitment to conducting research in a manner that is consistent with the best interests and protection of the personal rights of human subjects involved in the research. This includes conducting research in a manner that protects individuals from participating in research activities that conflict with individual treatment plans.

(e) No research involving human subjects may be conducted unless the risks to subjects are minimized and are reasonable in relation to the anticipated benefits.

(f) No undue inducement or coercion may be used to encourage human subjects to participate in research.

(g) The use of placebos or washout periods in research may be necessary under certain circumstances. However, a research project may not employ an experimental design which extends the use of a placebo or a washout period unreasonably or which deprives the human subject of reasonable relief which is, medically indicated.

(h) Unless otherwise provided for in this subchapter, research involving human subjects may not be undertaken unless:

(1) the research has been reviewed and approved by an IRB as outlined in §405.406 of this title (relating to General Provisions for Approval and Overview of Research) and §405.407 of this title (relating to Additional Reviews Necessary Prior to Initiation of Research).

(2) the facility CEO has agreed to have the research conducted at the facility; and

(3) if required, the necessary assurance and certification has been submitted to the appropriate federal agency, (e.g., Health and Human Services, Food and Drug Administration) and the agency has indicated its approval.

(i) A human subject involved in research is entitled to file a complaint about alleged mistreatment or other concerns relating to the research with the facility's rights officer or with any other complaint mechanism in place.

(j) All research undertaken at facilities is conducted with a fundamental commitment to high ethical standards regarding the conduct of scientific research. Any evidence of allegations of misconduct in science are reviewed and investigated promptly and thoroughly in accordance with 42 CFR Part 50, Subpart A, (Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science), published in the August 8, 1989, issue of the *Federal Register*, which is adopted by reference and referenced as Exhibit C, and §405.411 of this title (relating to Investigation of Allegations of Misconduct in Science).

§405.405. Designated Institutional Review Board (IRB).

(a) Each facility electing to participate in research projects must establish or have a relationship with an IRB for the purpose of reviewing and approving research proposed to be conducted at that facility as outlined in §405.406 of this title (relating to General Procedures for Approval and Overview of Research).

(b) The membership of the IRB must be established in accordance with §46.107 (45 CFR 46), referenced within Exhibit A, concerning IRB membership, and must include persons knowledgeable about and experienced with populations served by the facility or facilities. Members shall be knowledgeable about applicable ethics, laws, and regulations which guide human subject research.

(1) Local IRB. Membership of a facility's local IRB must include a consumer or family member of a consumer, or advocate for a consumer of the type of services provided by the facility.

(2) Central IRB. Membership of the Central IRB must include a consumer, family member of a consumer, or advocate for a consumer of the type of services provided by the department, as appropriate.

(c) The IRB must have written policies and procedures in place:

(1) which address the:

(A) functions and operations of the IRB as required by §46.103(b)(4) and (5) (45 CFR 46), referenced within Exhibit A; and

(B) reporting of adverse effects to the IRB.

(2) that are consistent with the department rules governing client care as listed in §405.415(3) of this title (relating to References).

(d) A facility may elect to establish its own IRB (local IRB), use a university IRB, or use the Central IRB as its designated IRB.

(1) Local IRB. The local IRB is established by the facility and operates under the auspices of the facility. The establishment of a local IRB must be approved by the ORA as outlined in subsection (f) of this section.

(2) University IRB. A facility may elect to use an IRB operated by a university. The facility must provide documentation that the university has accepted IRB responsibility for reviewing research for the protection of human subjects participating in research conducted at the facility. The utilization of a university IRB must be approved by the ORA as outlined in subsection (f) of this section.

(3) Central IRB. Facilities electing not to establish their own IRB or use a university IRB, or principal investigators conducting research under the auspices of Central Office may choose to use the Central IRB for review and approval of research. The ORA is responsible for ensuring that membership of the Central IRB is in accordance with §46.107 (45 CFR 46), referenced within Exhibit A, and that it includes proper local representation from various regions of the state.

(e) For research involving multiple facilities, a facility's local IRB or CEO may request the Central IRB to act as the facility's designated IRB for that particular research project.

(f) A facility seeking approval for the establishment of a local IRB or the utilization of a university IRB as its designated IRB shall submit information to the ORA outlining:

(1) a list of the IRB members identified by name, earned degrees, representative capacity, identifications of experience such as board certifications, license, etc., sufficient to describe each member's chief anticipated contributions to IRB deliberations, and any employment or other relationship between each member and the institution,

(2) written procedures for the functions and operation of the IRB as required by §46.103(b)(4) and (5) (45 CFR 46), referenced within Exhibit A; and

(3) written policy for the communication of IRB deliberations, recommendations, and decisions to the facility CEO and the ORA.

(g) The ORA shall review the information and will approve, disapprove, or enter into negotiations to attain approval for the IRB as the facility's designated IRB.

Written notice of approval or disapproval will be sent to the requesting facility.

(h) Any change in a designated IRB's membership, policies, or procedures must be reported to the ORA.

(i) The ORA may revoke approval of a designated IRB at any time the ORA determines the IRB fails to maintain standards in accordance with federal regulations and this subchapter.

§405.406. General Provisions for Approval and Overview of Research.

(a) The designated IRB reviews proposed research and has the authority to approve, require modifications to, or disapprove all proposed research governed by this subchapter. The review is carried out in accordance with §46.109 (45 CFR 46), referenced within Exhibit A, concerning IRB review of research. The designated IRB functions in accordance with §46.108 (45 CFR 46), referenced within Exhibit A, concerning IRB functions and operations.

(b) The designated IRB reviews and approves proposed research based on the criteria in §46.111 (45 CFR 46), referenced within Exhibit A, concerning criteria for IRB approval of research, §405.410 of this title (relating to Human Subject Selection), and §405.409 of this title (relating to Requirements for Informed Consent).

(c) The designated IRB may take into consideration deliberations and reviews from another IRB that has approved the protocol for a specific research proposal, but the designated IRB ultimately holds the responsibility for final approval.

(d) The designated IRB shall exercise appropriate oversight to ensure that its policies and procedures designed for protecting the rights and welfare of human subjects are being effectively applied.

(e) The designated IRB has the authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with significant unexpected harm to human subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's actions and shall be reported promptly to the principal investigator, appropriate institutional officials, and the ORA.

(f) The designated IRB shall maintain records of its operations in accordance with §46.115 (45 CFR 46), referenced within Exhibit A, concerning IRB records.

§405.407. Additional Reviews Necessary Prior to Initiation of Research.

(a) In addition to review by the designated IRB as outlined in §405.406 of this title (relating to General Provisions for Ap-

proval and Overview of Research), each research proposal may require additional approvals prior to initiation.

(1) Local IRB as the designated IRB. The research review and documentation processes for a facility's local IRB are generally as follows:

(A) the research proposal is reviewed by the local IRB and, if approved, forwarded to the facility CEO;

(B) the local IRB's recommendations, if any, are reviewed by the facility CEO, who either approves or disapproves the research proposal for implementation at the facility; and

(C) the ORA is notified in writing of the IRB's approval or disapproval, including copies of the local IRB's meeting minutes concerning the review of the proposal, the proposal itself, and, if approved, the local IRB's documentation of approval.

(2) University IRB as the designated IRB. The research review and documentation processes for a facility using a university IRB are generally as follows:

(A) the research proposal is screened by the facility CEO and, if determined appropriate for implementation at the facility, forwarded to the university IRB for review;

(B) the research proposal is reviewed by the university IRB;

(C) the facility CEO is informed of the university IRB's approval or disapproval and recommendations, if any;

(D) if the research proposal is approved by the university IRB, the facility CEO considers the university IRB's recommendations, if any, and either approves or disapproves the research proposal for implementation at the facility; and

(E) the ORA is notified in writing of the IRB's approval or disapproval, including copies of the university IRB's meeting minutes concerning the review of the proposal, the proposal itself, and, if approved, the university IRB's documentation of approval.

(3) Central IRB as the designated IRB. The research review and documentation processes for a facility using the Central IRB are generally as follows:

(A) the research proposal is screened by the facility CEO and, if determined appropriate for implementation at the facility, forwarded to the Central IRB;

(B) the research proposal is reviewed by the Central IRB;

(C) the facility CEO is informed of the Central IRB's approval or disapproval and recommendations, if any;

(D) if the research proposal is approved by the Central IRB, the facility CEO considers the Central IRB's recommendations, if any, and either approves or disapproves the research proposal for implementation at the facility; and

(E) the ORA is notified in writing of the IRB's approval or disapproval, including copies of the Central IRB's meeting minutes concerning the review of the proposal, the proposal itself, and, if approved, the Central IRB's documentation of approval.

(4) Central IRB as a facility's designated IRB for research projects involving multiple facilities. When a facility's local IRB or CEO requests the Central IRB act as its designated IRB for research involving multiple facilities, pursuant to §405.405(e) of this title (relating to Designated Institutional Review Board (IRB)), then the research review and documentation processes are generally as follows:

(A) the research proposal is reviewed and approved by the:

(i) facility CEO;

(ii) Central IRB; and

(iii) director of state operations or designee; and

(B) if the research proposal is approved by the facility CEO, the Central IRB, and the director of state operations or designee, the ORA is notified in writing of the approval, including copies of the Central IRB's meeting minutes concerning the review of the proposal, the proposal itself, and the Central IRB's documentation of approval.

(b) The review process for proposed research may require additional steps as necessary, (e.g., in the event a proposal is initially rejected).

§405.408. Exempt Research.

(a) Each designated IRB determines whether or not proposed research, which is exempt from the requirements of federal

regulations, will be screened or reviewed, in any way, by the IRB.

(b) If the designated IRB determines that exempt research will be screened or reviewed, then the IRB must establish an explicit policy regarding any approvals or documentation required.

(c) The determination of whether or not proposed research is exempt is made in accordance with §46.101(b) (45 CFR 46), referenced within Exhibit A.

§405.409. Requirements for Informed Consent.

(a) If informed consent is required, the designated IRB's review of the proposed research must include verification that procedures for obtaining and documenting informed consent from human subjects meet the requirements in §46.116 and §46.117 (45 CFR 46), referenced within Exhibit A. Additionally, informed consent must also address:

(1) any extension of the subject's length of stay at the facility as a result of participation in the research;

(2) if the research involves an investigational drug, the subject's ability to receive the drug(s) after the research protocol has concluded; and

(3) whether the research protocol involves the use of a placebo and the likelihood of assignment to the placebo condition.

(b) If minors are the proposed human subjects, the designated IRB's review of the proposed research must include verification that procedures for obtaining informed consent from the parent or legally authorized representative and the minor's assent for participation meet the requirements in Subpart D, §46.408 (45 CFR 46), referenced within Exhibit A.

(c) If vulnerable populations are the proposed human subjects, the designated IRB's review of the proposed research must determine that there are adequate procedures to ensure that each subject understands the information provided before obtaining consent and if the subject cannot understand the information that there are provisions for obtaining informed consent from the subject's legally authorized representative. If consent is obtained from the subject's legally authorized representative there should also be procedures to attempt to obtain the subject's assent to participation.

(d) If vulnerable populations are the proposed human subjects, the designated IRB's review of the proposed research must determine that there are safeguards to minimize the possibility of coercion or undue influence. The research proposal may be

approved only if the possible advantages of the subject's participation in the research do not impair the subject's ability to weigh the risks of the research against the value of those advantages. Possible advantages within the limited choice environment of a facility may include enhancement of general living conditions, medical care, quality of food, or amenities; opportunity of earnings; or change in commitment status.

§405.410. Human Subject Selection. The designated IRB's review of proposed research shall ensure that the human subject selection process is equitable and that measures are taken to ensure the research sample is adequately representative of the population of interest. Subject selection procedures must offer equitable opportunity for access to participation in research and access to potential benefits of participation.

§405.411. Investigation of Allegations of Misconduct in Science.

(a) All research undertaken at facilities shall be conducted with a fundamental commitment to high ethical standards regarding the conduct of scientific research.

(b) Reports of alleged misconduct in science are made to the chair of the IRB that approved the research, the chair of the Central IRB, or the official of the facility or university who has been designated to receive reports of allegations, who shall ensure that:

(1) each allegation is reviewed and investigated by an appropriate entity (which may not necessarily be the facility) in accordance with 42 CFR Part 50, Subpart A, referenced as Exhibit C;

(2) the agency sponsoring the research is notified of the allegation;

(3) the ORA is notified of each allegation within 30 days of the report; and

(4) the ORA is sent information documenting the disposition of each allegation in accordance with 42 CFR Part 50, Subpart A, referenced as Exhibit C.

(c) The ORA is responsible for maintaining data regarding misconduct in science required by the Office of Research Integrity in accordance with 42 CFR Part 50, Subpart A, referenced as Exhibit C.

§405.414. Responsibilities of the Office of Research Administration (ORA). The ORA is responsible for:

(1) approving the establishment or utilization of an IRB by a facility as the facility's designated IRB;

(2) providing staff support to the Central IRB;

(3) reviewing and developing department rules and policies governing the conduct of research at facilities;

(4) maintaining all documentation regarding designated IRB's review of research for a facility;

(5) conducting an annual survey of research conducted at facilities;

(6) maintaining data regarding misconduct in science; and

(7) providing technical assistance and interpretation of policies, procedures, department rules, and regulations concerning the conduct of research involving human subjects at facilities.

§405.415. References. The following statutes and department rules are referenced in this subchapter:

(1) Title 45, Code of Federal Regulations, Part 46 (Protection of Human Subjects) revised June 18, 1991;

(2) Title 42, Code of Federal Regulations, Part 50, Subpart A, (Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science);

(3) department rules governing client care, which are:

(A) Chapter 403, Subchapter K of this title (relating to Client-Identifying Information);

(B) Chapter 404, Subchapter A of this title (relating to Abuse, Neglect, and Exploitation of Persons Served by TDMHMR Facilities);

(C) Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services);

(D) Chapter 405, Subchapter F of this title (relating to Restraint and Seclusion in Mental Health Facilities);

(E) Chapter 405, Subchapter G of this title (relating to Behavior Therapy Programs);

(F) Chapter 405, Subchapter H of this title (relating to Behavior Management-Facilities Serving Persons with Mental Retardation);

(G) Chapter 405, Subchapter I of this title (relating to Consent to Treatment with Psychotropic Medication);

(H) Chapter 405, Subchapter Y of this title (relating to Clients Rights-Mental Retardation Services); and

(I) Chapter 405, Subchapter FF of this title (relating to Consent to Treatment with Psychoactive Medication).

§405.416. Exhibits. The following exhibits are referenced in this subchapter:

(1) Exhibit A--Title 45, Code of Federal Regulations, Part 46 (Protection of Human Subjects);

(2) Exhibit B--"The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research, Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research" (April 18, 1979); and

(3) Exhibit C--Title 42, Code of Federal Regulations, Part 50, Subpart A.

§405.417. Distribution. This subchapter is distributed to:

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

(2) management and program staff of Central Office;

(3) superintendents and directors of all state facilities; and

(4) upon request, to any interested party.

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515603

Ann Utley
Chair, Texas MHMR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 206-4516

◆ ◆ ◆
Subchapter R. General Procedures for Approval of Research

• 25 TAC §§405.421-405.424,
405.426-405.430

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

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

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§405.421-405.224 and §§405.426-405.430, concerning general procedures for approval of research.

The proposed repeals would allow for the proposal of new sections governing research in department facilities.

Don Green, chief financial officer, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals. There will be no significant local economic impact.

Karen Hale, assistant commissioner, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals is the adoption of department rules that ensure the protection of the rights and welfare of human subjects involved in research at department facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Health and Safety Code, Chapters 533, 552, and 593.

§405.421. Purpose.

§405.422. Application.

§405.423. Definitions.

§405.424. Central Office Research Review Committee Duties.

§405.426. Grants, Contracts, Gifts, Bequests.

§405.427. Approval of Research.

§405.428. Conduct of Business by the Central Office Research Review Committee.

§405.429. Distribution.

§405.430. Effective Date.

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

Issued in Austin, Texas, on December 4, 1995.

TRD-9515606

Ann Utley
Chair, Texas MHMR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 206-4516

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter K. Custody and Use of Criminal History Record Information

• 28 TAC §§1.1201-1.1205

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

The Texas Department of Insurance proposes the repeal of 28 TAC §§1.1201-1.1205, concerning the custody and use of criminal history record information by the department. The repeal is proposed because §§1.1201-1.1205 are based upon sections of Insurance Code, Article 1.10C that were repealed by the 73rd Legislature. The department will simultaneously propose a new subchapter (regarding Criminal History Record Information Requirement for Applicants for License), which appears elsewhere in this issue of the Texas Register.

Edna Ramon Butts, senior associate commissioner, regulation and safety, has determined that for each year of the first five years the proposed repeal will be in effect, there will be no fiscal implications for state or local government, or small business as a result of enforcing or administering the repeal. There will be no effect on the local economy or local employment.

Ms. Butts also has determined that for each year of the first five years the repeal is in effect, the anticipated public benefit of enforcing the repeal is the removal of rules based on repealed Insurance Code provisions from the Texas Administrative Code. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no anticipated economic cost to persons required to comply with the repeal as proposed.

Comments on the proposal must be submitted within 30 days after publication of the proposed repeal in the *Texas Register* to Alicia M. Fectel, General Counsel and Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-1C, Austin, Texas 78714-9104. An additional copy of the comment must be submitted to Edna Ramon Butts, Senior Associate Commissioner, Regulation and Safety, Texas Department of Insurance, P.O. Box 149104, MC 107-2A, Austin, Texas 78714-9104. Any requests for public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The repeal is proposed pursuant to the Insurance Code, Articles 1.10C and 1.03A, and the Government Code, §§2001.004 et seq (Administrative Procedure Act). Article 1.10C concerns the department's right to access to certain criminal history record information. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §§2001.004 et seq authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and to prescribe the procedures for adoption of rules by a state agency.

The following statute and rules are affected by this proposal: Insurance Code, Article 1.10C.

§1.1201. General Provisions.

§1.1202. Definitions.

§1.1203. Custody and Use of Criminal History Information.

§1.1204. Procedure for Submission of Fingerprints.

§1.1205. Consequences of Failure to Submit Fingerprints Upon Request.

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

Issued in Austin, Texas, on December 1, 1995.

TRD-9515573

Alicia M. Fectel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 463-6327

Chapter 19. Agent's Licensing

Subchapter S. Criminal History Record Information Requirement for Applicants for License

• 28 TAC §§19.1801-19.1807

The Texas Department of Insurance proposes new Subchapter S, §§19.1801-19.1807, regarding submission of criminal history record information with new applications for licensure as insurance agents, adjusters, life insurance counselors, reinsurance intermediaries or risk managers. Section 19.1801 states the purpose and scope of the subchapter. Section 19.1802 sets out the definitions used in the subchapter. Section 19.1803 specifies the new license applications to which the criminal history record information must be attached. Section 19.1804 establishes an exemption from the requirement of submitting criminal history record information with an application for certain individuals. Section 19.1805 establishes procedures for nonresident agents who submit an application for license in Texas. Section 19.1806 sets out the standards to be used by the department regarding the granting or denial of a license. Section 19.1807 states that criminal history record information submitted to the department as part of license applications shall be deemed confidential and shall be sealed and kept separate from other records.

Edna Ramon Butts, senior associate commissioner, regulation and safety, has determined that for each year of the first five years the proposed subchapter will be in effect, the fiscal implications for state or local government is that the governmental agency responsible for providing the criminal history record information may collect between \$300,000 and \$500,000 in fees for producing the criminal history record information. If all local agencies charge \$10 for fingerprinting services, the department estimates that they may collect up to \$285,250. There are no fiscal implications for small businesses as a result of enforcing or administering this subchapter.

Ms Butts has also determined that for each year of the first five years the proposed subchapter is in effect, the anticipated public benefit of enforcing the subchapter is that it will enable the department to more effectively combat insurance fraud. The proposed subchapter will also enable the department to make more effective use of its resources and promote a more efficient licensing and enforcement process. The anticipated economic cost to persons required to comply with the subchapter as proposed is from \$17.25 to \$55 per applicant, depending on how quickly an applicant successfully completes any required licensing examination. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses.

Comments on the proposal must be submitted within 30 days after publication of the proposed subchapter in the *Texas Register* to Alicia M. Fechtel, General Counsel and Chief

Clerk, Texas Department of Insurance, P O Box 149104, MC 113-1C, Austin, Texas 78714-9104. An additional copy of the comment must be submitted to Edna Ramon Butts, Senior Associate Commissioner, Regulation and Safety, Texas Department of Insurance, P O Box 149104, MC 107-2A, Austin, Texas 78714-9104.

The department will consider the adoption of new Subchapter S in a public hearing under Docket Number 2191 scheduled for 9:00 a.m. on January 18, 1996 in Room 100 of the William P. Hobby Building, 333 Guadalupe Street, Austin, Texas.

The new sections are proposed pursuant to the Insurance Code, Articles 1.10C(e), 1.14-2, 3.75, 5.13-1, 9.36, 9.43, 20A.15, 20A.15A, 21.07, 21.07-1, 21.07-2, 21.07-3, 21.07-4, 21.07-7, 21.14, 21.14-1, 21.14-2, 23.23, and 1.03A, and the Government Code, §411.083 and §411.085 and §§2001.004 et seq (Administrative Procedure Act). Article 1.10C(e) provides that the department may deny a license to an applicant for any license, permit, certificate of authority or registration if the applicant fails to provide a complete set of fingerprints on request. Articles 1.14-2, 3.75, 5.13-1, 9.36, 9.43, 20A.15, 20A.15A, 21.07, 21.07-1, 21.07-2, 21.07-3, 21.07-4, 21.07-7, 21.14, 21.14-1, 21.14-2, and 23.23 provide the various licensing and application procedures for surplus lines agents, variable contract agents, for-profit prepaid legal service contract agents, title insurance agents, escrow officers, HMO agents, single health care service plan agents, life, health and accident insurance agents; legal reserve life insurance agents, life insurance counselors; managing general agents, insurance adjusters; reinsurance intermediaries; local recording agents, solicitors, and insurance service representatives; risk managers; agricultural insurance agents, and non-profit legal services agents, respectively. These general licensing provisions of the various agent licensing statutes grant the commissioner broad authority to prescribe the form an application for license will take and what information will be requested on the application. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §411.083 sets out to which persons the Texas Department of Public Safety may properly disseminate criminal history record information. Section 411.085 of the Government Code states that a person commits an offense if the person obtains, uses or discloses criminal history record information without authorization. The Government Code, §§2001.004 et seq authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and to prescribe the procedures for adoption of rules by a state agency.

The following statutes and rules are affected by this proposal. Statutes: Insurance Code, Articles 1.14-2, 3.75, 5.13-1, 9.36, 9.43, 20A.15, 20A.15A, 21.07, 21.07-1, 21.07-2, 21.07-3, 21.07-4, 21.07-7, 21.14, 21.14-1, 21.14-2, and 23.23.

§19.1801. General Provisions

(a) Purpose and Scope. The purpose of this subchapter is to establish the requirement that persons who wish to apply for new licenses pursuant to the Insurance Code articles listed in §19.1803 of this subchapter (relating to Criminal History Record Information Requirement) must submit with their applications criminal history record information. The subchapter also sets out the procedures to be followed by applicants to comply with this requirement. This subchapter applies to all individuals who submit new applications for licensure as insurance agents, adjusters, life insurance counselors, reinsurance intermediaries or risk managers as set out in §19.1803 of this subchapter (relating to Criminal History Record Information Requirement).

(b) Severability. Where any terms or provisions of this subchapter are determined by a court of competent jurisdiction to be inconsistent with any statutes of this state or to be unconstitutional, the remaining terms and provisions of this subchapter shall remain in effect.

§19.1802. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

Applicant—A person who applies for a new license as an insurance agent, adjuster, life insurance counselor, reinsurance intermediary or risk manager; or, a person applying for a nonresident agent's license.

Criminal History Record Information—For Texas residents, information provided to a person by the Texas Department of Public Safety regarding that person's criminal history background. For nonresidents, criminal history information provided to a person by an agency authorized to disseminate such information.

Person—An individual.

§19.1803. Criminal History Record Information Requirement.

(a) Any person residing in Texas who submits to the department a new application to be licensed under the Insurance Code must attach to the application criminal history record information, not more than 90 days old, prepared by the Texas Department of Public Safety. Any nonresident person who submits to the department a new application to be licensed under the Insurance Code must submit criminal history record information, not more than 90 days old, prepared by an agency authorized to disseminate such information in the nonresident applicant's home state.

(b) Submission of an application containing criminal history record information is required for persons desiring to be

licensed pursuant to Insurance Code, Articles 1.14-2 (surplus lines agents), 3.75 (variable contract agents), 5.13-1 (for profit prepaid legal service contract agents) 9.36 (title insurance agents), 9.43 (escrow officers), 20A.15 (HMO agents), 20A.15A (single health care service plan agents), 21.07 (life, health and accident insurance agents), 21.07-1 (legal reserve life insurance agents), 21.07-2 (life insurance counselors), 21.07-3 (managing general agents), 21.07-4 (insurance adjusters), 21.07-7 (reinsurance intermediaries), 21.14 (local recording agents, solicitors, and insurance service representatives), 21.14-1 (risk managers), 21.14-2 (agricultural insurance agents), or 23.23 (non-profit legal services agents).

(c) The criminal history record information shall not be more than 90 days old when the applicant has submitted a completed application to the department or the authorized testing service and passed any required licensing examination.

§19.1804 Exemptions from Criminal History Requirement

(a) Criminal history record information shall not be required of any person who meets the following criteria:

(1) the person has already provided criminal history record information as part of an earlier application for license which has been granted and is applying for an additional license type;

(2) the person is renewing a license;

(3) the person is applying for an original emergency license pursuant to Insurance Code, Articles 21.07-3, 21.07-4 or 21.14; or

(4) the person is applying for a title attorney's license pursuant to the Insurance Code, Article 9.56.

(b) If the emergency licensee qualifies by examination for a license under Insurance Code, Articles 21.07-3 or 21.14, criminal history record information must be submitted

§19.1805. Nonresident Agents. An applicant for a nonresident agent's license who is licensed in another state must provide the following with the application:

(1) if the applicant's home state requires submission of a fingerprint card or criminal history record information as part of its original application process, then the applicant must present a letter of certification from the insurance department of applicant's home state certifying that the applicant's license is in good standing;

(2) if the applicant's home state does not require submission of a fingerprint

card or criminal history record information as part of its application process, then the applicant must obtain criminal history record information from the applicant's home state through its established procedures; or

(3) if the applicant's home state does not require submission of a fingerprint card or criminal history record information as part of its application process and the applicant is unable to obtain criminal history record information from its home state because of any laws prohibiting such, then the applicant must submit a completed fingerprint card with the application.

§19.1806. Effect of Requirement. In determining whether an application for license will be granted or denied if the criminal history record information submitted by an applicant reveals a criminal conviction, the department shall use those standards set out in Insurance Code, Articles 21.01-2 (general provisions applicable to certain license holders); 21.07 (life, health and accident insurance agents), 21.07-1 (legal reserve life insurance agents), 21.07-2 (life insurance counselors), 21.07-3 (managing general agents), 21.07-4 (insurance adjusters), 21.07-7 (reinsurance intermediaries), 21.14 (local recording agents, solicitors, and insurance service representatives), 21.14-1 (risk managers), and 21.14-2 (agricultural insurance agents) and Texas Civil Statutes, Article 6252-13c (eligibility of persons with criminal backgrounds for certain occupations, professions, and licenses)

§19.1807. Confidentiality and Custody of Criminal History Record Information.

(a) Criminal history record information obtained by the applicant and provided to the department is for the exclusive use of the department and shall be kept confidential pursuant to the Government Code, §411.083 and §411.085.

(b) After the department has made a determination as to the issuance or denial of a license, the criminal history record information shall be sealed and kept separate from other records. The criminal history record information shall be kept in the custody of the commissioner or the commissioner's designee.

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

Issued in Austin, Texas, on December 1, 1995

TRD-9515575

Alicia M. Fechtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 463-6327

TITLE 30.

ENVIRONMENTAL QUALITY

Part II. Texas Natural Resources and Conservation Commission

(Editor's Note. The following proposed sections submitted by the Texas Natural Resources and Conservation Commission will be serialized beginning in the December 12, 1995 issue of the Texas Register. The earliest possible date of adoption is January 8, 1996. Pending publication of the proposed rules in the Register, copies are available through the Internet at <http://www.TNRCC.state.TX.US> or by accessing the TNRCC Bulletin Board at (512) 239-0700.)

Chapter 281. Applications Processing

Subchapter B. Consistency with Texas Coastal Manage- ment Program

- 30 TAC §§281.40-281.48 (new)

Chapter 330. Municipal Solid Waste

Subchapter R. Management of Whole Used or Scrap Tires

- 30 TAC §§330.802-330.803,
330.805-330.813, 330.815,
330.818, 330.820-330.833,
330.835-330.836, 330.838,
330.841-330.846, 330.848-330.859,
330.861-330.879, 330.880-330.886,
330.889 (new and amendments)
- 30 TAC §§330.821-330.828,
330.836-330.837, 330.839, 330.
851-330.858, 330.874, 330.877,
330.879 (repeal)

Subchapter X. Management of Whole Used or Scrap Tires or Shredded Tire Pieces

- 30 TAC §§330.900-330.917,
330.920-330.939 (repeal)

Chapter 344. Irrigators Advisory Council

Subchapter A. General Provi- sions

- 30 TAC §344.1, §344.2 (repeal)

Subchapter B. General Provisions Affecting the Advisory Council

- 30 TAC §§344.21, 344.24, 344.27, 344.30, 344.33, 344.36, 344.42, 344.45, 344.48 (repeal)

Subchapter C. Application for Registration

- 30 TAC §§344.101, 344.104, 344.107, 344.110, 344.113, 344.116, 344.119, 344.122 (repeal)

Subchapter D. Examinations

- 30 TAC §§344.141, 344.144, 344.147, 344.150, 344.153, 344.156, 344.159, 344.162 (repeal)

Subchapter E. Certificate of Registration

- 30 TAC §§344.201, 344.204, 344.207, 344.210, 344.213, 344.216, 344.222, 344.225 (repeal)

Subchapter F. Seal

- 30 TAC §§344.241, 344.244, 344.247, 344.250, 344.253 (repeal)

Subchapter G. Standards for Water Supply Connection

- 30 TAC §§344.301, 344.302, 344.303, 344.304, 344.306, 344.308 (repeal)

Subchapter H. Complaint Process

- 30 TAC §§344.401, 344.402, 344.403, 344.404, 344.405, 344.407, 344.410, 344.411, 344.413, 344.414, 344.415, 344.416 (repeal)

Subchapter I. Revocation of Registration

- 30 TAC §344.444 (repeal)

Subchapter J. Penalty

- 30 TAC §§344.451, 344.453, 344.455 (repeal)

Subchapter K. Standards of Conduct for Irrigators and Installers

- 30 TAC §§344.501-344.507 (repeal)

Chapter 344. Landscape Irrigators

Subchapter A. General Provisions

- 30 TAC §344.1, §344.2 (new)

Subchapter B. General Provisions Affecting the Irrigators Advisory Council

- 30 TAC §344.10 (new)

Subchapter C. Registration/Licensure of Irrigators and Installers

- 30 TAC §§344.20, 344.23, 344.26-344.30, 344.34, 344.37-344.43, 344.49-344.51, 344.55, 344.56-344.63 (new)

Subchapter D. Standards for Water Supply Connections

- 30 TAC §§344.70-344.73, 344.75, 344.77 (new)

Subchapter E. Complaint/Enforcement Process

- 30 TAC §§344.80-344.88 (new)

Subchapter F. Standards of Conduct for Licensed Irrigators and Installers

- 30 TAC §§344.90-344.96 (new)

Notice of Public Hearing
TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter B. Natural Gas Production Tax

- 34 TAC §3.22

The Comptroller of Public Accounts proposes new §3.22, concerning exemption for hydrocarbons produced from a Texas Experimental Research and Recovery well. The exemption only applies to wells which have been accepted by the Texas Railroad Commission into the Texas Experimental Research and Recovery Activity. This section is being added pursuant to House Bill 2731, 74th Legislature, 1995, which calls for an exemption from the natural gas production tax for hydrocarbons produced from a well accepted by the Texas Railroad Commission into the Texas Experimental Research and Recovery Activity.

Mike Fleissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal

implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed 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 new section implements the Tax Code, §201.058.

§3.22. *Exemption For Hydrocarbons Produced From a Texas Experimental Research and Recovery Activity Well.*

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

(1) Commission—The Railroad Commission of Texas.

(2) Hydrocarbons—Any oil, gas, condensate, and other liquid hydrocarbons produced from a well.

(3) License holder—A person licensed by the commission to use a TERRA wellbore.

(4) Operator—The person responsible under law or commission rules for the physical operation of a wellbore or lease

(5) TERRA—The Texas Experimental Research and Recovery Activity.

(6) Wellbore—A hole in the ground drilled in connection with the exploration, development, or production of oil, gas, or geothermal resources and includes any tubular goods cemented in the wellbore.

(b) For each well qualifying under this section, the commission will furnish to the comptroller a copy of a certificate of exemption identifying the well, and the operator of the well and stating the date on which the tax exemption takes effect, subject to the comptroller's approval of the exemption.

(c) If the commission revokes a certificate for a tax exemption or a license issued under Natural Resources Code, Chapter 93, a tax exemption granted under this section is automatically revoked on the date the certificate or license is revoked, and hydrocarbons produced from the well after the date of revocation are subject to the natural gas production tax.

(d) The person responsible for paying the tax must apply to the comptroller for the exemption and include with the applica-

tion the certificate issued by the commission. A license holder or operator of a TERRA well must report to the comptroller the volume of any hydrocarbons produced from a TERRA well. If the hydrocarbons are sold, the value of the hydrocarbons and the name and taxpayer identification number of the purchaser must be included.

(e) The following hydrocarbons are exempt from the taxes imposed by Tax Code, Chapter 201

(1) Hydrocarbons produced from a well subject to an agreement under Natural Resources Code, Chapter 93, and under a license issued under that chapter.

(2) Hydrocarbons produced from a well formerly subject to an agreement under Natural Resources Code, Chapter 93, and a license issued under that chapter resuming production after participating in TERRA for two years.

(f) If the tax is paid at the full rate provided by Tax Code, Chapter 201, on hydrocarbons produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Tax Code, Chapter 201, in an amount equal to the tax paid during that period. To receive a credit, the operator or the party remitting the tax must apply to the comptroller by filing amended reports not later than one year after the date the commission certifies the well for a tax exemption. If a party other than the operator has remitted the tax due under Tax Code, Chapter 201, the party remitting the tax must apply to the comptroller for the credit by filing amended reports. If a party other than the operator has remitted the tax, the operator must provide the party remitting the tax a copy of the commission's certification that the well qualifies for the tax exemption.

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

Issued in Austin, Texas, on December 1, 1995.

TRD-9515538

Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Earliest possible date of adoption January 8, 1996

For further information, please call: (512) 463-4062

Subchapter O. State Sales and Use Tax

• 34 TAC §3.285

The Comptroller of Public Accounts proposes an amendment to §3.285, concerning resale certificate; sales for resale. The Tax Code, §151.006 and §151.152, was amended effective

September 1, 1995, to exempt sales for resale to Mexico. The amendment provides for the acceptance of valid and properly completed resale certificates from Mexican retailers. The Tax Code, §151.154, was amended effective October 1, 1995, to state the value of taxable items if a purchaser who gave a valid resale certificate makes a divergent use. The amendment states the value of tangible personal property and the value of a taxable service if there is a divergent use by a purchaser.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W Barton, Manager, Tax Policy Division, P O Box 13528, Austin, Texas 78711

The amendment is proposed 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 Senate Bill 982, 74th Legislature, 1995, amending the Tax Code, §151.006 and §151.152, effective September 1, 1995. The amendment also implements Senate Bill 640 of the same session amending the Tax Code, §151.154, effective October 1, 1995.

§3.285. Resale Certificate; Sales for Resale

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. [A sale for resale is not taxable. A sale for resale is a sale of a taxable item to any purchaser who is purchasing the item for the sole purpose of reselling, leasing, or renting it within the geographical limits of the United States of America, its territories and possessions, in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other taxable items]

(1) Mexico-Within the geographical limits of the United Mexican States.

(2) Sale for resale-A sale of:

(A) tangible personal property to a purchaser who acquires the

property for the purpose of reselling it in the United States or Mexico in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or as an integral part of other tangible personal property;

(B) tangible personal property to a purchaser who acquires the property for the sole purpose of leasing or renting it in the United States or Mexico to another person, but not if incidental to the leasing or renting of real estate;

(C) tangible personal property to a purchaser who acquires the property for the purpose of transferring care, custody, and control of the property to a customer in the United States or Mexico as an integral part of a taxable service;

(D) a taxable service to a purchaser who obtains the service for the purpose of reselling it in the United States or Mexico in the normal course of business as an integral part of a taxable service; or

(E) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service.

(3) United States - Within the geographical limits of the United States of America or within the territories and possessions of the United States of America.

(b) Acceptance of resale certificate.

(1) A sale for resale as defined in subsection (a)(2) of this section is not taxable. All gross receipts of a seller are subject to sales or use tax unless a properly completed resale or exemption certificate is accepted by the seller. A properly completed resale certificate contains the information required by subsection (g) of this section. See also §3.287 of this title (relating to Exemption Certificates).

(2)-(4) (No change.)

(c) (No change)

(d) Retailers outside Texas.

(1) (No change)

(2) The resale certificate must show the signature and address of the purchaser, the state to which the property is taken for resale, the sales tax permit number, if any, or the registration number assigned to the purchaser by the purchaser's home state. Mexican retailers who purchase taxable items for resale must show their Federal Taxpayers Registry (RFC) identification number for Mexico on the

resale certificate and give a copy of their Mexican Registration Form to the Texas seller. An invoice describing the taxable item purchased and showing the exact street address or office address from which the taxable item will be resold must be attached to the resale certificate. The resale certificate must also state the type business engaged in by the purchaser and the type items sold in the regular course of business. A resale certificate may be accepted from the bona fide out-of-state retailer even if the Texas retailer ships or delivers the taxable item directly to a recipient located inside Texas.

(3) (No change.)

(e) Improper use of items purchased for resale.

(1) When tangible personal property [an item] is removed from a valid tax-free inventory for use in Texas, Texas sales tax is due. Texas sales tax is not due on tangible personal property [items] removed from a valid tax-free inventory for use outside the state. When tangible personal property or a taxable service [an item] purchased under a resale certificate is used for any purpose other than retention, demonstration, or display while holding it for sale, lease, or rental, or for transfer as an integral part of a taxable service, the purchaser is liable for sales tax based on the [fair market rental] value of the tangible personal property or taxable service [item] for the period of time used. [The fair market rental value is the amount that a purchaser would pay on the open market to rent the item for use. If the item has no fair market rental value, the sales tax is due based upon the purchase price.]

(2) The value of tangible personal property is the fair market rental value of the tangible personal property. The fair market rental value is the amount that a purchaser would pay on the open market to rent or lease the tangible personal property for use. If tangible personal property has no fair market rental value, sales tax is due based upon the original purchase price.

(3) The value of a taxable service is the fair market value of the taxable service. The fair market value is the amount that a purchaser would pay on the open market to obtain that taxable service. If a taxable service has no fair market value, sales tax is due based upon the original purchase price.

(4)[(2)] At any time the person using tangible personal property or a taxable service [a taxable item] may stop paying tax on the value of tangible personal property or the value of a taxable service [fair market rental value] and instead pay sales tax on the original purchase price. When the person elects to pay sales tax on

the original purchase price, credit will not be allowed for taxes previously paid based on value [on the fair market rental value].

(5)[(3)] A purchaser who gives a valid resale certificate for tangible personal property or a taxable service is not liable for sales tax on tangible personal property or a taxable service donated [Sales tax is not due when a seller removes an item from a valid tax-free inventory and donates the item] to an organization exempt under the Tax Code §151.309 or §151.310(a)(1) and (2), provided the purchaser does not use the donated tangible personal property or the donated taxable service.

(f) (No change.)

(g) Content of a resale certificate. A resale certificate must show:

(1) (No change.)

(2) the number from the sales tax permit held by the purchaser or a statement that an application for a permit is pending before the comptroller with the date the application for a permit was made. If the application is pending, the resale certificate is valid for only 60 days, after which time the resale certificate must be renewed to show the permanent permit number. If the purchaser holds a Texas sales and use tax permit, the number must consist of 11 digits that begin with a 1, 2, or 3. Federal employer's identification (FED) numbers or social security numbers are not acceptable evidence of resale. See also subsection (d)(2) of this section regarding registration numbers for retailers outside Texas;

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

(h) Form of a resale certificate. A resale certificate must be substantially either in the form of a Texas Sales and Use Tax Resale Certificate or a Border States Uniform Sale for Resale Certificate. The comptroller adopts both certificates by reference. Copies are available for inspection at the office of the Texas Register or may be obtained from the Comptroller of Public Accounts, Tax Policy Division, 111 W. 6th Street, Austin, Texas 78701-2913. Copies may also be requested by calling our toll-free number 1-800-252-5555. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621). [set out as follows:]

Figure: 34 TAC §3.285(h)

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

Issued in Austin, Texas, on October 10, 1995.

TRD-9515427

Martin Cherry
Chief General Law
Comptroller of Public
Accounts

Earliest possible date of adoption: January 8, 1996

For further information, please call: (512) 463-4028

Title 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 50. Day Activity and Health Services

Program Overview

• 40 TAC §50.4

The Texas Department of Human Services (DHS) proposes an amendment to §50.4, concerning service description, in its Day Activity and Health Services (DAHS) chapter. The purpose of the amendment is to allow DAHS facilities to claim the transport time as part of the unit of service if the facility provides transportation for a client to a non-therapy medical facility. If the facility does not provide transportation, the facility must coordinate transportation with other resources.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that clients will be able to access DAHS even on days they are scheduled for medical appointments because the DAHS facility will provide or coordinate the transportation for clients. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Maria Garcia Montoya at (512) 438-3155 in DHS's Community Care Program Services section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-098, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

The amendment is proposed 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 provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements §§22.001-22.024 and §§32.001-32.041 of the Human Resources Code.

§50.4. *Service Description.* The facility must provide services that include but are not limited to:

(1)-(4) (No change.)

(5) Transportation Services.

(A) (No change.)

(B) If the facility provides transportation for a client to a non-therapy medical facility, the facility can

claim the time spent in transport as part of the unit of service.

(C) If the facility does not provide transportation, the facility must coordinate transportation with other resources.

(D)[(B)] Vehicles used for transportation services must be properly operated and maintained and have proper heating and cooling systems to maintain reasonable temperature levels inside vehicle.

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

Issued in Austin, Texas, on December 1, 1995.

TRD-9515513

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

Proposed date of adoption: February 1, 1996

For further information, please call: (512) 438-3765

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WITHDRAWN RULES

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

• 25 TAC §29.601

The Texas Department of Health has withdrawn the emergency effectiveness of amendment to §29.601, concerning the purchased health services. The text of the emergency amendment to §29.601 appeared in the August 22, 1995, issue of the *Texas Register* (20 TexReg 6387). The effective date of this withdrawal is December 7, 1995.

Issued in Austin, Texas, on November 30, 1995.

TRD-9515499

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: December 7, 1995

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



Subchapter L. General Administration

• 25 TAC §§29.1104, 29.1126, 29.1127

The Texas Department of Health has withdrawn the emergency effectiveness of amendment to §§29.1104, 29.1126, 29.1127, concerning the purchased health services. The text of the emergency amendment to §§29.1104, 29.1126, 29.1127 appeared in the August 22, 1995, issue of the *Texas Register* (20 TexReg 6387). The effective date of this withdrawal is December 7, 1995.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515549

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: December 7, 1995

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



TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 17. Vehicle Titles and Registration

Motor Vehicle Registration

• 43 TAC §17.23

The Texas Department of Transportation has withdrawn the emergency effectiveness of new §17.23, concerning the motor vehicle registration. The text of the emergency new section appeared in the September 8, 1995, issue of the *Texas Register* (20 TexReg 6978). The effective date of this withdrawal is December 1, 1995.

Issued in Austin, Texas, on December 1, 1995.

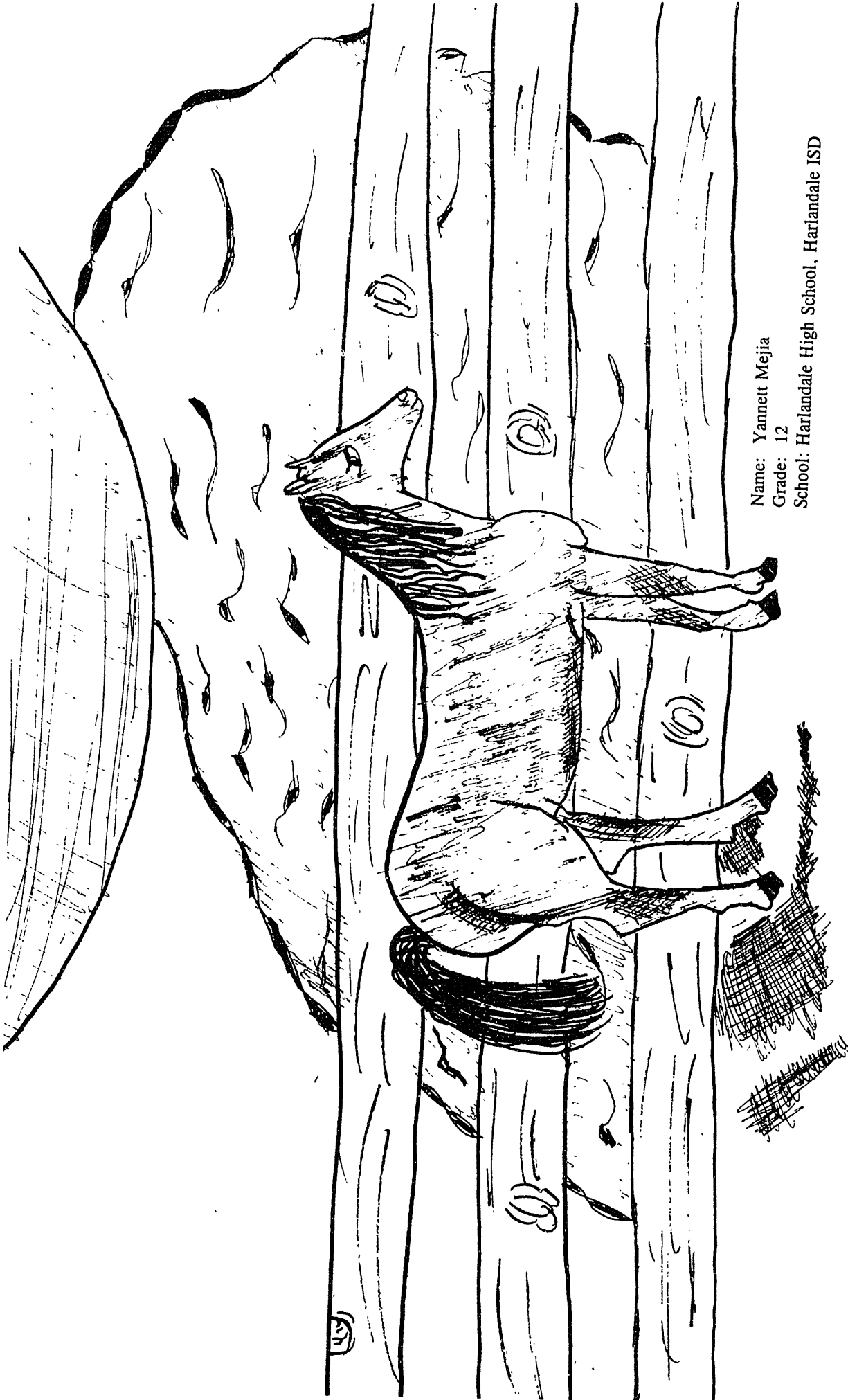
TRD-9515588

Robert E. Shaddock
General Counsel
Texas Department of
Transportation

Effective date: December 1, 1995

For further information, please call: (512) 463-8630





Name: Yannett Mejia

Grade: 12

School: Harlandale High School, Harlandale ISD

ADOPTED RULES

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

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

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 217. Licensure and Practice

• 22 TAC §217.2

The Board of Nurse Examiners adopts an amendment to §217.2, concerning Licensure by Examination for Graduates of Basic Nursing Education Programs, without changes to the proposed text as published in the October 31, 1995, issue of the *Texas Register* (20 TexReg 8957).

The Board of Nurse Examiners' Advisory Committee on Education reviewed current rules regarding education which limit the number of times a candidate can retest and require reeducation. The reeducation portion was previously handled by guidelines written by the Board and the individual nursing program; however, the term "in its entirety" was confusing and was being interpreted differently by programs and students, alike. The committee received input from deans/directors who are considering developing programs of reeducation and recommended the proposed rule to the full Board. The Board concurred and authorized adoption.

The adopted amendment will continue to provide protection for the people of Texas by establishing the number of times a candidate can take the NCLEX-RN and the length of time from graduation to testing without reeducation. Clarification of the reeducation requirements will assist deans/directors and applicants in interpreting and implementing the rule.

There were no comments received regarding adoption of the amendment.

The amendment is adopted under the Nursing Practice Act (Texas Civil Statutes, Article 4514), §1, which provides the Board of Nurse Examiners with the authority and power to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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 December 1, 1995.

TRD-9515501

Katherine A. Thomas, MN,
RN
Executive Director
Board of Nurse Examiners

Effective date: December 22, 1995

Proposal publication date: October 31, 1995

For further information, please call: (512)
305-6811

Part XV. Texas State Board of Pharmacy

Chapter 283. Licensing Requirements for Pharmacists

• 22 TAC §283.9

The Texas State Board of Pharmacy adopts an amendment to §283.9, concerning Fee Requirements for Licensure by Examination and Reciprocity, without changes to the proposed text as published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7255).

The rule amendment increases the fee to retake the Texas Jurisprudence Examination from \$25 to \$50. The initial fees for reciprocity and relicensure would remain unchanged.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Texas Pharmacy Act, Article 4542a-1, Texas Civil Statutes, §39, which state that the Board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515467

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

Effective date: December 21, 1995

Proposal publication date: September 15, 1995

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

Chapter 291. Pharmacies

• 22 TAC §291.6

The Texas State Board of Pharmacy adopts an amendment to §291.6, concerning Pharmacy License Fees, without changes to the proposed text as published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7255).

The rule amendment will increase the total pharmacy license fee for pharmacies from \$152 to \$164.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Texas Pharmacy Act, Article 4542a-1, Texas Civil Statutes, §39, which state that the Board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act; and §27A(g), which specifies that the Board may add a surcharge of not more than \$10 to a license or license renewal fee to fund the program to aid impaired pharmacists and pharmacy students.

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 30, 1995.

TRD-9515466

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

Effective date: December 21, 1995

Proposal publication date: September 15, 1995

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

Home and Community Services Support Agency Pharmacy (Class F)

• 22 TAC §§291.111-291.115.

The Texas State Board of Pharmacy adopts the repeal of §291.111-291.115, concerning purpose, definitions, personnel, operational standards, records, without changes to the proposed text as published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7256).

This repeal removes existing sections which set forth standards for the operation of a Home and Community Support Services Agency Pharmacy (Class F).

The repeal of this language is necessary to implement the provisions of House Bill 1408 passed by the 74th Legislature which eliminates the Class F Pharmacy license and amends the Texas Dangerous Drug Act to allow a home and community support services agency or hospice to possess sterile water and saline for injection and irrigation for administration to their patients.

No comments were received regarding the adoption of the repeals.

The repeals are adopted under the Texas Pharmacy Act (Article 4542a-1, Texas Civil Statutes), §16(a), which give the Board the authority to adopt rules for the proper administration and enforcement of the Act; and House Bill 1408 as passed by the 74th Legislature which eliminates the Class F Pharmacy license.

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

Issued in Austin, Texas, on November 30, 1995.

TRD-9515468 Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive Director,
Secretary
Texas State Board of
Pharmacy

Effective date: December 21, 1995

Proposal publication date September 15, 1995

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

Chapter 295. Pharmacists

• 22 TAC §295.5

The Texas State Board of Pharmacy adopts an amendment to §295.5, concerning Pharmacist License or Renewal Fees, without changes to the proposed text as published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7257).

The amendment will increase the total pharmacists license fee from \$86 to \$96 for pharmacists beginning with licensees that have an expiration date on or after January 1, 1996.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under the Texas Pharmacy Act, Article 4542a-1, Texas Civil Statutes, §39, which state that the Board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act; and §27A(g), which specifies that the Board may add a surcharge of not more than \$10 to a license or license renewal fee to fund the program to aid impaired pharmacists and pharmacy students

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 30, 1995

TRD-9515469 Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive Director,
Secretary
Texas State Board of
Pharmacy

Effective date: December 21, 1995

Proposal publication date September 15, 1995

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 305. Consolidated Permits

Subchapter N. Memorandum of Understanding

• 30 TAC §305.521

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts an amendment to §305.521, concerning the adoption by reference of a Memorandum of Understanding (MOU) between the Texas General Land Office (GLO) and the TNRCC, without changes to the proposed text as published in the October 3, 1995, issue of the *Texas Register* (20 TexReg 8069)

The adoption allows inclusion of the stated MOU into the appropriate rule. The amendment is to facilitate funding of the Galveston Bay Program of the TNRCC by the Coastal Protection Fund of the GLO as passed by the 74th Texas Legislature, 1995, Texas General Appropriations Act for 1996-1997. The 74th Legislature specifically directed that the GLO and the jointly administer the Galveston Bay Program. The appropriation was made contingent upon the execution of a memorandum of understanding between the GLO and the TNRCC.

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to the Texas Water Code, §5.104, which requires the TNRCC to adopt by rule any MOU that it enters into with any other state agency.

The amendment is adopted under the Texas Water Code (Vernon 1992), §5.103, which provided the Texas Natural Resource Conservation Commission (TNRCC) with the authority to adopt any rule necessary to carry out the powers and duties of the Texas Water Code and other laws of this state. In addition, this amendment is proposed under the Texas Water Code, §5.104, which requires the TNRCC to adopt by rule any memorandum of understanding between the TNRCC and any other state agency.

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 December 4, 1995.

TRD-9515646 Kevin McCalla
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Effective date: December 25, 1995

Proposal publication date: October 3, 1995

For further information, please call: (512) 239-4640

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter Q. Pollution Pre- vention: Source Reduction and Waste Minimization

• 30 TAC §335.474, §335.476

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §335.474 and §335.476, concerning Pollution Prevention: Source Reduction and Waste Minimization, Source Reduction and Waste Minimization Plans, and Reporting and Recordkeeping. Section 335.474 and §335.476 are adopted without changes to the proposed text as published in the August 22, 1995, issue of the *Texas Register* (20 TexReg 6395) and will not be republished.

The amendments adopted will define the Small Quantity Generators requirements (applicable to facilities that are not also TRI Facilities) for the executive summary and the certification of completeness related to Source Reduction and Waste Minimization Plans; they will also allow Small Quantity Generators (SQGs) to meet the annual reporting requirements with their annual waste summary report already required under 30 TAC §335.9. These amendments clarify the current rule, demonstrate the TNRCC's commitment to streamlining reporting requirements, and minimize SQG reporting requirements.

One supporting comment was received from Texas Utilities Services, Inc. No opposing comments were received.

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

This 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 December 4, 1995.

TRD-9515617

Kevin McCalla
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Effective date: December 25, 1995

Proposal publication date: August 22, 1995

For further information, please call: (512) 239-1461

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 9. Exploration and Leasing of Oil and Gas

• 31 TAC §9.7

The General Land Office (GLO), with the approval of the School Land Board (SLB), adopts an amendment to §9.7, concerning royalty and reporting obligations to the state, with changes to the proposed text as published in the August 22, 1995, issue of the *Texas Register* (20 TexReg 6396). Changes made to the proposed rule are in response to public comments received and are described in the summary of public comments and responses section of this preamble.

The GLO adopts amendments to existing §9.7(b)(2)(A) to reflect earlier statutory changes to Texas Government Code, §404.095. To reduce the regulatory and paperwork burdens for producers of certain properties with low total annual royalty payments, the GLO also adopts amendments to existing §9.7(b) to allow annual, rather than monthly, reporting and royalty payment. New §9.7(c) provides the details of a Marginal Properties Royalty Incentive Program, which will enable oil and gas producers of certain marginally productive properties to apply for royalty rate reductions from the state, as authorized by Senate Bill 905, 74th Legislature,

1995, to be codified at Texas Natural Resources Code, §32.067. Various grammatical changes are also adopted throughout §9.7 to simplify and clarify the intent of the rules.

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

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

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

One commenter requested that the volumes used to qualify a gas reservoir for royalty reduction be based on sales volumes as opposed to produced volumes because marginally productive leases often use a disproportionately high percentage of the produced gas for uses such as compressor fuel, separation of gas from oil, and as fuel for other treatment and transportation. Consumption of such "lease use" gas diminishes the amount of produced gas that ultimately is available for sale off the lease or unit premises. The GLO and SLB agree that gas reservoirs should qualify for reduced royalty

rates based on the volume of gas available for sale off the lease or unit rather than on total gas production volumes. To clarify this policy in the rules, the definition of "Barrel of oil equivalent (BOE)" in §9.7(c)(1)(C) has been modified to place gas production on a more equal footing with oil production, in which the amount physically produced is very close to the amount available for sale. This change in no way alters the requirement that the lessee must pay royalty amounts due the state based on ALL hydrocarbons physically produced from a lease or unit. Royalty will continue to be due on total production volumes as opposed to sales volumes.

One commenter objected to linking the available royalty relief to the cash price of West Texas Intermediate crude oil at Cushing, Oklahoma, as posted daily in the *Wall Street Journal* because that price is not representative of the oil production revenue for a particular lease. The commenter also stated that such price does not account for differences between various grades of Texas crude or for price adjustments reflecting variations in oil quality. The commenter recommended using the West Texas Intermediate crude average posted price. For present purposes, the selection of a reference price was based on a need for a single price that is widely disseminated and thus readily accessible to both the agency and industry. The price term merely serves as a reference point upon which to base royalty rate reductions. The commenter's recommended use of the West Texas Intermediate crude average posted price was not followed because such price would not meet the agency's criteria of wide dissemination and ready accessibility to both the agency and industry. These rules do not address whether West Texas Intermediate crude posted prices accurately reflect the market value of crude oil. However, the reference price, as defined in §9.7(c)(1)(F), is changed from the daily cash price of West Texas Intermediate crude oil at the Cushing, Oklahoma, oil terminal, as reported in the *Wall Street Journal*, to the five-day average spot price of West Texas Intermediate crude oil at the Midland, Texas, oil terminal as reported in *The Oil Daily*. This change will provide an in-state reference price which is widely disseminated and readily accessible.

Regarding Relinquishment Act leases, one commenter requested the deletion of the following sentence from §9.7(c)(3)(C)(i): "The state's royalty rate may not be reduced unless all royalty under the lease is reduced in the same proportion." The commenter stated that the sentence is unnecessary, will cause additional administrative work, and takes away the ability to negotiate better trades with other royalty owners. The substance of the sentence cannot be deleted because it is a statutory requirement in Senate Bill 905, 74th Legislature, 1995 (to be codified at Texas Natural Resources Code, §32.067(d)), the statute authorizing royalty reduction for marginal properties. However, the sentence has been modified to clarify that the state's royalty rate may be reduced even though not all of the private royalty interest owners agree to the same royalty rate reduction. Specifically, the state may reduce its royalty to a rate equal to the aggregate rate of the other roy-

alty interest owners under the lease. For example, if there are four private undivided royalty interest owners other than the state in a given Relinquishment Act lease and only three are willing to reduce the royalty to which they are entitled from 12.5% to 10%, then the state could only reduce its royalty rate to 10.625% $((10\% + 10\% + 10\% + 12.5\%) / 4)$

One commenter recommended that inland bay wells be grouped with Gulf of Mexico leases instead of upland leases for purposes of applying the reduced royalty rate schedules. The commenter stated that average lease operating expenses for bay wells and Gulf of Mexico wells are similar and justify classification and reduced royalty rates in the same category. Senate Bill 905, 74th Legislature, 1995 (to be codified at Texas Natural Resources Code, §32.067), which authorizes royalty reduction for certain marginal properties, defines a "qualifying Gulf of Mexico reservoir" as a reservoir that during a period established by board rule has average daily per well production equal to or less than 50 barrels of oil or barrels of oil equivalent and underlies a qualifying Gulf of Mexico property or a pooled unit that includes a qualifying Gulf of Mexico property. "Qualifying Gulf of Mexico property" means land described in the Natural Resources Code, §52.011(2), that is subject to a lease issued under Subchapter B, Chapter 52 of the Natural Resources Code. Section 52.011(2) refers only to the portion of the Gulf of Mexico within the jurisdiction of the state. Islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits are classified in a different category, Natural Resources Code, §52.011(1). Therefore, there is no statutory justification for grouping bay properties with Gulf of Mexico properties. However, GLO staff will continue to review available data to determine whether differences in operational costs between marginal bay tract and upland leases justify a recommendation for further rulemaking. No change was made based on this comment.

Two commenters recommended changing the proposed royalty rate schedules to simplify them. One commenter recommended prorating the royalty rate increase equally over the 4-15 barrel of oil per day range and consolidating the ten price categories into four price ranges. Another commenter objected to the use of royalty relief matrices based on production and oil prices in general and proposed simplification by using a formula based exclusively on production rate. This commenter stated that the administrative burden for operators to apply for royalty reduction, monitor, report and track the parameters under the proposed rules appears to exceed the potential benefits unless production is at a minimum. GLO staff believes that the matrix approach, using both price and production, is the most effective means of balancing the conflicting goals of providing relief and incentives for marginal oil and gas properties while not reducing the ultimate royalty paid to the PSF from properties receiving royalty relief. These rules continue to take the more conservative approach of using price and production matrices in order to best protect the PSF, to which both the SLB and the GLO have a fiduciary obligation. The de-

crease in royalty relief provided as prices increase allows the PSF to participate in increased prices over time. GLO staff do not believe that the matrix approach imposes an unreasonable administrative burden upon operators. The two parameters that are used to establish the royalty rate are production and reference price during the qualifying period. GLO staff will track and maintain a database of the reference price. Operators need only to track their production, something which they already must do in order to properly allocate royalty payments. Moreover, the adopted rules allow an operator to "lock-in" the reservoir's reduced royalty rate for a period of two years after qualifying. GLO staff believe that this rate lock-in mechanism, coupled with the relative ease with which the reduced royalty period may be extended, minimizes to the greatest extent practicable the administrative burden on operators for this voluntary program. No changes were made based on these comments.

One commenter proposed adding the following sentence to §9.7(c)(2)(B): "Once the operator is notified that the application has been approved, working interest owners affected by the reduction shall be given written notice of such by the operator within thirty days." Such a requirement should be governed by private agreements between the operator and the working interest owners (e.g., operating agreements). The GLO and SLB would have no effective means to monitor or enforce such a requirement. Additionally, to put in place the means to effectively monitor and enforce such a requirement would significantly increase the administrative workload and cost of the program and would complicate, rather than simplify, the entire program. For these reasons, no change was made based on this comment.

One commenter proposed simplifying the program by deleting "Except as provided in subparagraph (F) of this paragraph," from §9.7(c)(3)(E) and deleting §9.7(c)(3)(F) entirely. Subparagraph E is designed to provide an incentive for workover activities in reservoirs that have not produced for at least one year and that are not stratigraphically deeper than the deepest producing qualifying reservoir under the lease. Subparagraph F exists to prevent an operator from receiving a marginal production royalty rate reduction when the operator deepens a well and encounters a highly productive reservoir. In this scenario, granting a reduced royalty rate to non-marginal production would result in an inequity to the PSF. Under the existing wording of the rules, if the deepened well encounters marginal production, the reservoir could still qualify for a royalty rate reduction. No change was made based on this comment.

One commenter proposed that the GLO create an official form to be submitted as the application for the royalty incentive program. GLO staff are in the process of creating an official application form for use in the Marginal Properties Royalty Incentive Program. No change was made based on this comment.

One commenter stated that Senate Bill 905, 74th Legislature, 1995, reflects a legislative intent that royalty reduction relief be available

for all production of less than 15 barrels of oil equivalent per day and that the proposed reduced royalty schedules provide far less relief than was intended by the legislation. Senate Bill 905 (to be codified at Texas Natural Resources Code, §32.067), authorizes but does not compel the SLB to reduce royalties for qualifying reservoirs. Permissive rather than mandatory language is used throughout Senate Bill 905 when referring to the authority to reduce royalty rates. For example, the statute provides that the "board by rule may provide for the reduction of royalty rates as provided by this section" (to be codified at Texas Natural Resources Code, §32.067(b) (emphasis added)). Also, the statute provides that "the royalty rate for oil and gas produced from a qualifying reservoir may be reduced to not less than ..." and "In determining whether to grant a reduction in the royalty rate, the board may consider ..." (to be codified at Texas Natural Resources Code, §32.067(c) (emphasis added)). Therefore, the statutory language clearly grants the SLB discretion in deciding whether or not to grant and to what degree to grant reduced royalties if the reservoir otherwise meets the minimum requirements. No change was made based on this comment.

Lamar Oil and Gas, Inc. and New Horizon Exploration, Inc. submitted comments with specific recommended revisions regarding the proposed amendments without expressing an opinion in favor of or against the proposed amendments in general. The Texas Mid-Continent Oil and Gas Association submitted comments supporting the proposed amendments generally, and also submitted some specific suggested changes. No comments were received in general opposition either to the idea of annual reporting and royalty payment or reduced royalty for marginally productive properties. No other comments were received within the designated public comment period.

The amendment is adopted under Texas Natural Resources Code, §§31.051, 32.062, 32.154, and 51.201, which authorizes the SLB and the commissioner of the GLO to adopt rules which are consistent with the law, Texas Natural Resources Code, §52.131, which authorizes the commissioner to adopt rules regarding the submission of royalty payments, reports, or other documents; and, in particular, Senate Bill 905, 74th Legislature, 1995, to be codified at Texas Natural Resources Code, §32.067, which authorizes the SLB to provide by rule for the reduction of royalty rates.

§9.7. Royalty and Reporting Obligations to the State.

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

(b) Monetary royalties and reports.

(1) Basis for computing royalties.

(A) Gross proceeds. Lessees shall compute and pay oil and gas royalties due under each lease on the gross proceeds received by the seller, including amounts collected to reimburse the seller for severance taxes and production-related costs. Lessees shall not deduct production or severance taxes, or the cost of producing, processing, transporting, and otherwise making the oil, gas, and other products produced from the premises ready for sale or use.

(B) Volume subject to royalty.

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

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

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

(D) Market value. Nothing in this subsection shall limit or waive the right of the state to receive its royalties based on

market value of the oil and gas produced, if authorized by the lease, unit agreement, judgment, or other contract authorized by law.

(E) Determination of market value.

(i) For the purpose of computing and paying royalties to the state based on market value, the market value shall be presumed to be the gross proceeds received pursuant to a bona fide contract entered into at arm's length between nonaffiliated parties of adverse economic interests.

(ii) If a contract is not negotiated at arm's length, or was between affiliated parties, the presumption that market value is equal to gross proceeds shall not apply. In this situation, the lessee has the burden to establish that royalties paid to the state are based on market value.

(iii) The commissioner may overcome the presumption established under clause (i) of this subparagraph and assess additional royalties due by establishing a different price based on other sales in the general area which are comparable in time, quality, volume, and legal characteristics. If some of this information is not available to the commissioner, an assessment will be based on the best information available.

(iv) A lessee may challenge an assessment of additional royalties due by submitting information which establishes the prices used for comparison by the commissioner involve products of significantly different quality; were based on contracts to deliver significantly different volumes or for different terms; were not from a relevant market; were derived from an area in which deliverability is significantly different; or by presenting any other information which could establish a more accurate market price. However, under no circumstances will the state's royalty be computed on less than gross proceeds received, including reimbursements received for severance taxes and production-related costs.

(v) Parties are affiliated under this subsection if they are related by blood, marriage, or common business enterprise, are members of a corporate affiliated group, or where one party owns a 10% or greater interest in the other.

(vi) The term "general area," as used in this subsection, means the smallest geographical area which contains sufficient data to establish a market price. Examples include a unit, a field, a county, or the applicable RRC district

(vii) For the purpose of computing and paying oil royalties to the

state based upon a market value determined by the highest posted price, that phrase is defined as the greater of

(I) the highest price available to the producer, or

(II) the gross price posted by the purchaser of the oil, less a reasonable transportation allowance after sale and delivery if the price bulletin reflects on its face that the purchaser will deduct a marketing or transportation allowance, and a transportation allowance is actually deducted by the purchaser from its gross price

(viii) For the purposes of clause (vii)(I) of this subparagraph, a price will be presumed to be available to the producer if it is offered in the field where the lease is located at the time of sale. A producer may overcome the presumption by submitting evidence that the price is not actually available to the producer. The terms "available" and "actually available," as used in this subsection, mean that a price is being offered to nonaffiliated parties by posting, contract listing or amendment, or otherwise and that if a producer presented a barrel of oil to an entity offering said price, assuming all quality specifications for the price were met, that producer would, in fact, receive that offered price.

(ix) Clause (vii) of this subparagraph shall not be construed to allow the lessee, when calculating royalties to the state, to make any deductions for the cost of producing, processing, or transporting the oil prior to its sale and delivery.

(2) Royalty payments and reports.

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

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

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

(D) Timely receipt of royalty payments and reports.

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

(I) arrives postpaid and properly addressed; and

(II) is deposited with the United States Postal Service or any parcel delivery service at least one day before it is due and such deposit is evidenced by a postmark, a postal meter stamp, or a receipt

(ii) If a royalty payment or report is due on a Sunday or a legal state or federal holiday, then lessees shall ensure that such payment or report is either received by the GLO on the next calendar day which is not a Sunday or a holiday, or postmarked or stamped prior to the next calendar day which is not a Sunday or a holiday.

(E) Oil and condensate royalties—due date.

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

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

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

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

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

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

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

(VI) For any royalty approved to be paid on an annual basis, payors shall ensure that the total royalties

that have accrued as of the date of a complete lease forfeiture, release, termination, assignment, or any change of designated payor, are timely received by the GLO on or before 75 calendar days after that date. If a change of payor occurs for a lease with multiple payors, only the changing payor shall pay the accrued royalties for which he is designated as being responsible on or before 75 calendar days after the change.

(VII) Any forfeiture, release, termination, assignment, or change of operator or payor, does not affect the approved annual royalty payment status, subject to subclause (VI) of this clause. However, as provided in §9.8(c)(2) (G) of this title (relating to Discontinuing the Leasehold Relationship), an assignee or successor in interest is liable for all unsatisfied royalty requirements of the assignor or predecessor in interest.

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

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

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

(F) Gas royalties—due date.

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

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

(G) Required reports—due date.

(i) Lessees shall ensure that all required production/royalty reports

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

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

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

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

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

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

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

month immediately following that annual production period.

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

(VII) Any forfeiture, release, termination, assignment, or change of operator or reporter does not affect the approved annual reporting status, subject to subclause (VI) of this clause. However, as provided in §9.8(c)(2) (G) of this title (relating to Discontinuing the Leasehold Relationship), an assignee or successor in interest is liable for all unsatisfied reporting requirements of the assignor or predecessor in interest.

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

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

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

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

(H) Gas contracts. Lessees shall file with GLO a copy of all contracts under which gas is sold or processed and all subsequent agreements or amendments to

such contracts within 30 days of entering into or making such contracts, agreements, or amendments. Such contracts, agreements, and amendments, when received by GLO will be held in confidence by GLO unless otherwise authorized by lessee.

(I) Gas contract brief (Form GLO-5)

(i) Each gas contract, agreement, or contract amendment must be accompanied by a gas contract brief (Form GLO-5) completed in the form and manner prescribed by GLO. The GLO-5 must be submitted even if GLO is taking its royalty in-kind from the leases subject to the contract or agreement. The GLO-5 shall be submitted to GLO within 30 days of executing a contract, agreement, or contract amendment. While the lessee is responsible for the preparation and filing of the GLO-5 and supplements, the lessee is not required to submit the GLO-5 or supplements for royalty volumes which the state is taking in kind. Rather, the lessee must submit the GLO-5 and supplements for other volumes produced from the lease or leases.

(ii) A gas contract brief supplement (GLO-5(s)) may be filed for sales of gas on the spot or other markets in which price changes occur monthly. A GLO-5(s) should be submitted to GLO within 30 days of the completion of each six-month period of sales. A GLO-5 does not have to be submitted as long as other contract provisions remain unchanged.

(iii) For spot or similar sales situations in which supplements will be submitted, the GLO-5 is due within 30 days of the completion of the first six-month sales period.

(iv) Gas contract briefs and supplements should be directed to: General Land Office, Energy Resources Division, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701-1465, Attention: Gas Contracts Administrator.

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

(K) Other records. At any time, or from time to time, GLO may require any additional records relating to any aspect of lease operations and accounting

(L) Responsibility of lessee to file royalty payments and required reports. Parties other than the lessee may remit royalties to the state on the lessee's behalf. This practice does not relieve the lessee of any statutory or contractual obligation to pay royalty or file reports and supporting documents. The lessee bears full responsibility for paying royalties and for filing reports and supporting documents as required in this chapter.

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

(N) State's lien. The state has a first lien on all oil and gas produced from the leased area to secure the payment of all unpaid royalty or other sums of money that may become due.

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

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

(3) Penalties and interest.

(A) Penalties on delinquencies. Any royalty not paid when due, or any required report or document not submitted when due, is delinquent and penalties as provided in this subsection shall be added. Royalty payments or any required reports or documents that do not identify GLO lease

numbers and annual submission certification numbers, if any, and any royalty payments not accompanied by any required reports or documents are also delinquent. The penalties on delinquent royalties specified in this subsection shall not be assessed in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value.

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

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

(II) a penalty of 10% of the delinquent amount or \$25, whichever is greater, to any royalty which is more than 30 days delinquent;

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

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

(I) a penalty of 1.0% of the delinquent amount or \$5.00, whichever is greater, for each 30-day period that any royalty is delinquent;

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

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

(B) Interest on delinquencies. Any royalty not paid when due is delinquent and shall accrue interest as provided in this subsection.

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

(I) interest shall accrue on all delinquent royalties at the rate of 12% per year (simple interest) pursuant to the Texas Natural Resources Code, §52.131(g);

(II) interest shall begin to accrue 60 days after the due date.

(ii) For royalties due before September 1, 1985, including those for oil and gas produced prior to July 1, 1985:

(I) interest shall accrue on all delinquent royalties at the rate of 6.0% per year compounded daily pursuant to Texas Civil Statutes, Article 5069-1.03;

(II) interest shall begin to accrue 30 days after the date due.

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

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

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

(i) when a lessee brings a deficiency to the GLO's attention voluntarily; and/or

(ii) when a lessee and the GLO have reached an agreement regarding the reduction as part of a resolution of an outstanding audit issue.

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

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

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

(C) Effective with the production month of March 1989, all prior month adjustments must be submitted on GLO-1 and GLO-2 report documents separate from the reports containing the current month royalty activity. The GLO-1 or GLO-2 containing prior month adjustments must be labeled as "Amended Reports" (underlined).

(5) Temporary reduction of gas royalty rates.

(A) Prerequisites. Application for a temporary reduction of the royalty rates established may be considered by SLB if:

(i) the lease covers any of the state lands described in §9.2 of this title (relating to Leasing Guide);

(ii) state land was leased by SLB on the basis of a royalty bid and at a royalty rate exceeding 25%; and

(iii) the lease has not been pooled or unitized with other leases.

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

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

(ii) for gas valued from \$1.51 to \$2.00 per Mcf of gas, the board may reduce a royalty rate to 30%;

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

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

(C) Definition of value. For purposes of this paragraph, the value of the gas is defined as the highest market price paid or offered for gas of comparable quality in the general area where produced and when run, or the gross price paid is offered to the producer, whichever is greater.

(D) Request for reduction. A lessee seeking the approval of SLB for a temporary reduction in gas royalty rates must make written request for an application to the Petroleum and Minerals Division, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701. The application should be completed and returned to the Petroleum and Minerals Division of GLO.

(i) The applicant must submit an affidavit and documentation in support of its request for a temporary reduction of gas royalty rates. The affidavit will attest to the fact that the requirements set out in this paragraph have been satisfied. The accompanying documentation will contain pertinent lease data, production and reserve data, gas price data, development data, and any other information which may be required to support the application, including the reason for requesting a royalty reduction.

(ii) SLB will consider the request for temporary reduction in gas royalty rates based upon lessee's affidavit, documents in support thereof, and the recommendation of the Petroleum and Minerals Division.

(iii) SLB may reevaluate the temporary reduction in gas royalty rates at any time.

(E) Verification of gas valuation. The gas valuation information submitted by the lessee will be subject to verification by the Royalty Audit Division.

(F) Effective dates for reduced royalty rates. The reduced royalty rates shall be effective beginning the first day of the next month following approval by SLB. Royalty rates on gas produced

after September 1, 1990, will not be subject to reduction under this section

(G) No retroactive effect. The reduced royalty rates will not be applied retroactively for previous months' production.

(c) Marginal Properties Royalty Incentive Program.

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

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

(B) Average daily per well production—

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

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

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

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

(E) Mcf—Thousand cubic feet.

(F) Price—The five-day average spot price of West Texas Intermediate crude oil at the Midland, Texas, oil terminal as reported in *The Oil Daily*.

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

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

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

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

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

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

(2) Qualification for Royalty Reduction.

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

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

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

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

(II) proof that the land is qualifying property;

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

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

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

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

(C) The approval of an application shall not constitute a finding that a lease has been maintained in force and effect

or otherwise ratify or revive any lease.

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

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

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

(C) Royalty rate under specific types of leases:

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

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

(I) adjoins the land lease; and

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

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

(D) The qualifying reservoir's reduced royalty rate applies for two years from the effective date of the royalty rate reduction. The SLB may extend the reduced rate for additional periods not to exceed two years each. An operator may apply for a two-year extension by filing an affidavit that the conditions that existed at

the time that the original royalty rate reduction was granted have not changed materially. The GLO or the SLB may require an operator to submit additional information in support of an application for extension. An operator may apply for further royalty reduction to a qualified reservoir during the anniversary month of the effective date of the current royalty rate reduction.

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

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

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

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

This agency hereby certifies that the 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 30, 1995.

TRD-9515495 Garry Mauro
Commissioner
General Land Office

Effective date: December 22, 1995

Proposal publication date: August 22, 1995

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

Part II. Texas Parks and Wildlife Department

Chapter 53. Finance

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, November 2, 1995, adopted the repeal of §§53.1-53.4 and new §§53.31-53.33, concerning selling price of departmental information, without changes to the proposed text as published in the September 29, 1995 issue of the *Texas Register* (20 TexReg 7941). Sections 53.1-53.4 were repealed and recodified at §§53.31-53.33 as part of a reorganization and simplification of Chapter 53, concerning Finance.

The repeals and new rules are necessary for simplification and consistency in regulations concerning selling price of departmental information.

The repeals and new rules represent only a reorganization of Chapter 53, concerning Finance; no changes were made to the rules other than renumbering.

The department received no public comments concerning adoption of the repeals or the new rules.

Selling Price of Departmental Information

• 31 TAC §§53.1-53.4

The repeals are adopted under authority of Parks and Wildlife Code, Chapter 12, Subchapter A, §12.006; which provides the Parks and Wildlife Commission with authority to sell information and Parks and Wildlife Code, Chapter 11, Subchapter B, §11.027 which provides the Parks and Wildlife Commission with authority to set fees for administration of department programs.

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

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

TRD-9515371 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: September 29, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

• 31 TAC §§53.31-53.33

The new sections are adopted under authority of Parks and Wildlife Code, Chapter 12, Subchapter A, §12.006; which provides the Parks and Wildlife Commission with authority to sell information and Parks and Wildlife Code, Chapter 11, Subchapter B, §11.027 which provides the Parks and Wildlife Commission with authority to set fees for administration of department programs.

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

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

TRD-9515370 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

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Proposal publication date: September 29, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

License Fees and Boat and Motor Fees

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, November 2, 1995, adopted the repeal of §53.7 and §53.8, an amendment to §53.10, and new §§53.1-53.8, concerning License Fees and Boat and Motor Fees. New §§53.1-53.5, and the amendment to §53.10 are adopted with changes to the proposed text as published in the September 29, 1995, issue of the *Texas Register* (20 TexReg 7942). The repeals, and new §§53.4, 53.6-53.8 are adopted without changes and will not be republished.

Amendment of §53.1(a)(2) and (b)(2), concerning License Issuance Procedures, Fees, Possession and Exemption extends the proposed period of validity for hunting and fishing license authorizations, possessed in lieu of a "paper" license, from 14 days to 20 days from the date of purchase. The Commission believed extending the period would facilitate license procurement for persons who may be away from their home for a period in excess of 14 days.

The change to §53.2, concerning Combination Hunting and Fishing Licenses, Packages, and Conservation Permits, alters the effective date for conservation permits. The Commission did not adopt the proposed increase in the fee for the conservation permit and the fee remains at \$25.

The change to §53.3, concerning Other Recreational Hunting and Fishing Licenses, Stamps, and Tags, increases the fee for the temporary (3-day) fishing license from \$8.00 to \$10, and increases the price for collector's

edition stamp packages The package was proposed at \$7 00, however, public comment indicated that this fee was below market value for the stamps and that adoption of the \$7 00 fee would devalue stamps which had already been purchased The Commission set the price for this stamp package at \$10 for wholesale purchase and \$20 for retail purchase The Commission did not adopt the proposed \$3 00 increase in the special resident hunting and fishing licenses

The change to §53.5, concerning Public Land Hunting Permits and Fees, maintains the application fee for computer-selected participant hunting opportunities at \$2 00 instead of the proposed \$4 00 fee

The change to §53 10 alters the effective dates for vessel and motor fee increases In response to public comment, the effective date for fee increases was postponed from the proposed date of January 1, 1996, and the increases will instead become effective on March 1, 1996.

The repeals and new rules provide consistency and simplification of regulations concerning fees and increased revenue to continue department conservation programs

The repeals and new rules set fees for approximately 100 different fees, licenses and stamps The new sections provide the means through which persons can acquire and possess licenses and stamps, set new fees for hunting and fishing licenses and conservation permits, commercial fishing licenses and fees, and miscellaneous wildlife licenses and permits

The department received 404 phone calls, letter and petitions concerning the proposed fee increases and all of these respondents were generally opposed to these increases However, respondents were generally in favor of the proposals to exempt youth from hunting stamp requirements and to provide new combination license packages. In addition, nine individuals provided comments at the public hearing Of these, six were generally opposed to the proposed increases and three were in favor of the fee increases

One respondent commented that the proposed \$7 00 fee for the Collector Edition Stamp Package was too low and that a fee of about \$3.00 per stamp was more appropriate. The respondent suggested that lower fees for these stamp packages would devalue packages held by collectors.

Collector's Covey commented in favor of increasing the fee for Collector Edition Stamp Packages. There were no groups or organizations speaking in opposition to the proposed repeal, new rules and amendment

A random sample of 3,000 license holders was selected to receive a mail survey designed to examine willingness to pay for a proposed license fee increase. At the \$6.00 increase level adopted by the Commission, 76.4% of combination license holders, 76.6% of hunting license holders, and 61.2% of fishing license holders indicated a willingness to continue purchasing licenses Survey questions were designed to determine 1) willingness to pay for a license increase, and 2) level of avidity to help explain an individual's

interest in participation Fishing and hunting license holders were presented with one random offer from five fee increase values (\$2 00 to \$10, in increments of \$2 00), while combination license holders were presented values from \$3 00 to \$15, in increments of \$3 00 Combination holders were also presented with one offer of five proposed "super" license fees (\$40 to \$60, in increments of \$5.00) Finally, space was provided for them to write comments Surveys were mailed on July 31st, with a reminder postcard mailed one week later on August 7th. On August 21st, a second mailing was sent to those who had not responded

A total of 1,592 completed surveys were returned, for a response rate of 60. 6% (excluding nondeliverables) This breaks down to 67 3% for combination licenses, 60 1% for fishing licenses, and 54 2% for hunting licenses All results were adjusted for nonresponse bias About 90% of all license holders are willing to pay an extra \$2 00 for their license, while about 50% of fishing license holders will pay an extra \$10 About two thirds of combination license holders would pay \$40 for a super license, while one-third would pay \$60 Also, results indicate that willingness to pay is based on the level of support for the agency; those who regularly purchase stamps and licenses are willing to pay more than those who do not, regardless of their income or total days spent hunting and fishing.

In determining the price structure for the collectors' edition stamp package, the Commission agreed that Mr. Wood was the expert in this area and agreed to adopt the \$20 retail/\$10 wholesale price structure

• 31 TAC §53.7, §53.8

The repeals are adopted under authority of Parks and Wildlife Code Chapter 46, Subchapter A, §46.002 and §46 004 and Chapter 11, Subchapter B, §11.027, which provides the Parks and Wildlife Commission with authority to set fees for administration of department programs

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

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

TRD-9515372

Bill Harvey, Ph D
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: September 29, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

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• 31 TAC §53.1-53.8, 53.10

The amendment and new sections are adopted under authority of several Parks and Wildlife Code Chapters, which provide direct fee setting authority to the Parks and Wildlife Commission.

Chapter 11, §11 027 and §11 0271 provide authority to set fees for administration of department programs and application fees for public hunts.

Chapter 31, §31 026 provides authority to set fees for license of certain vessels

Chapter 42, §§42 012-42.017 provide authority to set fees for resident hunting licenses, resident lifetime hunting licenses, all nonresident hunting licenses and duplicate hunting licenses

Chapter 43, Subchapter B, §43 012 provides authority to set fees for white-winged dove stamps, Chapter 43, Subchapter D, §43.044, provides authority to set fees for hunting lease licenses, wildlife management association area licenses, and hunting cooperative licenses, Chapter 43, Subchapter F, §43 0722 and §43.0764 provide authority, respectively, to set fees for private bird hunting area licenses and field trial permits, Chapter 43, Subchapter I, §43.202 provides authority to set fees for archery hunting stamps; Chapter 43, Subchapter J, §43 252 provides authority to set the fee for turkey stamps, Chapter 43, Subchapter K, §43.303 provides authority to set the fees for waterfowl stamps, Chapter 43, Subchapter L, §43 355 provides authority to set the fees for scientific breeder's permits, Chapter 43, Subchapter M, §43 403 provides authority to set the fee for saltwater fishing stamps; Chapter 43, Subchapter N, §43.503 provides authority to set the freshwater trout stamp; Chapter 43, Subchapter O, §43 522 provides authority to set the fee for conservation permits; Chapter 43, Subchapter Q, §43.582, provides authority for the muzzleloading hunting stamp fee, Chapter 44, §44.003 provides authority to set the fee for game breeder's licenses

Chapter 45, §45 003 provides authority to set the fee for commercial game bird breeder's licenses.

Chapter 46, Subchapter A, §§46.004-46.006 provide authority to set fees for resident fishing licenses, resident lifetime fishing licenses, all nonresident fishing licenses and duplicate fishing licenses, §46.0045 provides authority for tarpon and duplicate tarpon tag fees; Chapter 46, Subchapter B, §46.104 provides Commission authority to set the fee for the Lake Texoma fishing license.

Chapter 47, Subchapter A, §§47 002 et seq provide authority to set fees for various commercial fishing licenses, fishing guide licenses, retail fish dealer's licenses, retail fish dealer's truck licenses, wholesale fish dealer's licenses, wholesale fish dealer's truck licenses, bait dealer's licenses, and menhaden fish plant licenses; Chapter 47, Subchapter B, §47. 031 provides authority to set fees for license transfers, duplicate licenses, and duplicate license plates for resident and nonresident commercial fishing boat licenses; and all other licenses authorized by Chapter 47

Chapter 49, §§49.003 et seq provides the authority to set fees for falconry permits.

Chapter 50, §50.001 provides authority to set the fees for combination hunting and fishing license and stamp packages and §50.002 provides authority to set fees for combination hunting and fishing licenses.

Chapter 62, Subchapter D, §62.064 provides authority to set the fees for hunting on state parks.

Chapter 65, §65.007 provides authority to set fees for recreational and commercial alligator licenses and permits.

Chapter 66, Subchapter A, §66.017 provides authority to set the fee for finfish import license transfers; §66.018 provides authority to set crab trap tag fees; and §66.020 provides authority to set finfish import license fees; Chapter 66, Subchapter C, §66.206 provides authority to set fees for saltwater trotline tags.

Chapter 71, §71.009 provides authority to set fees related to furbearing animal licenses and permits.

Chapter 76, Subchapter C, §76.104 provides authority to set license fees for commercial and sport oyster licenses and permits and §76.1031 provides authority to set transfer fees for commercial oyster licenses and duplicate license plates.

Chapter 77, Subchapter C, §77.031-77.0351 provide authority for setting fees for commercial shrimping activities, including §77.031 (commercial bay-shrimp boat licenses), §77.033 (commercial bait-shrimp boat licenses), §77.035 (commercial gulf-shrimp boat licenses), §77.0361 (duplicate license plates), §77.037 (shrimp boat license transfers), §77.043 (bait shrimp dealer's licenses), §77.048 (individual bait-shrimp trawl licenses).

Chapter 78, §§78.002-78.003 provide authority to set fees for resident and nonresident commercial mussel and clam fisherman's license and resident and nonresident shell buyers licenses.

Chapter 81, Subchapter E, §81.403 provides authority to set permit fees for hunting on wildlife management areas.

§53.1. License Issuance Procedures, Fees, Possession and Exemption Rules.

(a) Hunting license possession.

(1) No person may hunt deer or turkey in this state without having a valid hunting license in immediate possession.

(2) No person may hunt species other than deer or turkey in this state without having a valid hunting license in immediate possession unless the person has acquired a license by telephone and has a valid authorization number in his possession. Authorization numbers shall only be valid for 20 days from date of purchase.

(b) Fishing license possession.

(1) No person may fish in this state without having a valid fishing license in immediate possession unless that person is exempt from holding a fishing license or has acquired a license by telephone and has a valid authorization number in possession. Authorization numbers shall only be valid for 20 days from date of purchase.

(2) No person may catch and retain a red drum twenty-eight inches or more in length in this state without having a valid fishing license and red drum tag in immediate possession.

(c) Issuance of licenses and stamps by telephone.

(1) A person may acquire recreational hunting and/or fishing licenses by telephone from the department or its designated representatives by agreeing to pay a \$3.00 convenience fee per license in addition to the normal license fee.

(2) A person may acquire recreational hunting and/or fishing stamps by telephone from the department or its designated representatives by agreeing to pay a \$3.00 convenience fee per stamp order in addition to the normal stamp fee(s). This fee shall not be charged if a license is acquired during the same transaction.

(d) The following categories of persons are exempt from fishing license requirements and fees for the license years beginning September 1, 1995 and thereafter:

(1) residents under 17 years of age;

(2) non-residents under 17 years of age;

(3) non-residents 65 years of age or older from Kansas and Louisiana;

(4) non-residents 64 years of age or older from Oklahoma; and

(5) residents whose birth date is before September 1, 1930.

(e) Effective September 1, 1996 and thereafter, an administrative fee of \$1.00 shall be charged for replacement of lost or destroyed licenses, stamps, or permits. This fee shall not be charged for items which have a fee for duplicates otherwise prescribed by rule or statute.

§53.2. Combination Hunting and Fishing Licenses, Packages, and Conservation Permits.

(a) Combination hunting and fishing licenses. The following license fee amounts are effective for the license year beginning September 1, 1995:

(1) resident combination hunting and fishing (type 100)-\$25;

(2) duplicate resident combination hunting and fishing (type 130)-\$6.00;

(3) lifetime resident combination hunting and fishing (type 990)-\$800;

(b) Combination hunting and fishing licenses. The following license fee amounts are effective for the license year

beginning September 1, 1996, and thereafter:

(1) resident combination hunting and fishing (type 100)-\$32;

(2) duplicate combination hunting and fishing (type 130)-\$6.00;

(3) lifetime resident combination hunting and fishing (type 990)-\$1,000;

(c) Combination license packages. The following license fee amounts are effective for the license year beginning September 1, 1996, and thereafter:

(1) resident super combination hunting and fishing (package includes combination hunting and fishing license plus the privileges associated with the following stamps: turkey, white-winged dove, archery hunting, state waterfowl, muzzleloader hunting, saltwater sportfishing, and freshwater trout) -\$49; and

(2) all purpose resident combination hunting and fishing (package includes combination hunting and fishing license; the privileges associated with the following stamps: turkey, white-winged dove, archery hunting, state waterfowl, muzzleloader hunting, saltwater sportfishing, freshwater trout, conservation permit, and annual state park entrance permit)-\$100.

(d) Conservation permits (type 192). The fee amount effective for the permit year beginning September 1, 1995, and thereafter is \$25.

§53.3. Other Recreational Hunting and Fishing Licenses, Stamps, and Tags.

(a) Hunting licenses. The following license fee amounts are effective for the license year beginning September 1, 1995:

(1) resident hunting (type 101)-\$13;

(2) lifetime resident hunting (type 991)-\$500;

(3) special resident hunting (type 102)-\$6.00. Nonresident hunters who are under 17 years of age on the date of license purchase are designated as residents and may purchase a special resident hunting license;

(4) duplicate hunting (type 103)-\$6.00;

(5) general nonresident hunting (type 105)-\$250;

(6) nonresident special hunting (type 107)-\$100;

(7) nonresident five-day special hunting (type 157)-\$35;

(8) nonresident spring turkey hunting (type 118)-\$100; and

(9) nonresident banded bird hunting (type 120)-\$10;

(b) Hunting licenses. The following license fee amounts are effective for the license year beginning September 1, 1996, and thereafter:

(1) resident hunting (type 101)-\$19;

(2) lifetime resident hunting (type 991)-\$600;

(3) special resident hunting (type 102)-\$6.00. Nonresident hunters who are under 17 years of age on the date of license purchase are designated as residents and may purchase a special resident hunting license;

(4) duplicate hunting (type 103)-\$6.00;

(5) general nonresident hunting (type 105)-\$250;

(6) nonresident special hunting (type 107)-\$100;

(7) nonresident five-day special hunting (type 157)-\$35;

(8) nonresident spring turkey hunting (type 118)-\$100; and

(9) nonresident banded bird hunting (type 120)-\$10.

(c) Hunting stamps. The following stamp fee amounts are effective for the stamp year beginning September 1, 1995; and thereafter:

(1) turkey (type 119)-\$5.00;

(2) white-winged dove (type 126)-\$7.00;

(3) archery hunting (type 135)-\$7.00;

(4) waterfowl (type 139)-\$7.00; and

(5) muzzleloader hunting (type 187)-\$10.

(d) Fishing licenses. The following license fee amounts are effective for the license year beginning September 1, 1995:

(1) resident fishing (type 201)-\$13;

(2) lifetime resident fishing (type 992)-\$400;

(3) special resident fishing (type 203)-\$6.00;

(4) temporary (14-day) resident sportfishing (type 210)-\$10;

(5) nonresident fishing (type 205)-\$30;

(6) temporary (5-day) nonresident fishing (type 207)-\$20;

(7) fishing duplicate (type 206)-\$6.00; and

(8) Lake Texoma fishing (type 208)-\$7.50.

(e) Fishing licenses. The following license fee amounts are effective for the license year beginning September 1, 1996, and thereafter:

(1) resident fishing (type 201)-\$19;

(2) lifetime resident fishing (type 992)-\$600;

(3) special resident fishing (type 203)-\$6.00;

(4) temporary (14-day) resident sportfishing (type 210)-\$12;

(5) temporary (3-day) resident sportfishing-\$10;

(6) nonresident fishing (type 205)-\$30;

(7) temporary (5-day) nonresident fishing (type 207)-\$20;

(8) fishing duplicate (type 206)-\$6.00; and

(9) Lake Texoma fishing (type 208)-\$7.50.

(f) Fishing stamps. The following stamp fee amounts are effective for the license year beginning September 1, 1995, and thereafter:

(1) saltwater sportfishing (type 211)-\$7.00; and

(2) freshwater trout (type 212)-\$7.00.

(g) Fishing tags. The following tag fee amounts are effective for the license year beginning September 1, 1995, and thereafter:

(1) tarpon tag (type 215)-\$100;

(2) duplicate tarpon tag (type 230)-\$25; and

(3) individual bait-shrimp trawl tag (type 334)-\$23.

(h) Collector's edition stamp package.

(1) A collector's edition stamp package shall consist of one of each of the following stamps:

(A) turkey stamp;

(B) white-winged dove stamp;

(C) nongame stamp;

(D) archery hunting stamp;

(E) state waterfowl stamp;

(F) muzzleloader hunting stamp;

(G) saltwater sportfishing stamp; and

(H) freshwater trout stamp.

(2) stamps in the package will not be valid for hunting or fishing.

(3) fee for the package shall be \$10 wholesale price and \$20 retail price, effective September 1, 1996 and thereafter.

§53.5. Public Land Hunting Permits and Fees.

(a) Hunting permits. The following permit fee amounts are effective for the permit year beginning September 1, 1995 (fees also prescribed in §65.194 of this title (relating to Permit Required and Fees)):

(1) annual public hunting (type 173)-\$35;

(2) duplicate annual public hunting (type 174)-\$10;

(3) limited public use (type 175)-\$10; and

(4) duplicate limited public use (type 176)-\$5.00.

(b) Hunting permits. The following permit fee amounts are effective for the permit year beginning September 1, 1996, and thereafter (fees also prescribed in §65.194 of this title (relating to Permit Required and Fees)):

(1) annual public hunting (type 173)-\$40;

(2) duplicate annual public hunting (type 174)-\$10;

(3) limited public use (type 175)-\$10; and

(4) duplicate limited public use (type 176)-\$5.00.

(c) Special and regular permits. The following permit fee amounts are effective for the permit year beginning September 1, 1995, and thereafter (fees also prescribed in §65.194 of this title (relating to Permit Required and Fees)):

(1) deer-\$50;

(2) deer-extended period-\$100;

(3) exotic mammal-no charge;

(4) designated exotic mammal-no charge;

(5) desert bighorn sheep-no charge;

- (6) pronghorn antelope-\$50;
- (7) alligator-\$50;
- (8) javelina-\$25;
- (9) turkey-\$25;
- (10) coyote-\$25;
- (11) white-winged dove-\$12;
- (12) squirrel-\$6.00;
- (13) quail-\$6.00;
- (14) mourning dove-\$6.00;
- (15) woodcock-\$6.00;
- (16) waterfowl-\$6.00;
- (17) rails-\$6.00;
- (18) gallinules-\$6.00; and
- (19) snipe-\$6.00.

(d) Application fee (fees also prescribed in §65.194 of this title (relating to Permit Required and Fees)). The non-refundable application fee for individuals applying for computer-selected participant hunting opportunities is \$2.00 per applicant (except no charge for applicants under 17 years of age) effective September 1, 1995, and thereafter.

§53.10. Vessel and Motor Fees Set by Commission.

(a) The following vessel and motor fee amounts are effective from September 1, 1993 through February 29, 1996:

- (1) expedited "quick" title to a vessel-\$15;
- (2) expedited "quick" title to a motor-\$15;
- (3) livery vessel-\$9.00;
- (4) vessel-Class A-\$18;
- (5) vessel-Class 1-\$27;
- (6) vessel-Class 2-\$36;
- (7) vessel-Class 3-\$45;
- (8) vessel-transfer of ownership-\$3.00;
- (9) vessel-duplicate certificate of number-\$3.00;
- (10) vessel-duplicate decals-\$3.00;
- (11) vessel-state assigned HIN-\$3.00;
- (12) marine dealer/manufacture number-\$65; and
- (13) certificate of title-\$10.

(b) The following vessel and motor fee amounts are effective March 1, 1996, and thereafter:

- (1) expedited "quick" title to a vessel-\$25;

- (2) expedited "quick" title to a motor-\$25;
- (3) livery vessel-\$15;
- (4) vessel-Class A-\$25;
- (5) vessel-Class 1-\$40;
- (6) vessel-Class 2-\$55;
- (7) vessel-Class 3-\$70;
- (8) vessel-transfer of ownership-\$5.00;
- (9) vessel-duplicate certificate of number-\$5.00;
- (10) vessel-duplicate decals-\$5.00;
- (11) vessel-state assigned HIN-\$5.00;
- (12) marine dealer/manufacture number-\$130; and
- (13) certificate of title-\$15.

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

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

TRD-9515373

Bill Harvey, Ph D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: September 29, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

Stamps

• 31 TAC §§53.14-53.16

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, November 2, 1995, adopted new §53.14 and §53.16, and an amendment to §53.15, concerning stamps issued by the department. Section 53.14 and §53.15 were adopted with changes to the proposed text as published in the September 29, 1995, issue of the *Texas Register* (20 TexReg 7948). Section 53.16 was adopted without changes and will not be republished.

The change to §53.14 includes an extension authorization period for "paperless" stamps from 14 days to 20 days. The Commission extended this period to facilitate persons who might be away from their place of residence for periods in excess of two weeks.

The change to §53.15 sets an effective date of September 1, 1996, for exemptions for those under 17 years of age purchasing special resident hunting licenses, holders of lifetime resident hunting licenses, lifetime resident combination hunting and fishing

licenses, and holders of lifetime resident fishing licenses.

The amendment and new rules implement provisions of House Bill 2216, as enacted by the 74th Texas Legislature.

Passage of House Bill 2216 provides a mechanism through which individuals are able to purchase a "paperless" stamp. The new rules and amendment provide the means through which individuals may purchase a stamp by telephone and receive an authorization number in place of an actual paper stamp; eliminate the user signature requirements for stamps issued in an automated manner; establish hunting and fishing stamp exemptions for lifetime license purchasers and special resident hunting license purchasers under 17 years of age; and provides mechanisms for the sale of obsolete stamps and decals.

The department received no public comment concerning adoption of the proposed new rules and amendment.

The amendment and new rules are adopted under the authority of the Parks and Wildlife Code Chapter 11 and Chapter 43, which provide the Texas Parks and Wildlife Commission with the authority to set fees, stamp exemptions, and stamp possession requirements.

§53.14. Stamp Purchaser Identification and Possession Requirements.

(a) A person may hunt without a required state hunting stamp in immediate possession if the person has acquired a stamp by telephone and has a valid authorization number in possession. Authorization numbers shall only be valid for 20 days from purchase date.

(b) A person may fish without a required fishing stamp in immediate possession if the person has acquired a stamp by telephone and has a valid authorization number in possession. Authorization numbers shall only be valid for 20 days from purchase date.

(c) A state hunting or fishing stamp issued in an automated manner to a person using the stamp is valid for hunting or fishing purposes without the user's signature on its face.

§53.15. Stamp Exemptions.

(a) The commission grants the director authority to exempt persons participating in any event organized for the primary purpose of promoting participation in fishing or hunting activities from the requirement to purchase or possess the following stamps:

- (1)-(3) (No change.)
- (4) state waterfowl stamp;
- (5)-(7) (No change.)
- (b) (No change.)

(c) Special resident hunting license holders who are under 17 years of age on the date of license purchase and all lifetime resident hunting license holders are exempt from requirements for acquisition and possession of the following stamps effective with the license year beginning September 1, 1996, and thereafter

- (1) white-winged dove stamp,
- (2) turkey stamp,
- (3) archery hunting stamp,
- (4) state waterfowl stamp, and
- (5) muzzleloader hunting stamp

(d) All lifetime resident combination hunting and fishing license holders are exempt from requirements for acquisition and possession of the following stamps effective with the license year beginning September 1, 1996, and thereafter

- (1) white-winged dove stamp;
- (2) turkey stamp,
- (3) archery hunting stamp,
- (4) state waterfowl stamp;
- (5) saltwater sportfishing stamp,
- (6) freshwater trout stamp, and
- (7) muzzleloader hunting stamp.

(e) All lifetime resident fishing license holders are exempt from requirements for acquisition and possession of the following stamps effective with the license year beginning September 1, 1996, and thereafter

- and
- (1) saltwater sportfishing stamp;
 - (2) freshwater trout stamp

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

Issued in Austin, Texas, on November 27, 1995

TRD-9515369 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: September 29, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext 4642

Chapter 55. Law Enforcement

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, November 2, 1995, adopted the repeal of §§55.143-55.153, an amendment to §55.142, and new §§55.143-55.153, concerning permits for aerial management of wildlife and exotic ani-

mals. New §55.151 was adopted with changes to the proposed text as published in the August 1, 1995 issue of the *Texas Register* (20 TexReg 5699). The repeals, amendment to §55.142, and new §§55.143-59.150 and 55.153 were adopted without changes and will not be republished.

The change to §55.151 alters the effective period for landowner authorizations required for permits. The proposed one-year effective period of these permits was changed, making landowner authorizations valid for the life of the permit unless the permit expires without renewal, is suspended or revoked, or, if the landowner's authorization specifies a certain time period, then the landowner's authorization will be valid only for that time period specified.

The repeals and new sections implement Senate Bill 329, enacted by the 74th session of the Texas Legislature.

Beginning September 1, 1995, the Texas Parks and Wildlife Department may issue a permit to an individual, partnership or corporation for the management of wildlife and exotic animals by the use of aircraft in Texas. The new rules clearly define both wildlife and exotic animals for the purposes of aerial management. The new sections clarify the need for an aerial permit and will give landowners an additional tool whereby they can control surplus exotic animals by the use of aircraft while being in compliance with federal law. The new sections also allow multiple activities to be conducted under the provisions of a single permit.

Thirteen of 53 aerial management permit holders surveyed responded by telephone to the department's request for public comment. Of the 13 who responded, 77% approved of the proposed changes and 23% disapproved. Responses in opposition to the proposals consisted of three permit holders opposed to the proposed fee. Public comment was also received from five individuals who attended a public hearing in Austin. One person opposed the fee, commenting that the fee should be differentiated between private permit holders and commercial permit holders and stated that the forms and the reports are too complicated. One person suggested that protection for cougars be added to the new rules, that the taking of dangerous, non-indigenous wild animals be prohibited and asked the Commission to define "sport hunting." Two persons opposed the taking of any animal from an aircraft. The final person was in support of the new rules as proposed.

Action for Animals was opposed to the new rules and The Texas Wildlife Association was in favor of the new rules.

The department responds to the preceding comments as follows. The fee structure is based on the activity that can be performed under the new permit and the cost to administer the program. The new permit allows for all activities to be performed simultaneously under one permit for a fee of \$200. Previously, a depredation permit cost \$100 and a management permit cost \$100, for a total cost of \$200. In addition, the 74th Texas Legislature passed Senate Bill 329, which allowed the Commission to set a single fee and not a

separate fee for private or commercial operators. The new rules reduce the amount of paperwork for the user and will streamline the operations of the aerial permit program. The cougar cannot be legally hunted from an aircraft because it is not listed in the new rules as an animal that can be hunted. Therefore, there is no need to give the cougar protection. The term "sport hunt" does not need to be defined because the term "hunt" is already defined in the Parks and Wildlife Code. The term "sport" simply means to amuse oneself or to engage in recreation. The animals listed in the new rules, which include non-indigenous wild animals, are defined by statute and the ability to take those animals is allowed by statute. Therefore, the Commission is only implementing the authority given to them by the 74th Texas Legislature. Furthermore, federal statutes allow for state agencies to issue permits for the management of wildlife by the use of aircraft. No changes were made as result of the comments.

Subchapter E. Depredating Animal Control and Wildlife Management from Aircraft

• 31 TAC §§55.143-55.153

The repeals are adopted under authority of Parks and Wildlife Code, Chapter 43, Subchapter G, which authorizes the Commission to establish regulations governing the management of wildlife and exotic animals by use of aircraft.

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

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

TRD-9515374 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: August 1, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

Subchapter E. Permits for Aerial Management of Wildlife and Exotic Species

The new rules are adopted under authority of Parks and Wildlife Code, Chapter 43, Subchapter G, which authorizes the Commission to establish regulations governing the management of wildlife and exotic animals by use of aircraft.

§55.151. Landowner Authorization.

(a) Prior to managing wildlife or exotic animals, a permit holder must place on file a landowner's authorization form for each individual ownership on which wild-

life or exotic animals are to be managed. The landowner's authorization form shall include:

(1) the name, address, and phone number of the landowner;

(2) the name, address, and phone number of the authorized landowner's agent, if applicable;

(3) the name and permit number of the permittee;

(4) the farm or ranch name and specific location of the property;

(5) the specific kind and number of wildlife or exotic animals to be managed by use of aircraft and the reason why these animals should be managed; and

(6) a trap and transplant permit number issued by the Department's Wildlife Division must be shown, if game animals or game birds are captured by the use of aircraft.

(b) A landowner's authorization for the management of wildlife or exotic animals shall be valid for the life of the permit unless the permit expires without renewal, is suspended or revoked; or, if the landowner's authorization specifies a certain time period, then the landowner's authorization will be valid for that specified time.

(c) A landowner's authorization for hunting shall be approved only for depre-dating animals and exotic animals.

(d) A landowner's authorization will not be approved for non-indigenous wild animals except as authorized by the department when a specific wild animal(s) has escaped from captivity.

(e) a single landowner's authorization form may be submitted by a group of landowners or by an association on behalf of such landowners. The landowner's authorization form shall have attached a list of participating landowner names, ranch names, addresses, and acreage for each participating landowner. The landowner's authorization may be signed by one authorized agent who represents the group of landowners or an association.

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

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

TRD-9515375 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife
Department

Effective date: December 20, 1995

Proposal publication date: August 1, 1995

For further information, please call: (512) 389-4642 or 1-800-792-1112, Ext. 4642

TITLE 34. PUBLIC FI-NANCE

Part IX. Texas Bond Review Board

Chapter 190. Allocation of the State's Limit on Certain Private Activity Bonds

Subchapter A. Program Rules

• 34 TAC §§190.1-190.3, 190.6, 190.8

The Texas Bond Review Board adopts amendments to §§190.1-190.3, 190.6, and 190.8, concerning the private activity bond allocation program rules, without changes to the proposed text as published in the October 10, 1995, issue of the *Texas Register* (20 TexReg 8316)

The rules are being amended primarily to comply with statutory changes to Texas Civil Statutes, Article 5190.9a, as amended. Generally, the amendments will allow more applications to receive a reservation

The rules describe the implementation and administration of the allocation of the state's ceiling on private activity bonds

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 5190.9a, as amended, which give the Texas Bond Review Board the authority to adopt rules governing the implementation and administration of the allocation of the state's ceiling on private activity bonds.

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 29, 1995.

TRD-9515473 Albert L. Bacarisse
Executive Director
Texas Bond Review Board

Effective date: December 21, 1995

Proposal publication date: October 10, 1995

For further information, please call: (512) 463-1741

TITLE 37. PUBLIC SAFETY AND CORREC-TIONS

Part I. Texas Department of Public Safety

Chapter 15. Drivers License Rules

Application Requirements- Original, Renewal, Duplicate, and Identification Certificates

• 37 TAC §15.34, §15.39

The Texas Department of Public Safety adopts amendments to §15.34 and §15.39,

concerning Application Requirements- Original, Renewal, Duplicate, and Identification Certificates, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7810).

The justification for this section is to ensure that minor persons who are issued or renew a driver's license are, in fact, enrolled in school.

Amendments to §15.34(b)(1) and §15.39(c) adds new language which requires that the Texas Education Agency Verification of Enrollment and Attendance Form is valid for 30 days from the date of signature during the regular semester and for 90 days from the date of signature during the summer break. Amendment to §15.34 adds paragraph (4) which states applicants for renewal of a license will be required to complete a DL-43, Texas Driver License Renewal Application. Amendment to §15.39 adds new subsection (d) which states home schoolers may submit a letter from the instructor as a substitute for the Verification of Enrollment and Attendance Form.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6687b, §1A, which provide the Texas Department of Public Safety with the authority to adopt rules necessary to effectively administer this Act.

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

Issued in Austin, Texas, on November 13, 1995.

TRD-9515627 James R. Wilson
Director
Texas Department of
Public Safety

Effective date: December 25, 1995

Proposal publication date: September 26, 1995

For further information, please call: (512) 465-2890

Examination Requirements

• 37 TAC §15.59

The Texas Department of Public Safety adopts an amendment to §15.59 concerning Examination Requirements, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7810).

The justification for this section is to inform the public of the procedures to follow when renewing a driver's license.

The amendment adds paragraph (1) and (2) to subsection (c) explaining the renewal by mail process for persons who receive an invitation to renew by mail.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6687b, §1A, which provide the Texas Department of Public Safety with the authority to adopt rules that it determines are necessary to effectively administer this Act.

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

Issued in Austin, Texas, on November 13, 1995.

TRD-9515625 James R Wilson
Director
Texas Department of
Public Safety

Effective date: December 25, 1995

Proposal publication date: September 26, 1995

For further information, please call: (512) 465-2890

Reciprocity in Driver Licensing

• 37 TAC §§15.91-15.93

The Texas Department of Public Safety adopts amendments to §§15.91-15.93, concerning Reciprocity In Driver Licensing, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7811).

The justification for this section is to make the public knowledgeable of the driver's license reciprocity agreements that are granted certain persons under certain conditions.

Amendment to §15.91 subsection (c)(3) renames Federal Republic of Germany to Germany due to the German Democratic Republic (East) and the Federal Republic of Germany (West) having been reunited in 1990. Language is added to subsection (e) defining foreign diplomats as Ambassadors, Ministers, Minister Counselors, Counselors, First Secretaries, Second Secretaries, Third Secretaries, Consuls-General, Deputy Consuls-General, Consuls, and Vice Consuls. Amendment to §15.92(1)(A) adds Class M drivers as having reciprocity for nonresidents who are at least 16 years of age. Amendment to §15.93 deletes subsection (a)(4) because form DL-1 is no longer being produced and renumbers paragraphs (5)-(10) as (4)-(9).

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6687b, §1A, which provide the Texas Department of Public Safety with the authority to adopt rules that it determines are necessary to effectively administer this Act.

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

Issued in Austin, Texas, on November 13, 1995.

TRD-9515624 James R Wilson
Director
Texas Department of
Public Safety

Effective date: December 25, 1995

Proposal publication date: September 26, 1995

For further information, please call: (512) 465-2890

Chapter 16. Commercial Driver's License

Licensing Requirements, Qualifications, Restrictions, and Endorsements

• 37 TAC §16.3

The Texas Department of Public Safety adopts an amendment to §16.3 concerning Licensing Requirements, Qualifications, Restrictions, and Endorsements, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7812).

The justification for this section is an additional exempt group of drivers under the commercial driver's license law.

The amendment adds fire fighters employed by private companies to the exempt group of drivers under the commercial driver's license law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6687b-2, §29 and Article 6687b, §1, which provide the Texas Department of Public Safety with the authority to adopt rules and regulations necessary to carry out the provisions of the Texas Driver's License Act, Texas Commercial Driver's License Act, and the Federal Commercial Motor Vehicle Safety Act of 1986.

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 13, 1995.

TRD-9515626 James R. Wilson
Director
Texas Department of
Public Safety

Effective date: December 25, 1995

Proposal publication date: September 26, 1995

For further information, please call: (512) 465-2890

Chapter 23. Vehicle Inspection

Parameter Vehicle Emission Inspection and Maintenance Program

• 37 TAC §23.91, §23.92

The Texas Department of Public Safety adopts new §23.91 and §23.92 concerning vehicle inspection, without changes to the proposed text as published in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7812).

The justification for this section will be improved air quality by the reduction of emissions of hydrocarbons and other pollutants from mobile sources as well as a reduction in long-term repair costs caused by mistueling.

The new sections will implement the provisions of Senate Bill 178, 74th Legislature, 1995, which requires the Texas Department of Public Safety to establish a parameter motor vehicle emission inspection and maintenance program and vehicle idle emissions inspection and maintenance program.

Section 23.91 establishes a parameter motor vehicle emission inspection and maintenance program for vehicles registered in Collin, Dallas, Denton, Harris, El Paso, and Tarrant Counties, because such counties do not meet national ambient air quality standards for ozone. The program will be designated to facilitate these counties compliance with the Federal Clean Air Act. Section 23.91 would require inspection of 1968 through 1979 model vehicles for thermostatic air intake system, exhaust gas recirculation system (EGR valve), PCV valves and hoses, air injection system, and evaporative emission system (canister). Beginning with the 1980 year model, vehicles would be inspected for the presence of catalysts and choke systems. In addition, 1984 and later year model passenger cars and light-duty trucks would be inspected for misfire, oxygen sensor and valves, emission-related recall, and emission-related maintenance.

Section 23.92 establishes an Idle Emissions Inspection and Maintenance Program for vehicles registered in Dallas, Tarrant, and El Paso Counties in order to reduce carbon monoxide emissions from automobiles, because these counties do not meet national ambient air quality standards. The program will be designed to facilitate the compliance of these counties with the Federal Clean Air Act. This rule will require inspection of 1975 and newer model year passenger cars and light-duty trucks for excessive carbon monoxide emissions in addition to those items of inspection required in §23.91. The idle emissions inspection will be accomplished by use of a four-gas analyzer. An additional vehicle inspection fee is proposed and will be retained by the vehicle inspection station.

No comments were received regarding adoption of the new sections.

The new sections are proposed under the Health and Safety Code, Chapter 382, §§382.037, 382.038, and 382.0371, and Texas Civil Statutes, Article 6675a-2, and Ar-

title 6701d, §§140-142, which provide the Public Safety Commission with the authority to establish a motor vehicle emissions inspection and maintenance program for vehicles in counties that do not meet National Ambient Air Quality Standards.

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 13, 1995.

TRD-9515623 James R. Wilsor
Director
Texas Department of
Public Safety

Effective date: December 25, 1995

Proposal publication date: September 26, 1995

For further information, please call. (512) 465-2890

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 1. Management

Conditional Grant Program

• 43 TAC §§1.400-1.410

The Texas Department of Transportation adopts the repeal of §§1.400-1.410, concerning the department's conditional grant program as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8186).

Education Code, Chapter 56, Subchapter I, requires the department to establish a conditional grant program to provide financial assistance for eligible minority and female students who intend to work for the department in civil engineering or any other profession identified by the department as having a significant statistical underrepresentation of minorities or women in the department's workforce.

The repealed sections are adopted to provide ease of access to all rules relating to employment practices. Repeal of these sections is necessary because the subject matter of these sections falls within Chapter 4, Employment Practices. The subject matter has been re-enacted in an amended form as amendments to §4.20 and §4.21 and new §4.25, concerning the department's conditional grant program, which are being contemporaneously adopted.

On November 1, 1995, the department conducted a public hearing on the repeal. No written or oral comments were received concerning the proposed repeals.

The repeals are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation and Education Code, Chapter 56, Subchapter I which requires the department to establish a conditional grant 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 December 1, 1995.

TRD-9515586 Robert E Shaddock
General Counsel
Texas Department of
Transportation

Effective date: December 22, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-8630

Chapter 4. Employment Practices

Subchapter C. Employment and Education Program

• 43 TAC §§4.20, 4.21, 4.25

The Texas Department of Transportation adopts amendments to §4.20 and §4.21 and new §4.25, concerning the department's conditional grant program, without changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8186).

Education Code, Chapter 56, Subchapter I requires the department to establish a conditional grant program to provide financial assistance for eligible minority students who intend to work for the department in civil engineering. Senate Bill 1154, 74th Legislature, 1995, amended Education Code, Chapter 56, Subchapter I, extending the program to female students and to other professions identified by the department as having a significant statistical underrepresentation of minorities or women in the department's workforce.

Adoption of the amendments and new section are necessary to implement Senate Bill 1154, 74th Legislature, 1995, and to replace, in an amended form, the provisions of §§1.400-1.410, concerning the department's conditional grant program. Sections 1.400-1.410 are being contemporaneously repealed because the subject matter of these sections fall within Chapter 4, Employment Practices.

Section 4.20 and §4.21, and new §4.25 establish the conditional grant program as expanded by Senate Bill 1154, 74th Legislature, 1995.

On November 1, 1995, the department conducted a public hearing on the amendments and new section. No written or oral comments were received concerning the proposed amendments and new section.

The amendments and new section are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to

establish rules for the conduct of the work of the Texas Department of Transportation, and Education Code, Chapter 56, Subchapter I, which require the department to establish a conditional grant 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 December 1, 1995.

TRD-9515587 Robert E Shaddock
General Counsel
Texas Department of
Transportation

Effective date: December 22, 1995

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-8630

Chapter 11. Design

Statewide Transportation Enhancement Program

• 43 TAC §§11.201-11.205

The Texas Department of Transportation adopts amendments to §§11.201-11.205, concerning the department's statewide transportation enhancement program, without changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8189).

Title 23, United States Code, §133(d)(2), §160(e)(2), and §1015(d)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240), require that 10% of certain funds apportioned to Texas pursuant to Title 23, United States Code, §104(b)(3) and administered by the department be used for transportation enhancement activities as defined in Title 23, United States Code, §101(a).

The amendments are necessary to clarify, simplify, and streamline the nomination and selection process; further emphasize the tie of statewide transportation enhancement projects to the multimodal transportation system consistent with the intent of the Intermodal Surface Transportation Efficiency Act of 1991; and prevent the loss of federal funds.

On October 18, 1995, a public hearing was held to receive comments, views, or testimony concerning the proposed amendments to §§11.201-11.205 relating to the Statewide Transportation Enhancement Program. The City of Bullard and the East Texas Landowners for Private Ownership (ETLFPO) indicated that they were partly in favor of the amendments and partly against the amendments. The Texas Parks and Wildlife Department (P&W) indicated it was in favor of the amendments. ETLFPO presented oral and written comments at the public hearing and the City of Bullard joined in these comments. P&W presented oral comments. The General Land Office, the Texas Department of Commerce (TDOC), the North Central Texas Council of Governments (North Central

COG), and one individual submitted written comments.

Comment. ETLFPO requested that §11.202(a)(3), Project Eligibility, be modified to require that evidence of support from adjacent land owners and others in the project area be submitted as well as documentation from the jurisdictional government body.

Response. It is the department's opinion that the present requirement that submission of a resolution from at least one governing body as well as other evidence of support from the community is sufficient. Of the approximate 500 candidate projects submitted to the Statewide Transportation Enhancement Program for consideration during the two previous calls for nominations, only two have evidenced significant public opposition. The rules provide sufficient opportunity for individuals to inform local elected officials of their opposition to a project. Section 11.204(a)(3), Selection of Projects for Funding, provides that a project can be removed from the program upon receipt of appropriate opposition documentation from any county or municipality in which a candidate project is proposed.

Comment. ETLFPO commented on §11.203(c)(1)(I), Project Nomination, relating to the public support required for a candidate project. ETLFPO commented that the proposed amendments allow a single resolution for a project from only one jurisdictional governing body instead of a resolution or other official documentation from each jurisdictional governing body in which a candidate project will be nominated. ETLFPO stated that local elected officials can speak only for those individuals in their own jurisdictional areas and that a governing body cannot be concerned with the rights of individuals outside their geographic areas of concern. ETLFPO stated that the section should not be crafted to cater to a particular type of project at the potential sacrifice of individual property and privacy rights.

Response. This concern is addressed in §11.204(a)(3) which states that a candidate project can be eliminated from participation in the program if, prior to the execution of the local agreement to implement the project, any municipality or county in which project activities are proposed provides appropriate notification of its opposition to the project. The department is aware of the fact that public opposition to a project can develop at any time when a candidate project is being nominated or after the project has been selected for implementation. Opposition can center on a wide range of concerns including perceived sacrifice of individual property or privacy rights. Local officials have the option of submitting a resolution or other official document in opposition to a project and petition the department to remove the project from the program.

Comment. P&W commented regarding §11.203(c)(1)(I), and stated that it is sometimes difficult to obtain resolutions from every city and county along a linear corridor where a project of some length such as a hike-and-bike trail might be constructed. Consequently, P&W supported the opportunity to veto a proposed candidate project by resolution from a jurisdictional governing body, but suggested

that this veto be considered for removing only that segment of a larger project from the program.

Response. The amendments state in §11.304(a)(3) that the project will be removed from the program, not just that portion rejected by one governmental entity. In most cases, projects are located within an area under control of a single governmental entity, and the withdrawal of approval of the project by the governmental agency will serve to eliminate the project as a whole. In other cases, the removal of a portion of a longer project such as a hike-and-bike trail will serve to sever the project and will not allow for development as conceived by the project sponsor and nominator and as approved by the Texas Transportation Commission. Consequently, the removal of a portion of a project would detract sufficiently from the project to warrant its total removal.

Comment. TDOC commented that the acquisition of a document in support of a project from each governmental entity affected by a linear-corridor project places an undue burden on the project sponsor.

Response. Section 11.204(a)(3) requires a project sponsor to secure a resolution or other official documentation from only one governmental entity having jurisdiction in the project area. As most projects are found within the jurisdiction of a single governmental entity, a single document will cover the extent of the project.

Comment. ETLFPO commented that §11.203 did not contain a clear definition of a project area and suggested definitions for project activities and project areas.

Response. Definitive boundaries caused and occasioned by users of a given project are difficult to define. The department acknowledges that effects of projects often extend well outside the narrow physical boundaries and right-of-way required for construction and implementation of highway, walkway, and other transportation facilities designed for public use. Nonetheless, the department makes an effort to identify effects occasioned through implementation of proposed projects. These effects are often cited in environmental assessments and other planning documents prepared by the department in accordance with federal and state directives and circulated to governmental review agencies and jurisdictional governmental bodies. The department, however, cannot predict changes in land use or for other outside occurrences that may occur as a result of construction and use of a particular transportation facility.

Comment. ETLFPO requested specific language that requires consideration of the views of adjacent property owners and others in the project area.

Response. The department believes that the view of property owners and others in a given project area can be voiced to local governmental officials through usual means. The nomination for a proposed candidate project is required by §11.203(c)(1)(I) to include appropriate documentary evidence of community involvement of the proposed enhancement and public support for it. At a minimum,

evidence submitted must include a description of any opportunities for public participation that were included in the process of selecting candidate projects. The evidence of support must contain the resolution or other document from one of the governing bodies in the project area. Opposition to a candidate project would be evidenced during this community involvement phase of the nomination process and would be acted upon by local officials. Therefore, other language is not needed in the amendments.

Comment. North Texas COG commented on the elimination of §11.203(c)(1)(M), which requires that the nominating entity assign priority rankings to candidate projects, indicating that the elimination of this ranking removes the means of communicating levels of support and interest on behalf of local elected officials.

Response. The elimination of the ranking will facilitate the nomination process for all nominating entities. The amendments contain the addition of §11.203(c)(4) which allows nominating entities to submit, at their discretion, a written statement of the relative priority ranking assigned by that entity to candidate projects.

Comment. ETLFPO commented on new §11.204(a)(1)(3), regarding the ability of a community to register opposition to a candidate project. ETLFPO indicated that the department may save resources by determining the position of each community with regard to a candidate project prior to its selection for implementation.

Response. When a project spans several jurisdictions, the department has found that determining each community's position on a project prior to its selection for implementation can be a costly and time-consuming process. For this reason, the amendments provide that a project may be selected on the approval of a single affected jurisdiction, while allowing other jurisdictions to register opposition to the project through the mechanism provided in §11.204(a)(3). The amendments do not significantly alter the process of recording community and governmental favor or rejection of any project.

Comments. TDOC commented regarding the elimination of §11.204(b)(1)(C)(2) and alterations to §11.204(b)(1)(B) and §11.204(b)(1)(C) concerning the changes in the scoring criteria used by the Transportation Enhancement Project Evaluation Committee. Under the present rules, each project is to be evaluated in accordance with economic, social, and environmental benefits. Under the amended rules, new criteria for evaluation are proposed and are to include the quality of the project, the geographic scope of the project's benefits, and the project's transportation enhancement value.

Response. It is the department's opinion that the revised evaluation criteria contained in §11.204(b)(1)(B), based on quality of the project, geographic scope of the project's benefits, and the project's transportation value more truly reflect the intent of the Intermodal Surface Transportation Efficiency Act (ISTEA). Substituting new scoring criteria will provide a more adequate and equitable basis

for comparing and scoring candidate projects in all categories received from all areas of the state.

Comment: TDOC also commented specifically on the elimination of §11.204(b)(1)(C)(2)(iii), the numerical scoring system. Under the previous rules, each project received a numerical score based on the economic, social, and environmental benefits foreseen for that project. North Texas COG also commented on §11.204(b), the evaluation of project benefits, and specifically the elimination of portions of §11.204(b)(1)(B) and the elimination of §11.204(b)(2)(A)-(C), which contain mechanisms based on economic, social, and environmental effects together with the numerical scoring system.

Response: The lack of a specific numerical scoring system will allow sufficient latitude to TEPEC to proceed with evaluations in the manner it deems most appropriate. TEPEC is composed of state agencies with a broad range of interests. These interests correspond directly with the ten categories of projects eligible under the enhancement program. Consequently, the quality, geographic scope, and transportation value of any project in any of the ten enhancement categories can be evaluated appropriately. TEPEC will specify to the Texas Transportation Commission those projects most worthy of selection for funding and implementation.

Comment: TDOC commented generally that it would like to see provisions in the amendments that stimulate business investments including the use of historic buildings for retail or office space.

Response: The amendments have been established in accordance with guidance furnished through ISTEA and the Federal Highway Administration. Historic buildings found eligible for participation in the program may receive some funding for restoration activities. Funds cannot be used to refurbish the interior of historic buildings unless there is a direct tie to the intermodal transportation system. Although the department is in agreement that appropriate reuse for historic buildings is desirable, retail and office uses in most cases cannot demonstrate a direct tie to transportation, so restoration of the interior of buildings with these functions would not be eligible for funding.

Comment: North Texas COG objected to the deletion of §11.204(c)(1)(B)(ii), which states that the department will assist the commission in its selection and funding decisions by providing a statement regarding a project's consistency with the statewide long-range transportation plan and any local, metropolitan, or regional long-range transportation plan.

Response: In order to be nominated under §11.203(c)(1)(L) of the existing rules a project must be consistent with any long-range transportation plan for the area in which it is located. Therefore, it is not necessary to provide the commission with a statement to that effect.

Comment: North Texas COG objected to the elimination of §11.204(c)(1)(B)(iii), which states that the department will assist the com-

mission in its selection and funding decisions by providing it with the project's benefit-cost ratio.

Response: The department has determined that the benefit-cost ratio is not appropriate as a criterion to assist in selection of projects for funding. The range of scores awarded by TEPEC and the cost of projects vary greatly. Consequently, it has been determined that the benefit-cost ratio is not of assistance in selecting projects. Depending upon the cost of the project, those projects deemed most worthy of implementation might receive benefit-cost scores considerably lower than those deemed least worthy.

Comment: North Texas COG objected to the elimination of §11.204(c)(2)(C), the consideration of the impact of candidate projects on the economies of each county in which the project is to be located, and of the municipalities within those counties.

Response: The department believes that the selection process must be structured in such a way that options for selection are made as equal as possible. The substitution of the scoring criteria contained in §11.204(b)(1)(B), which include economic, social, and environmental effects, with criteria that include the benefit of projects based on quality, geographic scope of the project's benefits, and the project's transportation enhancement value, is an effort to equalize scoring opportunities. The concern for a project's economic benefit is contained within the realm of the project's potential benefits and includes the quality of the project together with the geographic scope of the project's benefits.

Comment: The General Land Office commented regarding notification to the sponsors and nominators of the financial commitment required for candidate projects. The General Land Office requests that the department reiterate in the nomination package the importance of the financial commitment required by the amended sections.

Response: The department is aware of the importance of the financial commitment required from project sponsors not only for the 20% local match, but for funds necessary to design, construct, and administer the project. The department plans to reiterate the importance of the financial commitment in the nomination package.

Comment: Written comment was received from an individual who is in favor of the amendments but expressed the concern that selection of certain historic preservation projects for funding under the amendments may violate constitutional limitations on the use of funds dedicated to certain purposes under Article 8, §7-a and Article 8, §7-b of the Texas Constitution.

Response: The commenter is correct in his understanding of the constitution and the rules. Sections 11.204(a)(1) 11.204(c)(B)(iv) both require that only those projects that are eligible under state law be selected, and the department intends to select projects in accordance with these provisions.

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the

authority to promulgate rules for the conduct of the work of the Texas Department of Transportation.

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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Robert E. Shaddock
General Counsel
Texas Department of
Transportation

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For further information, please call. (512) 463-8630

Chapter 17. Vehicle Titles and Registration

Motor Vehicle Registration

• 43 TAC §17.23

The Texas Department of Transportation adopts the repeal of existing §17.23, concerning temporary or additional weight permits, and the simultaneously adoption of new §17.23, concerning temporary registration permits, with changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8193).

On August 31, 1995, the department adopted on an emergency basis new §17.23 concerning the issuance of temporary registration permits to be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The emergency new section also provided that on or after December 18, 1995, Mexican residents traveling in the commercial zones would no longer be exempt from registration fees and would, therefore, be required to obtain temporary registration permits.

In consideration of public comments from individuals, businesses, and members of the Texas legislature, and the expressed concern for the economy of certain regions of this state, the department filed the proposed version of §17.23 which allows the executive director of the department to enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions and upon the approval of the governor and the making of a determination that the economic benefits to the state outweigh all other factors considered.

To continue the rulemaking process, the department finds it necessary to withdraw the original version of emergency §17.23 to be effective immediately upon filing and which would have expired December 30, 1995. And in order to prevent a period of time when

there would have been a lapse in rules, the department is simultaneously filing emergency new §17.23 to read the same as the final adoption of new §17.23.

A change has been made to exempt motor carriers from presenting evidence of financial ability if the vehicle is registered in compliance with Title 43, Texas Administrative Code, Chapter 18, Subchapter B, concerning motor carrier registration.

The repeal and new section are necessary to ensure the department's proper administration of the laws concerning the issuance of temporary motor vehicle registration.

Transportation Code, Chapter 502, Subchapter G, authorizes the department to carry out the provisions of those laws governing the issuance of temporary motor vehicle registration including: additional weight permits for transporting the owner's seasonal agricultural products; 72-hour permits and 144-hour permits for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States or Canada; 30-day temporary nonresident registration permits to move agricultural products produced in Texas; 30-day nonresident registration permits for nonresidents to move or harvest farm products produced outside of Texas; one-trip permits for unladen vehicles; and 30-day temporary registration permits for unladen vehicles.

Transportation Code, §502.354 provides that the executive director may enter into a reciprocal agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents.

Senate Bill 981, 74th Legislature, 1995, amended Texas Civil Statutes, Article 6675a-6c, now codified as Transportation Code, §502.353, to authorize the department to issue annual registration permits to be recognized as legal vehicle registration for the movement of foreign commercial vehicles on Texas highways. Senate Bill 1420, 74th Legislature, 1995, amended Texas Civil Statutes 6675-6d, now codified as Transportation Code, §502.352, to authorize the department to issue 72/144-hour temporary permits for commercial vehicles owned by residents of Mexico.

Repealed §17.23 provides that temporary agricultural permits or additional weight permits may not be issued to farm licensed trailers or semi-trailers.

New §17.23 establishes the department's policies and procedures for the application and issuance of all temporary registration permits that will be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of registration reciprocity, including temporary agricultural permits or additional weight permits, annual registration, 72-hour registration, 144-hour registration, one-trip registration, and 30-day registration. New §17.23 also provides that the department will issue a cardboard tag or windshield validation sticker which must be displayed on the vehicle at all times; provides

that the department will issue a receipt as evidence of registration; prohibits the transfer of temporary permits between vehicles and/or owners; describes the process for lost, stolen, or mutilated permits; and authorizes the executive director of the department to enter into a written reciprocal agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents.

The department held public hearings at the following locations and dates to receive comments, views, or testimony regarding the proposed repeal and new section: El Paso, Texas, October 23, 1995; Laredo, Texas, October 24, 1995; McAllen, Texas, October 25, 1995; and Austin, Texas, October 27, 1995. Numerous oral comments were received at the hearings. Numerous written comments were submitted concerning the proposed repeal and new section.

Comment: Numerous associations commented that the department should postpone or delay the adoption of proposed §17.23 until the 75th Texas Legislature convenes; delay implementation of Senate Bill 981, 74th Legislature, 1995, and Senate Bill 1420, 74th Legislature, 1995; and amend or extend the informal paired city understandings due to the increased trucking registration costs without such understandings. These associations include Mexico-Texas Bridge Owners Association; Brownsville Custom Brokers Association; Import-Export Produce Association; El Paso Foreign Trade Association; Border Trade Alliance; Association of Motor Carriers in Ciudad Juarez; South Texas Manufacturers Association; Hidalgo Custom Brokers Association; and McAllen Produce Terminal Market Owners Association, Inc. These comments were reiterated by numerous other individuals including: State Senator Judith Zaffirini, State Senator Eddie Lucio, State Representative Renato Cuellar, State Representative Roberto Gutierrez, State Representative Sergio Munoz, and Mayor Othal Brand, Sr., of McAllen, as well as many representatives of private firms and numerous governmental entities.

Response: The department does not have the authority to delay or suspend the implementation of a state law. In addition, the North American Free Trade Agreement (NAFTA) which becomes effective at midnight, December 17, 1995, will allow Mexican motor carriers to enter and depart the United States from different ports of entry along the United States-Mexico border. These motor carriers may travel anywhere in Texas, New Mexico, Arizona, and California. Currently, the law does not provide any other registration provisions which would allow Mexican commercial vehicles the opportunity to travel in Texas except for full Texas registration. The department is responsible for providing motor vehicle registration that is recognized as legal registration for vehicles which are subject to registration in Texas and are not authorized to travel on the State's public highway system for lack of registration or registration reciprocity. The adoption of proposed §17.23 is necessary to provide the means for such registration, expedite cross-border service to encourage international trade and commerce

in the spirit of NAFTA, and to protect the health and safety of the citizens of Texas.

In response to the comments requesting that the department extend or amend the informal paired city understandings, the paired city agreements are not the subject matter of these rules. An extension or amendment is being considered and the public will be notified if such action is taken.

Comment: Several commenters opposed the financial responsibility requirements in proposed §17.23, and stated that a 30-day term of insurance is required for the issuance of 72-hour or 144-hour temporary registration permits.

Response: The department has determined that proof of financial responsibility, valid at the time of application, will be acceptable.

Comment: Several commenters stated that the provisions of proposed §17.23 do not comply with NAFTA and will cause severe financial difficulties for Mexican commercial trucking firms.

Response: §17.23 will apply equally to United States, Canadian, and Mexican commercial carriers in accordance with the provisions of NAFTA. Any additional financial costs will be applied equally to United States, Canadian, and Mexican commercial carriers traveling upon Texas' public highways. In addition, the department has the responsibility to implement the provisions of legislation as directed by the Texas Legislature in Senate Bills 981 and 1420. The department also has the responsibility to comply with the provisions of NAFTA which is designed to provide that the three countries are treated equally. Again, the new economic costs of eliminating the informal paired city understandings will be evaluated separately by the department when considering the possibility of extending or amending paired city understandings.

Comment: The City of Del Rio passed a resolution opposing the adoption of §17.23, and urged adoption of proposals by the Border Trade Alliance (BTA). Other commenters submitted concerns and suggestions similar to those of the BTA. BTA suggested maintaining the proposed system of access for statewide transportation services and recognizing the Federal Interstate Commerce Commission (ICC) 24-hour and 72-hour temporary registration for Mexican motor carriers within the Border Trade Area.

Response: There is currently no legislative authority for registration provisions to allow Mexican commercial vehicles to travel legally upon the public highways of Texas after NAFTA is implemented, with the exception of full Texas registration. The adoption of proposed §17.23 is necessary to provide the means for operation in Texas. ICC operating authority is not a surrogate for state registration. In addition, the department will consider the extension of informal paired city understandings for foreign commercial vehicles traveling within the Border Trade Areas, which would maintain the current system of access within such areas.

Comment: BTA also proposed maintaining the proposed system of registration for statewide transportation services but recognizing

the ICC 24-hour and 72-hour temporary registration for Mexican motor carriers within the Border Trade Area, with temporary permit entries limited to 50 entries annually per vehicle (with additional entries triggering statewide registration requirements).

Response: The department does not have the authority to limit the number of uses of a temporary permit to 50 entries annually per vehicle as suggested. Current state statute does not provide this option, and a legislative mandate would be required for the department to implement such a program.

Comment: BTA proposed recognition of ICC Certificate of Registration, trip lease, and trip insurance without additional state registration.

Response: The ICC Certificate of Registration, which provides commercial motor vehicles with operating authority, has never exempted a vehicle from state registration. Any such exemption in the past has been provided by informal paired city understandings, which the department will consider extending. The department's authority is clear. The department has the responsibility to provide a means of legal state registration in addition to ICC operating authority.

Comment: BTA proposed that the federal framework of insurance be applied within the Border Trade Area for minimum limits and for annual and trip insurance.

Response: Senate Bills 1420 and 981 specify that required insurance levels for temporary registration shall be in accordance with those outlined in the Safety Responsibility Act, Transportation Code, §201.101. The department does not have the authority to set such levels. Other insurance levels cited by the Border Trade Alliance are a result of rules proposed under Title 43, Texas Administration Code, Chapter 18, which implement Senate Bill 3. These provisions are outside the scope of proposed §17.23 and this response. The department has determined that proof of financial responsibility valid at the time of application will be acceptable when applying for a temporary permit. In regard to the annual and trip insurance, the department has determined that if an applicant for a temporary permit issued under proposed §17.23 is also a motor carrier registered in compliance with Chapter 18 of this title, a registration listing or an international stamp indicating such registration in compliance with Chapter 18 will serve as acceptable evidence of financial responsibility under the requirements of proposed §17.23 because Transportation Code, §601.107, exempts motor carriers from the Safety Responsibility Act. Section 17.23 has been revised to reflect this exemption.

Comment: BTA requests that the federal framework of insurance be applied within the Border Trade Area for insurance providers, thus allowing any United States authorized insurance carrier to issue insurance instead of limiting the insurance providers to those authorized to do business in Texas.

Response: Senate Bills 981 and 1420 clearly state that an insurance provider must be authorized to do business in Texas, and the department does not have the authority to disregard this requirement. However, this re-

quirement does not preclude any United States or foreign insurance carrier from obtaining authorization to do business in Texas.

Comment: BTA requests that the department exempt the Border Trade Areas from Texas workers' compensation requirements. The Laredo United States Custom Brokers Association also made this request.

Response: Proposed §17.23 does not have workers' compensation requirements. This comment refers to the provisions of Title 43, Texas Administration Code, Chapter 18 (relating to motor carrier operating authority), and Senate Bill 3. Such comments are outside of the scope of this response.

Comments: BTA asks the department to adopt the federal registration framework of motor carrier operating authority/permit fees within the Border Trade Area.

Response: The department has the responsibility to implement the provisions of Senate Bill 1420 by providing for temporary registration of foreign commercial vehicles. ICC operating authority does not preclude state registration of commercial vehicles. Additional fees listed in this comment by the BTA refer to fees for motor carrier operating authority, which is included in Chapter 18 (relating to motor carrier operating authority), and Senate Bill 3 and do not pertain to §17.23.

Comment: A comment suggested that registration be allowed at the port of entry via deputy county tax collectors who are bonded and employed by customs brokers as authorized by county commissioners courts.

Response: House Bills 981 and 1420 did not provide for this type of registration.

The Texas Motor Transportation Association commented in favor of the department's adoption of proposed §17.23, stating that the proposed rules will provide equal treatment to NAFTA's trading partners by insuring that the standards set for the commercial motor vehicle industry in Texas with respect to safety requirements, driver qualifications, financial responsibility, and weight requirements are expected of all commercial motor traffic, thereby protecting the public interest from unsafe equipment, financially irresponsible motor carriers, and insuring a competitive playing field. Two individuals commented in favor of the department's adoption of proposed §17.23, specifically citing protection from damage to the state's highway infrastructure, and protection of the public from unsafe commercial vehicles. One individual provided comments at the request of State Senator Carlos Truan that were favorable to proposed §17.23 and included a detailed analysis of Texas trucking regulations.

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically Transportation Code, Chapter 502, Subchapter G, which authorizes the department to adopt rules to administer the issuance of temporary permits.

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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Robert E. Shaddock
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For further information, please call: (512) 463-8630

The new section is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically Transportation Code, Chapter 502, Subchapter G, which authorizes the department to adopt rules to administer the issuance of temporary permits.

§17.23. Temporary Registration Permits.

(a) Purpose and scope. Transportation Code, Chapter 502, Subchapter G, charges the department with the responsibility of issuing temporary registration permits which shall be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. In order for the department to efficiently and effectively perform these duties, this section prescribes the policies and procedures for the application and the issuance of temporary registration permits.

(b) Permit categories. The department will issue the following categories of temporary registration permits.

(1) Additional weight permits. The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary additional weight permits for the purpose of transporting the owner's own seasonal agricultural products to market or other points for sale or processing in accordance with Transportation Code, §502.351. In addition, such vehicles may be used for the transportation without charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.

(A) Additional weight permits are valid for a limited period of less than one year.

(B) An additional weight permit will not be issued for a period of less

than one month or extend beyond the expiration of a license plate issued under Transportation Code, Chapter 502.

(C) The statutory fee for an additional weight permit is based on a percentage of the difference between the owner's regular annual registration fee and the annual fee for the desired tonnage computed as follows:

- (i) one-month (or 30 consecutive days)-10%
- (ii) one-quarter (three consecutive months)-30%
- (iii) two-quarters (six consecutive months) -60%
- (iv) three-quarters (nine consecutive months)-90%

(D) Additional weight permits are issued for calendar quarters with the first quarter to begin on April 1st of each year.

(E) A permit will not be issued unless the registration fee for hauling the larger tonnage has been paid prior to the actual hauling.

(F) Additional weight permits may not be issued to farm licensed trailers or semitrailers.

(2) Annual permits.

(A) Texas Civil Statutes, Article 6675a-6c, authorizes the department to issue annual permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The department will issue annual permits:

(i) for a 12-month period designated by the department which begins on the first day of a calendar month and expires on the last day of the last calendar month in that annual registration period; and

(ii) to each vehicle or combination of vehicles for the registration fee prescribed by weight classification in Transportation Code, §502.162 and §502.167.

(B) The department will not issue annual permits for the importation of citrus fruit into Texas from a foreign country except for foreign export or processing for foreign export.

(C) The following exemptions apply to vehicles displaying annual permits.

(i) Registered foreign semitrailers having gross weights in excess of 6,000 pounds used or to be used in combination with truck tractors or commercial motor vehicles with manufacturer's rated carrying capacities in excess of one ton are exempted from the requirement to pay the token fee and display the associated distinguishing license plate provided for in Transportation Code, §502.167. An annual permit is required for the power unit only.

(ii) Vehicles registered with annual permits are not subject to the optional county registration fee under Transportation Code, §502.172 or the optional registration fee for child safety under Transportation Code, §502.173.

(3) 72-hour permits and 144-hour permits.

(A) In accordance with Transportation Code, §502.352, as amended, the department will issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.

(B) A 72-hour permit or a 144-hour permit is valid for the period of time stated on the permit beginning with the effective day and time as shown on the permit registration receipt.

(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle safety inspection in accordance with Transportation Code, §548.051, except for:

(i) vehicles currently registered in another state of the United States, Mexico, or Canada; and

(ii) mobile drilling and servicing equipment used in the production of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift equipment, forklifts, and tugs.

(D) The department will not issue a 72-hour permit or a 144-hour permit to a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.

(4) Temporary agricultural permits.

(A) Transportation Code, §502.354, authorizes the department to issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:

(i) from the place of production to market, storage, or railhead not more than 75 miles distant from the place of production; or

(ii) to be used in the movement of machinery used to harvest Texas-produced agricultural products.

(B) The department will issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products, produced outside of Texas, but:

(i) marketed or processed in Texas; or

(ii) moved to points in Texas for shipment from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles distant from such point of entry into Texas.

(C) The statutory fee for temporary agricultural permits is one-twelfth of the annual Texas registration fee prescribed for the vehicle for which the permit is issued.

(D) The department will issue a temporary agricultural permit only when the vehicle is legally registered in the nonresident's home state or country for the current registration year.

(E) The number of temporary agricultural permits is limited to three permits per nonresident owner during any one vehicle registration year.

(F) Temporary agricultural permits may not be issued to farm licensed trailers or semi-trailers.

(5) One-trip permits. Transportation Code, §502.354, authorizes the department to temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public roadways for lack of registration or lack of registration reciprocity.

(A) Upon receipt of the \$5.00 fee, registration will be valid for one trip only between the points of origin and

destination and intermediate points as may be set forth in the application and registration receipt.

(B) The department will issue a one-trip permit to a bus which is not covered by a reciprocity agreement with the state or country in which it is registered to allow for the transit of the vehicle only. The vehicle should not be used for the transportation of any passenger or property, for compensation or otherwise, unless such bus is operating under charter from another state or country.

(C) A one-trip permit is valid for a period up to 15 days from the effective date of registration.

(D) A one-trip permit may not be issued for a trip which both originates and terminates outside Texas.

(E) A laden motor vehicle or a laden commercial vehicle cannot display a one-trip permit. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

(6) 30-day temporary registration permits. Transportation Code, §502.354, authorizes the department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle operated on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

- (A) passenger vehicles;
- (B) motorcycles;
- (C) private buses;

(D) trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

(E) light commercial vehicles not exceeding a manufacturer's rated carrying capacity of one ton; and,

(F) a commercial vehicle exceeding one ton, provided the vehicle is operated unladen.

(c) Application process.

(1) Procedure. An owner who wishes to apply for a temporary registration permit for a vehicle which is otherwise required to be registered in accordance with §17.22 of this title (relating to Motor Vehicle Registration) must do so on a form prescribed by the director.

(2) Form requirements. The application form will at a minimum require:

(A) the signature of the owner;

(B) the name and complete address of the applicant; and

(C) the vehicle description.

(3) Fees and documentation. The application must be accompanied by:

(A) statutorily prescribed fees;

(B) evidence of financial responsibility:

(i) as required by Transportation Code, Chapter 502, Subchapter G, provided that all policies written for the operation of motor vehicles must be issued by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or

(ii) if the applicant is a motor carrier as defined by Section 18.2 of this title (relating to Definitions), in the form of a registration listing or an international stamp indicating that the vehicle is registered in compliance with Chapter 18, Subchapter B of this title; and

(C) any other documents or fees required by law.

(4) Place of application.

(A) All applications for annual permits must be submitted directly to the department for processing and issuance.

(B) Additional weight permits and temporary agricultural permits may be obtained by making application with the department through the county tax assessor-collectors' offices

(C) 72-hour and 144-hour permits, one-trip permits, and 30-day temporary registration permits may be obtained by making application either with the department or the county tax assessor-collectors' offices.

(d) Display of registration insignia. The department will issue a specially designed cardboard tag or windshield validation sticker, upon receipt of a complete application for a permit.

(1) Cardboard tags shall be displayed in a manner that is clearly visible and legible when viewed from outside of

the vehicle. The tag shall be attached to or displayed in the vehicle to allow ready inspection.

(2) Windshield validation stickers shall be displayed on the inside of the front windshield in the lower left corner.

(3) A receipt will be issued for each registration insignia as evidence of registration to be carried in the vehicle during the time the permit is valid. If the receipt is lost or destroyed, the owner must obtain a duplicate from the department or from the county office who issued the original receipt. The fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.179.

(e) Transfer of temporary registration permits.

(1) Temporary registration permits are non-transferable between vehicles and/or owners.

(2) If the owner of a vehicle displaying a temporary registration permit disposes of the vehicle during the time the permit is valid, the permit must be returned to the department immediately.

(f) Replacement permits. Vehicle owners displaying annual permits may obtain replacement permits if an annual permit is lost, stolen, or mutilated.

(1) The fee for a replacement annual permit is the same as for a replacement number plate, symbol, tab, or other device as provided by Transportation Code, §502.184, as amended.

(2) The owner shall apply directly to the department in writing for the issuance of a replacement annual permit. Such request should include a copy of the registration receipt and replacement fee.

(g) Agreements with other jurisdictions. In accordance with Transportation Code, §502.054, the executive director of the department may enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions. The executive director may enter into such agreement only upon:

(1) the approval of the governor; and

(2) making a determination that the economic benefits to the state outweigh all other factors considered.

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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Robert E. Shaddock
General Counsel
Texas Department of
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For further information, please call: (512)
463-8630



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.)

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The Commissioner of Insurance has adopted optional endorsements to certain residential property insurance policies; an amendment to Endorsement Number HO-170, which may be attached to a Texas Homeowners Form HO-A; and amendments to the Homeowners, Dwelling, Farm and Ranch, and Farm and Ranch Owners sections of the Texas Personal Lines Manual (Manual) to modify current coverage for tear out and replacement of building and land necessary to access, repair, or replace that part of a plumbing drain system located within or under the slab or foundation of the dwelling in the event of accidental discharge or leakage of water from such plumbing drain system. The endorsements and Manual rules were proposed by Department staff in a petition filed on October 16, 1995. Notice of the proposal (Reference Number P-1095-39-1) was published in the October 20, 1995 issue of the *Texas Register* (20 TexReg 8744). The endorsements and Manual rules were considered at a public hearing held on November 28, 1995, at 1:30 p.m., under Docket Number 2186 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

The Commissioner has adopted, with two changes to the proposal as noticed in the *Texas Register*, six optional endorsements which may be attached to certain residential property insurance policies. The Commissioner has adopted, with one change to the proposal as noticed in the *Texas Register*, an amendment to Endorsement Number HO-170 (Additional Extended Coverage), which may be attached to a Texas Homeowners Form HO-A. The Commissioner also has adopted

two Manual rules, with one change to the proposal as noticed in the *Texas Register*, and two Manual rules without any change to the proposal as noticed in the *Texas Register*.

The adopted endorsements are: (1) Endorsement Number HO-155 which may be attached to a Texas Homeowners Form HO-B, (2) Endorsement Number TDP-054 which may be attached to a Texas Dwelling Form TDP-2, (3) Endorsement Number TDP-055 which may be attached to a Texas Dwelling Form TDP-3, (4) Endorsement Number FRO-455 which may be attached to a Texas Farm and Ranch Owners Form FRO-B, (5) Endorsement Number TFR-054 which may be attached to a Texas Farm and Ranch Form TFR-2, and (6) Endorsement Number TFR-055 which may be attached to a Texas Farm and Ranch Form TFR-3.

The adopted amendment to Endorsement Number HO-170 (Additional Extended Coverage), which may be attached to a Texas Homeowners Form HO-A, amends item 1 in the Perils Insured Against portion of the endorsement to provide the same tear-out and replacement coverage provided by the other adopted endorsements.

The four adopted Manual rules are: (1) Rule IV-A-20 in the Homeowner's Section, (2) Rule IV-O in the Dwelling Section, (3) Rule IV-A-22 in the Farm and Ranch Owners Section, and (4) Rule IV-S in the Farm and Ranch Section. These rules provide for the limitation in coverage for tear out and replacement of building and land when the endorsements are attached and reference the appropriate rate chart for determining the applicable credit for the limit in coverage. Rule IV-A-20 in the Homeowner's Section and Rule IV-A-22 in the Farm and Ranch Owners Section were adopted with one change to the proposal as noticed in the *Texas Register*, and Rule IV-O in the Dwelling Section and Rule IV-S in the Farm and Ranch Section were adopted without changes to the proposal as noticed in the *Texas Register*.

Based on comments on the proposal and on information provided by staff as a result of contacting plumbing contractors in various areas of Texas concerning estimated costs for accessing plumbing drain systems located within or under the slab or foundation of the dwelling, the Commissioner has adopted the six endorsements, the amendment to En-

dorsement Number HO-170 (Additional Extended Coverage), and two Manual rules with a change in the proposed tear-out and replacement coverage amount of "no more than a total of 5.0% of Coverage A (Dwelling) limit of liability or \$2,500, whichever is greater," to a coverage amount of "no more than a total of 5.0% of Coverage A (Dwelling) limit of liability or \$3,500, whichever is greater". The Commissioner has determined that this increase in the limit of coverage from \$2,500 to \$3,500 is necessary to provide adequate tear-out and replacement coverage for those policyholders with lower value dwellings.

Also, as a result of comments on the proposal, the Commissioner has adopted four of the six endorsements with an additional change to the endorsements as proposed. Additional language was added to the four endorsements to be attached to all-risk policies (Endorsement Numbers HO-155, TDP-055, FRO-455, and TFR-055) to provide that the endorsement does not affect coverage otherwise provided in the policy for damage or loss to slabs or foundations. The Commissioner has determined that this change is necessary to clarify that these tear-out and replacement of building and land coverage endorsements only modify current coverage for tear out and replacement of building and land necessary to access, repair, or replace that part of a plumbing drain system located within or under the slab or foundation of the dwelling in the event of accidental discharge or leakage of water from such plumbing drain system and does not affect any coverage otherwise provided in the policy for damage or loss to slabs or foundations. Endorsement Numbers TDP-054 and TFR-054 were adopted without the addition of this clarifying language because the policy forms to which they attach do not provide all-risk coverage.

The attachment of the adopted endorsements to the four all-risk policies, Texas Homeowners Form HO-B, Texas Dwelling Form TDP-3, Texas Farm and Ranch Owners Form FRO-B, and Texas Farm and Ranch TFR-3, adds a new limitation to the Property Coverage, Extensions of Coverage portion of the policy to provide that during the policy period stated on the declarations page, the insurer will pay no more than a total amount of 5.0% of Coverage A (Dwelling) limit of liability or \$3,500, whichever is greater, of the cost of tearing out and replacing any part of the building and land necessary to access,

repair, or replace that part of a plumbing drain system located within or under the slab or foundation of the dwelling. This extension of coverage applies only in the event of accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the dwelling and does not affect any coverage provided elsewhere in the policy in the event of accidental discharge or leakage of water from a plumbing supply system, and the attachment of the endorsement does not affect coverage otherwise provided in these policies for damage or loss to slabs or foundations. The extension of coverage does not include loss to the plumbing drain system or appliance from which water escapes. This coverage is not additional insurance and does not increase the Coverage A (Dwelling) limit of liability. The attachment of the endorsements also amends item 9 in the Perils Insured Against, Coverage B (Personal Property) portion of these four policies to delete the current language concerning tearing out and replacing any part of the building and amends the non-applicability of exclusions provision in item 9 to remove the reference to the exclusion on settling, cracking, bulging, shrinkage, or expansion of foundations, walls, floors, and other specified structures. The attachment of these endorsements also amends the Section I--Exclusions or General Exclusions portions of these four policies to add a provision to provide that the insurer does not cover as part of any loss the cost of tearing out any part of the building and land necessary to access, repair, or replace that part of a plumbing drain system located within or under the slab or foundation of the dwelling, except as provided under the Extensions of Coverage part of the policy. If these endorsements are not attached to a policy, coverage is provided for accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the dwelling, including the cost of tear-out and replacement of any part of the building and land necessary to access, repair, or replace that part of the plumbing drain system up to the Coverage A (Dwelling) limit of liability if the loss is a covered cause of loss under the policy.

The attachment of the adopted endorsements to Texas Dwelling Form TDP-2 and Texas Farm and Ranch Form TFR-2 amends item 8 in the Perils Insured Against portion of the policy to delete the current language concerning tearing out and replacing any part of the building and to provide that the insurer will cover the cost of tearing out and replacing any part of the building and land necessary to repair or replace the heating system, air conditioning system, plumbing supply system, or household appliance. This coverage does not include loss to the heating system, air conditioning system, plumbing supply systems, or household appliance from which the water or steam escaped. The endorsements provide that in the event of accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the dwelling, the insurer will pay, during the policy period stated on the declarations page, no more than a total amount of 5.0% of Coverage A (Dwelling) limit of liability or \$3,500, whichever is greater, of the cost of

tearing out and replacing any part of the building and land necessary to access, repair, or replace that part of such plumbing drain system. This coverage does not include loss to the plumbing drain system from which the water or steam escaped. The endorsements retain the provision that Exclusion 1 under the General Exclusions part of the policy does not apply to loss caused by this peril. If these endorsements are not attached to a policy, coverage is provided for accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the dwelling, including the cost of tear-out and replacement of any part of the building and land necessary to access, repair, or replace that part of the plumbing drain system up to the Coverage A (Dwelling) limit of liability if the loss is a covered cause of loss under the policy.

The Commissioner has determined that these endorsements and Manual rules are necessary to clarify the coverage provided under certain residential property insurance policies (Homeowners Form HO-A with Endorsement Number 170 attached; Homeowners Form HO-B; Dwelling Forms TDP-2 and TDP-3; Farm and Ranch Owners Form FRO-B; and Farm and Ranch Forms TFR-2 and TFR-3) for tear out and replacement of building and land in the event of accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the insured dwelling. The Commissioner has further determined that these endorsements and Manual rules are necessary because the current policy language contained in these forms is ambiguous and unclear as to coverage for the cost of tear out and replacement of building or land in the event of accidental discharge or leakage of water from a plumbing drain system located within or under the slab or foundation of the insured dwelling. The existence of such ambiguous language has caused a major disruption in the claims paying process leading to excessive payments of claims by some insurers, denial of claims by other insurers, and litigation for the settlement of water damage claims. The Commissioner has further determined that the unclear language in the current policy forms has resulted in major restrictions in the writing of residential property insurance by licensed property and casualty insurers in certain areas of the state, and that these endorsements and rules are necessary to make insurance more available and affordable in these areas.

The Commissioner has determined that the proposed endorsements shall be optional to allow more flexibility and competition in the marketplace. The Commissioner has determined that with the attachment of these endorsements there shall be a reduction in the applicable premium for the residential property insurance policy because the endorsements modify or limit current coverage.

The Commissioner has also determined that the applicable premium credits for the tear out and replacement limitation in coverage be determined at the next residential property insurance benchmark rate hearing held pursuant to Articles 5.101 and 1.33B of the Insurance Code and that the new endorsements and rules shall be effective for all appli-

cable policies issued on and after the effective date of the residential property insurance benchmark rates determined pursuant to such hearing.

The 73rd Legislature in 1993 enacted Article 5.35-2 of the Insurance Code to require the Commissioner to adopt endorsements to residential property policies that restricted coverage for damage to foundations or slabs of insured dwellings more than ten years old, including the exclusion of damage caused by leakage from a plumbing system. These endorsements were adopted pursuant to Commissioner's Order Number 94-0840 (August 2, 1994) to be effective for all applicable policies issued on and after the effective date of the 1994 residential property insurance benchmark rate. However, because premium credits were not considered during the 1994 benchmark rate hearing, the endorsements never became effective. The 74th Legislature enacted House Bill 347 (Acts 1995, 74th Legislature, Chapter 413, §1, page 2987, June 8, 1995) which repealed Article 5.35-2 of the Insurance Code but did not otherwise affect the authority of the Commissioner under other provisions of the Insurance Code to promulgate policy and endorsement provisions regarding the foundation or slab of an insured dwelling.

Because of the repeal of Article 5.35-2 of the Insurance Code, the Commissioner has determined that Commissioner's Order Number 94-0840 (August 2, 1994) should be repealed.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35, 5.101, 5.96, and 5.98.

The endorsements and Manual rules as adopted by the Commissioner of Insurance are on file in the Chief Clerk's Office of the Texas Department of Insurance under Reference Number P-1095-39-1 and are incorporated by reference by Commissioner Order Number 95-1261.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under Article 5.96 from the requirements of the Administrative Procedure Act (Government Code, Title 10, ch. 2001).

Consistent with the Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action.

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

Issued in Austin, Texas, on December 1, 1995.

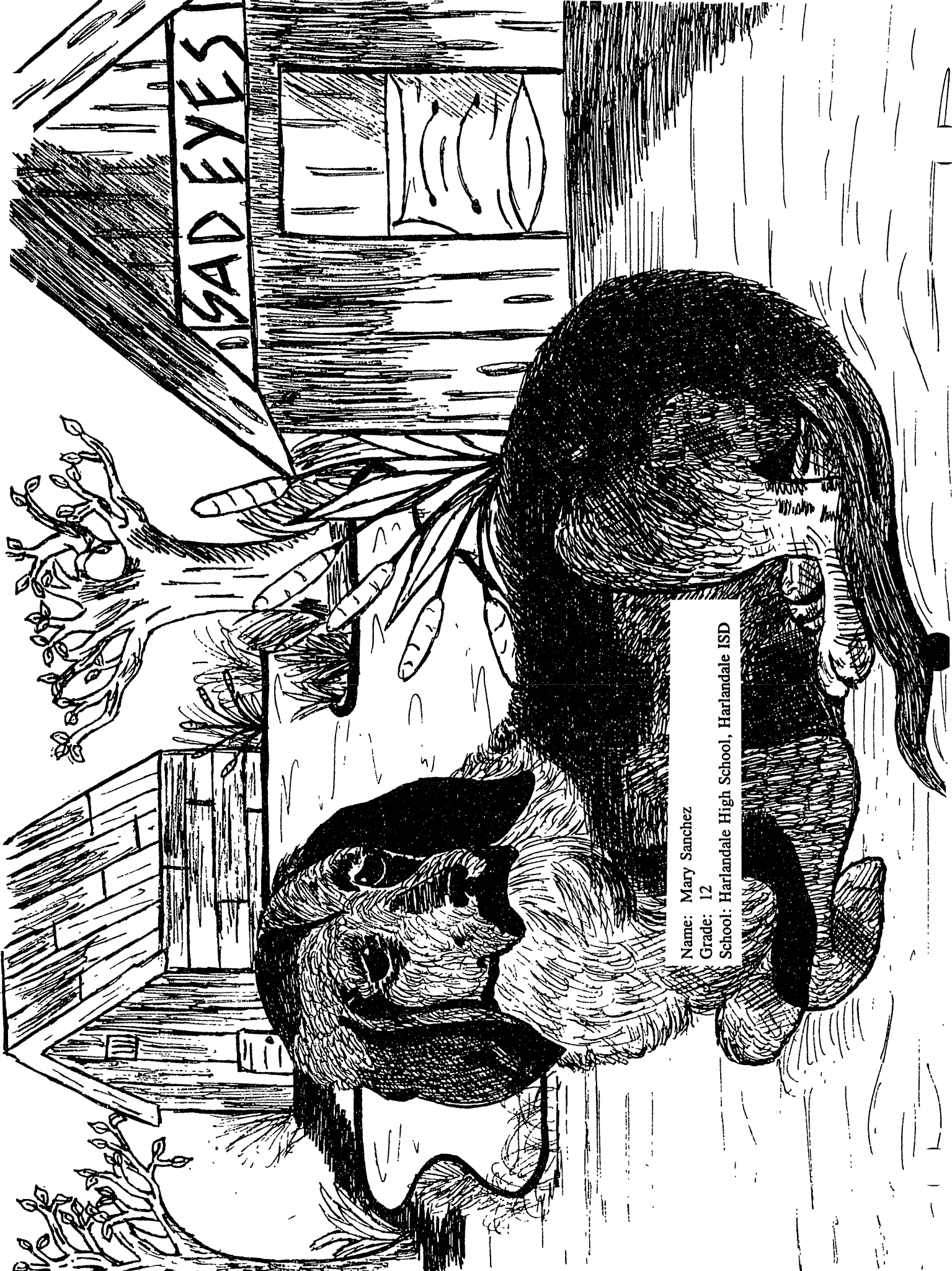
TRD-9515584

Alicia M Fechtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Effective date: December 23, 1995

For further information, please call: (512) 463-6327

SAD EYES



Name: Mary Sanchez
Grade: 12
School: Harlandale High School, Harlandale 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, 22 TAC Section 75.7

| Fee Schedule | Proposed |
|---|---------------------------------------|
| A. License Renewal (Active) | \$325.00 |
| B. Inactive License Processing Fee | \$125.00 |
| C. Retired License Processing Fee | \$0.00 |
| D. Examination Fee | \$445.00 |
| E. Re-Examination Fee | \$275.00 |
| F. Provisional Licensure (application only, license fee \$325.00 upon approval) | \$200.00 |
| G. License Replacement | \$25.00 |
| H. Annual Certificate Replacement | \$10.00 |
| I. List of New Licensees | \$25.00 |
| J. Lists of Licensees | \$12.50 processing fee + 50¢ / pg. |
| K. Licensee Labels | \$12.50 processing fee + \$1.00 / pg. |
| L. Demographic Profile | \$12.50 processing fee + 50¢ / pg. |
| M. Certification of License | \$25.00 |
| N. Continuing Education Application Fee | \$100 / yr. per sponsor |
| O. Radiologic Technologist Application | \$35.00 |
| P. Facilities Registration | \$40.00 |
| Q. Facilities List | \$12.50 processing fee + 50¢ / pg. |
| R. Facilities Labels | \$12.50 processing fee + \$1.00 / pg. |
| S. Examination Appeal Fee | \$25.00 |

Figure 1, 22 TAC Section 75.9(a) (4)
TEXAS BOARD OF CHIROPRACTIC EXAMINERS
333 Guadalupe, Tower III, Suite 825
Austin, TX 78701
(512) 305-6700 1-800-572-4051
FAX (512) 305-6705

COMPLAINT FORM

DATE: _____

It is very important that you fill out this form completely. Please use a typewriter or print in black ink. If we are unable to read your complaint, we will not be able to help you.

| | |
|---|-----------------------|
| COMPLAINANT'S FULL NAME (Print or Type) | |
| COMPLAINANT'S ADDRESS (Street) | (City, State, Zip) |
| HOME TELEPHONE #: () | WORK TELEPHONE #: () |

| | |
|--|------------------|
| CHIROPRACTOR INVOLVED: (Print or Type) | |
| ADDRESS | CITY, STATE, ZIP |
| OFFICE TELEPHONE #: () | |

| | |
|--|--|
| NATURE OF COMPLAINT | |
| Clearly state the nature of your complaint and enclose copies of any records. (Attach additional pages if necessary) | |
| | |
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| | |

Mail to:

Texas Board of Chiropractic Examiners
333 Guadalupe, Tower III, Suite 825
Austin, TX 78701

SIGNATURE

DATE

Figure 2, 22 TAC Section 75.9(a) (4)
TEXAS BOARD OF CHIROPRACTIC EXAMINERS
333 Guadalupe, Tower III, Suite 825
Austin, TX 78701
(512) 305-6700 1-800-572-4051
FAX (512) 305-6705

FORMA DE QUEJA

FECHA: _____

Es muy importante que complete esta forma en total. Por favor, use una máquina de escribir o escriba a mano con tinta negra. Si no podemos leer su queja, nosotros no podemos ayudarle.

| | |
|---|--|
| Nombre de Demandante (Escriba a mano o escriba a máquina) | |
| Dirección de Demandante (Calle) | (Ciudad, Estado, Zona Postal) |
| Número de Teléfono de la Casa: () | Número de Teléfono del Trabajo: () |

| | |
|--|-----------------------------|
| Quiropráctico que está involucrado: (Escriba a mano o escriba a máquina) | |
| Dirección | Ciudad, Estado, Zona Postal |
| Número de Teléfono de Oficina: () | |

NATURALEZA DE LA QUEJA

Claramente declare la naturaleza de su queja y adjunte copias de cualquier archivos. (Sujete paginas adicionales si necesario)

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Envie por Correo a:

Texas Board of Chiropractic Examiners
333 Guadalupe, Tower III, Suite 825
Austin, TX 78701

(Necesita firmar la Forma de Queja)

FIRMA

FECHA

FIGURE 1: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
 BASE ROYALTY RATE = 25.00%

| AVG. DAILY PERWELL PRODUCTION (BOE/DAY) | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|--|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------------------|
| | \$15.99/BBL | \$16.99/BBL | \$17.99/BBL | \$18.99/BBL | \$19.99/BBL | \$20.99/BBL | \$21.99/BBL | \$22.99/BBL | \$23.99/BBL | \$24.00 - \$25.00/BBL |
| 15 | 11.00% | 16.50% | 21.50% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 14 | 10.75% | 16.25% | 21.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 13 | 10.50% | 16.00% | 21.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 12 | 10.00% | 15.75% | 20.75% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 11 | 9.50% | 15.25% | 20.25% | 24.50% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 10 | 9.00% | 14.75% | 19.75% | 24.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 9 | 8.25% | 14.00% | 19.00% | 23.75% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 8 | 7.50% | 13.25% | 18.25% | 23.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 7 | 6.25% | 12.25% | 17.50% | 22.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 6 | 6.25% | 11.00% | 16.00% | 20.75% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 5 | 6.25% | 9.00% | 14.25% | 19.00% | 23.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 4 | 6.25% | 6.25% | 11.75% | 16.50% | 21.00% | 24.75% | 25.00% | 25.00% | 25.00% | 25.00% |
| 3 | 6.25% | 6.25% | 7.00% | 12.25% | 17.00% | 21.00% | 24.75% | 25.00% | 25.00% | 25.00% |
| 2 | 6.25% | 6.25% | 6.25% | 6.25% | 8.75% | 13.25% | 17.50% | 21.25% | 24.75% | 25.00% |
| 1 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.50% |

FIGURE 2: 31 TAC 9.7(g)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
 BASE ROYALTY RATE = 20.00%

| AVG. DAILY PER WELL PRODUCTION (BOE/DAY) | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|---|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$25.00/BBL |
| 15 | 11.00% | 16.50% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 14 | 10.75% | 16.25% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 13 | 10.50% | 16.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 12 | 10.00% | 15.75% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 11 | 9.50% | 15.25% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 10 | 9.00% | 14.75% | 19.75% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 9 | 8.25% | 14.00% | 19.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 8 | 7.50% | 13.25% | 18.25% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 7 | 6.25% | 12.25% | 17.50% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 6 | 6.25% | 11.00% | 16.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 5 | 6.25% | 9.00% | 14.25% | 19.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 4 | 6.25% | 6.25% | 11.75% | 16.50% | 17.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 3 | 6.25% | 6.25% | 7.00% | 12.25% | 8.75% | 13.25% | 17.50% | 20.00% | 20.00% | 20.00% |
| 2 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.50% |
| 1 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.50% |

FIGURE 3: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
 BASE ROYALTY RATE = 18.75%

| AVG. DAILY PER WELL PRODUCTION (BOE/DAY) | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|---|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$25.00/BBL |
| 15 | 11.00% | 16.50% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 14 | 10.75% | 16.25% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 13 | 10.50% | 16.00% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 12 | 10.00% | 15.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 11 | 9.50% | 15.25% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 10 | 9.00% | 14.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 9 | 8.25% | 14.00% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 8 | 7.50% | 13.25% | 18.25% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 7 | 6.25% | 12.25% | 17.50% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 6 | 6.25% | 11.00% | 16.00% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 5 | 6.25% | 9.00% | 14.25% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 4 | 6.25% | 6.25% | 11.75% | 16.50% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 3 | 6.25% | 6.25% | 7.00% | 12.25% | 17.00% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 2 | 6.25% | 6.25% | 6.25% | 6.25% | 8.75% | 13.25% | 17.50% | 18.75% | 18.75% | 18.75% |
| 1 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.50% |

FIGURE 4: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING RESERVOIRS
 BASE ROYALTY RATE = 12.50%

| AVG DAILY PER WELL PRODUCTION | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|-------------------------------------|--|------------|------------|------------|------------|------------|------------|------------|------------|-------------------------|
| | \$15.99/BL | \$16.99/BL | \$17.99/BL | \$18.99/BL | \$19.99/BL | \$20.99/BL | \$21.99/BL | \$22.99/BL | \$23.99/BL | \$24.00 - \$25.00/BL |
| 15 | 11.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 14 | 10.75% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 13 | 10.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 12 | 10.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 11 | 9.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 10 | 9.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 9 | 8.25% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 8 | 7.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 7 | 6.25% | 12.25% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 6 | 6.25% | 11.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 5 | 6.25% | 9.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 4 | 6.25% | 6.25% | 11.75% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 3 | 6.25% | 6.25% | 7.00% | 12.25% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 2 | 6.25% | 6.25% | 6.25% | 6.25% | 8.75% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 1 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.50% |

FIGURE 5: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
 BASE ROYALTY RATE = 25.00%

| AVG DAILY PER WELL PRODUCTION (BOE/DAY) | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|--|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$25.00/BBL |
| 50.0 | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 47.5 | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 45.0 | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 42.5 | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 40.0 | 24.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 37.5 | 19.25% | 24.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 35.0 | 13.50% | 18.75% | 23.50% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 32.5 | 6.25% | 12.50% | 17.75% | 22.25% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% | 25.00% |
| 30.0 | 6.25% | 6.25% | 10.75% | 15.75% | 20.25% | 24.25% | 25.00% | 25.00% | 25.00% | 25.00% |
| 27.5 | 6.25% | 6.25% | 6.25% | 8.00% | 13.00% | 17.25% | 24.75% | 25.00% | 25.00% | 25.00% |
| 25.0 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 9.00% | 17.25% | 21.00% | 25.00% | 25.00% |
| 22.5 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.00% | 12.00% | 15.75% | 24.25% |
| 20.0 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% |

FIGURE 6: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
 BASE ROYALTY RATE = 20.00%

| AVG DAILY PER WELL PRODUCTION | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | | |
|-------------------------------------|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$25.00/BBL | \$25.00 - \$25.99/BBL |
| 50.0 | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 47.5 | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 45.0 | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 42.5 | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 40.0 | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 37.5 | 19.25% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 35.0 | 13.50% | 18.75% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 32.5 | 6.25% | 12.50% | 17.75% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 30.0 | 6.25% | 6.25% | 10.75% | 15.75% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 27.5 | 6.25% | 6.25% | 6.25% | 8.00% | 13.00% | 17.25% | 20.00% | 20.00% | 20.00% | 20.00% | 20.00% |
| 25.0 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 9.00% | 13.50% | 17.25% | 20.00% | 20.00% | 20.00% |
| 22.5 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.00% | 12.00% | 15.75% | 20.00% |
| 20.0 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% |

FIGURE 7: 31 TAC 9.7(g)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
 BASE ROYALTY RATE = 18.75%

| AVG. DAILY PER WELL PRODUCTION | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | | |
|--------------------------------------|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$24.99/BBL | \$25.00/BBL |
| 50.0 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 47.5 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 45.0 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 42.5 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 40.0 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 37.5 | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 35.0 | 13.50% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 32.5 | 6.25% | 12.50% | 17.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 30.0 | 6.25% | 6.25% | 10.75% | 15.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 27.5 | 6.25% | 6.25% | 6.25% | 8.00% | 13.00% | 17.25% | 18.75% | 18.75% | 18.75% | 18.75% | 18.75% |
| 25.0 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 9.00% | 13.50% | 17.25% | 18.75% | 18.75% | 18.75% |
| 22.5 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.00% | 12.00% | 15.75% | 18.75% |
| 20.0 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% |

FIGURE 8: 31 TAC 9.7(c)(3)(A)

REDUCED ROYALTY SCHEDULE FOR QUALIFYING GULF OF MEXICO RESERVOIRS
 BASE ROYALTY RATE = 12.50%

| AVG. DAILY PER WELL PRODUCTION | AVERAGE OF THE DAILY PRICE OF OIL DURING THE QUALIFYING PERIOD | | | | | | | | | |
|--------------------------------------|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | \$15.00 - \$15.99/BBL | \$16.00 - \$16.99/BBL | \$17.00 - \$17.99/BBL | \$18.00 - \$18.99/BBL | \$19.00 - \$19.99/BBL | \$20.00 - \$20.99/BBL | \$21.00 - \$21.99/BBL | \$22.00 - \$22.99/BBL | \$23.00 - \$23.99/BBL | \$24.00 - \$25.00/BBL |
| 50.0 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 47.5 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 45.0 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 42.5 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 40.0 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 37.5 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 35.0 | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 32.5 | 6.25% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 30.0 | 6.25% | 6.25% | 10.75% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 27.5 | 6.25% | 6.25% | 6.25% | 8.00% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% | 12.50% |
| 25.0 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 9.00% | 12.50% | 12.50% | 12.50% | 12.50% |
| 22.5 | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 8.00% | 12.00% | 12.50% |
| 20.0 OR LESS | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% | 6.25% |

Figure: 34 TAC 3.285(h)

[TEXAS RESALE CERTIFICATE

[Name of purchaser, firm, or agency

Phone (Area code and number)

[_____

[Address (Street & Number, P.O. Box or Route number)

[City, state, ZIP code

[_____

[Texas Sales or Use Tax Permit Number (or out-of-state retailer's registration number or date applied for Texas Permit) _____ (must contain 11 digits if from a Texas permit)

[I, the purchaser named above, claim the right to make a nontaxable purchase for resale of the taxable items described below or on the attached order or invoice from:

Seller

[_____

[Street Address

[_____

[City, state, ZIP code

[_____

[Description of the items to be purchased, or on the attached order or invoice:

[_____

[_____

[_____

[Description of the type of business activity generally engaged in or type of items normally sold by the purchaser:

[_____

[_____

[The taxable items described above, or on the attached order or invoice, will be resold, rented, or leased by me within the geographical limits of the United States of America, its territories and possessions, in their present form or attached to other taxable items to be sold.

[I understand that if I make any use of the items other than retention, demonstration, or display while holding them for sale, lease, or rental, I must pay sales tax on the items at the time of use based upon either the purchase price or the fair market rental value for the period of time used.

[I understand that it is a criminal offense to give a resale certificate to the seller for taxable items that I know, at the time of purchase, are purchased for use rather than for the purpose of resale, lease, or rental and, depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

[_____

Purchaser

Title

Date

SIGN

HERE

[This certificate must be furnished to the supplier. Do NOT send the completed certificate to the Comptroller of Public Accounts.]

OPEN MEETINGS

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

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

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

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

Texas Department on Aging

Wednesday, December 13, 1995, 11:00 a.m.

Texas Department on Aging, 1949 South IH-35, Small Conference Room

Austin

Audit and Finance Committee

AGENDA:

Consider and possibly act on:

Call to order

Minutes of October 11, 1995 meeting

Conflict of interest policy for representation and contracting

Internal audit of area agency on aging budgeting and reporting

Audit updates-internal and state auditor

Budget report

Adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: December 4, 1995, 4:59 p.m.

TRD-9515696

Wednesday, December 13, 1995, 1:30 p.m.

Texas Department on Aging, 1949 South IH-35, Small Conference Room

Austin

Texas Board on Aging Work Session

AGENDA:

Call to order

Results of internal and state audits relative to contract management

Adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: December 4, 1995, 4:59 p.m.

TRD-9515697

Thursday, December 14, 1995, 9:30 a.m.

Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room

Austin

Board on Aging

AGENDA:

Consider and possibly act on:

Call to order. Minutes of October 12, 1995 meeting. Public testimony. Chairman's report. Report on Governor's orientation for board members. Executive director's report. Presentation by Texas Health Maintenance Organization (HMO) Association. Presentation by Texas Association for Home Care. Select representatives for Citizens Advisory Council. Minority Elderly Conference dates and organization. Reports to include: American Association of Retired Persons (AARP) liaison's report; Options for Independent Living Advisory Committee report; Audit and Finance Committee—Conflict of interest policy for representation and contracting; internal audit of area agency on

aging budgeting and reporting; audit updates-internal and state auditor; budget report. Board position on Older Americans Act reauthorization bill. Board member travel. General announcements. Adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: December 4, 1995, 4:59 p.m.

TRD-9515695

Texas Department of Agriculture

Monday, December 11, 1995, 1:30 p.m.

Room 300, Uvalde County Courthouse

Uvalde

Wintergarden Spinach Producers Board

AGENDA:

Call to order

Discussion and action: read and approve minutes of last meeting; expenses; approve bonding requirements for Secretary/Treasurer; set date and time for next meeting.

Report: on matching funds or donations from processors; Advisory Committee report.

Discussion: processor information responses; identification of projects.

Adjourn

Contact: Don Laffere, P.O. Box 305, Batesville, Texas 78829, (210) 376-4385.

Filed: December 1, 1995, 10:23 a.m.

TRD-9515512

Wednesday, December 13, 1995, 8:30 a.m.

Beaumont Ag. Research Center, Innes Road
Beaumont

Texas Rice Producers Board

AGENDA:

Call to order

Review and approve: minutes of previous meeting

Financial report

Current budget and make adjustments, if necessary

Review: current crop year acreage and yield refund situation

Research and promotion programs

Discuss: other business

Action: select time/date for next meeting

Adjourn

Contact: Curtis Leonhardt, P.O. Box 740250, Houston, Texas 77274, 1-800-888-7423.

Filed: December 1, 1995, 9:35 a.m.

TRD-9515504

Thursday, December 21, 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, §6.4 by Regino Garcia.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: December 4, 1995, 9:15 a.m.

TRD-9515614

◆ ◆ ◆
Advisory Board of Athletic Trainers

Saturday, December 16, 1995, 10:00 a.m.

Texas Orthopedic Hospital, Joe W. King Orthopedic Institute Classroom, 7401 South Main Street

Houston

AGENDA:

The board will discuss and possibly act on: a board appreciation resolution for Thomas Wilson; introduction of reappointed and

new board members: Michael Saly and Michael (Spanky) Stephens; the board will hold a ten-minute open forum to receive input from interested parties; approval of the minutes from the July 26, 1995 meeting; appearance before the board of Ken Murray, Southwest Athletic Trainers Association Liaison; chairman's report; executive director's report; division director's report; program director's report; adoption of final rules concerning child support; settlement agreement with Penny Butler; status of complaints; proposed amendments to Chapter 313; continuing education and test committee report; announcements and comments not requiring board action; and setting of next meeting date.

Contact: Debbie Bradford, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615. 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 30, 1995, 10:48 a.m.

TRD-9515436

◆ ◆ ◆
Texas Bond Review Board

Tuesday, December 12, 1995, 9:00 a.m.

300 West 15th Street, Committee Room #5, Clements Building, Fifth Floor

Austin

Planning Session

AGENDA:

I. Call to order

II. Approval of minutes

III. Discussion of proposed issues

A. Stephen F. Austin State University--Consolidated Revenue Bonds

B. Stephen F. Austin State University--Constitutional Appropriation Bonds

C. General Services Commission--refinancing of lease with option to purchase office building in Austin

D. Texas Higher Education Coordinating Board--College Student Loan Bonds, Series 1996

E. Texas Veterans Land Board--Veterans' Land Bonds, Taxable Series 1996

F. Texas Veterans Land Board--Veterans' Land Bonds, Series 1996 (including College Savings Bonds)

G. Texas Veterans Land Board--Veterans' Housing Assistance Program, Fund II, Series 1996 Taxable Refunding Bonds

H. Texas Department of Housing and Community Affairs--Variable Rate Demand

Multi-Family Housing Revenue Refunding Bonds, Series 1996A and Series 1996

IV. Other business

V. Adjourn

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: December 4, 1995, 5:03 p.m.

TRD-9515699

Tuesday, December 12, 1995, 2:00 p.m.

Clements Building, Room 103, 300 West 15th Street

Austin

College Opportunity Act Committee

AGENDA:

I. Call to order

II. Approval of minutes

III. Consideration of proposed issues

Texas Veterans Land Board--Veterans' Land Bonds, Series 1996 (including College Savings Bonds)

IV. Other business

V. Adjourn

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: December 4, 1995, 5:03 p.m.

TRD-9515700

◆ ◆ ◆
Conservatorship Board

Monday, December 11, 1995, 2:00 p.m.

710 Brazos, Perry Brooks Building

Austin

AGENDA:

Call to order; approval of November 13, 1995 minutes; action on funding for treatment services request for proposals for fiscal year 1996/1997; action on funding for HIV early intervention services for fiscal year 1996/1997; action on administrative hearing decision in the matter of the appeal of Transitional Treatment Centers, Inc.; executive session to discuss personnel matters; reconvene and adjourn.

Contact: Conrad Alexander, 710 Brazos, Austin, Texas 78701, (512) 867-8147.

Filed: December 1, 1995, 10:23 a.m.

TRD-9515511

Texas County and District Retirement System

Thursday, December 14, 1995, ???

112 College Street

San Antonio

Investment Committee Meeting

AGENDA:

Chairperson will open meeting. Approve minutes of preceding meeting. Receive report from Investment Officer. Consider and act on 1996 budget. Set date and location of March, 1996 meeting. Adjourn meeting.

Contact: Alan Adams, 400 West 14th Street, Austin, Texas 78701, (512) 469-9668.

Filed: December 1, 1995, 9:35 a.m.

TRD-9515505

Credit Union Department

Monday-Tuesday, December 11-12, 1995, 1:00 p.m. and 9:00 a.m., respectively.

Credit Union Department Building, 914 East Anderson Lane

Austin

Commissioner Search Committee of the Credit Union Commission

AGENDA:

To invite: public input for future consideration. To consider: determine the date of next committee meeting. To conduct: an executive session to interview applicants as determined at the November 29, 1995 meeting.

Contact: James W. Ratzman, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: November 30, 1995, 2:51 p.m.

TRD-9515470

Texas Ethics Commission

Friday, December 8, 1995, 9:30 a.m.

Reagan Building, Room 101, 105 West 15th Street

Austin

AGENDA:

The commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the November 3, 1995, meeting; briefing, discussion, and possible action to waive certain fines assessed for late filing of a report; discussion and possible action in response

to the following Advisory Opinions Requests Numbers 324, 325, 327, 328, 329, and 330; adjourn.

Contact: Tom Harrison, 1101 Camino La Costa, Austin, Texas 78711, (512) 463-5800.

Filed: November 30, 1995, 1:14 p.m.

TRD-9515439

Finance Commission of Texas

Friday, December 15, 1995, 9:00 a.m.

Capital Extension Building, Senate Committee Room, E1.016

Austin

AGENDA:

A. Call the meeting to order; review and approval of minutes of previous meeting;

B. Discussion and review of Finance Commission matters, vote to approve resolution of appreciation for Georgina Gonzalez, hear update on Finance Commission building repairs. Hear update and possible vote on project to fulfill Finance Commission responsibility under §1.011(f) of the Texas Banking Act; discussion of and possible vote on Purchase of Director and Officer Liability policies, discussion of and possible vote on responsibilities of Finance Commission under §1.005 of the Texas Banking Act. Discussion of and possible vote to approve order approving Guaranty Fund Advisory Council Consumer Representative R. R. Ray, Jr.; hear update and possible vote on the vacancy in the internal auditor position, review of annual financial reports of the three agencies;

C. Hear report from the Banking Department regarding industry status, departmental operations from all department divisions; discussion of and vote to publish for comment, repeal or adoption, existing, proposed and repropoed rules and chapters regarding Texas Banking Act procedures throughout 7 TAC;

D. Hear report from the Savings and Loan Department regarding industry status, departmental operations, discussion of and vote to publish for adoption proposed rules regarding Savings and Loans procedures throughout 7 TAC;

E. Hear report from the Office of Consumer Credit Commissioner regarding industry status and departmental operations;

F. Convene into executive session, and adjourn.

Contact: Everette D. Jobe, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: December 4, 1995, 10:21 a.m.

TRD-9515667

Texas Commission on Fire Protection

Monday, December 18, 1995, 9:00 a.m.

12675 North Research

Austin

Fire Protection (Sprinkler) Advisory Council

AGENDA:

I. Review, discussion, and possible action regarding printed minutes from previous meeting.

II. Discussion and possible action regarding proposed rule amendments, new sections, or repeals to 37 TAC Chapter 541, concerning fire sprinkler systems.

III. Discussion and possible action regarding the presentation to the Commission on Fire Protection regarding the action taken on agenda item II.

IV. New matter from the public, not included in preceding agenda items which may be discussed in future meetings.

V. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: December 4, 1995, 1:01 p.m.

TRD-9515674

Wednesday-Thursday, December 20-21, 1995, 9:00 a.m.

12675 North Research

Austin

Fire Extinguisher Advisory Council

AGENDA:

I. Election of a chair person for the Fire Extinguisher Advisory Council.

II. General discussion regarding the functions and responsibilities of the Fire Extinguisher Advisory Council.

III. Review, discussion, and possible action regarding printed minutes from previous meeting.

IV. Discussion and possible action regarding proposed rule amendments, new sections, or repeals to 37 TAC Chapter 521, concerning fire extinguisher systems.

V. Discussion of staff procedures regarding the administration, investigation, and enforcement of the Texas Insurance Code, Article 5.43-1 and 37 TAC Chapter 521.

VI. New matters from the public, not included in preceding agenda items which may be discussed in future meeting dates.

VII. Discussion and possible action on future meeting dates.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: December 4, 1995, 1:01 p.m.

TRD-9515673

◆ ◆ ◆
**Office of the Governor-
Criminal Justice Division**

Friday, December 8, 1995, 10:00 a.m.

Arlington Marriott, 1500 Convention Center Drive

Arlington

Crime Stoppers Advisory Council

AGENDA:

I. Call to order

II. Approval of minutes from August 27, 1995 meeting

III. Discussion of future statewide training

IV. Other business

V. Adjourn

Contact: David M. Cobos, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: November 30, 1995, 2:26 p.m.

TRD-9515464

◆ ◆ ◆
Texas Growth Fund

Wednesday, December 13, 1995, 10:00 a.m.

1000 Red River

Austin

Board of Trustees

AGENDA:

1. Review and approve minutes of the September 28, 1995, special meeting.

2. Receive nominations for and elect a treasurer.

3. Review and approve treasurer's report.

4. Review and approve resolutions designating signatories on bank accounts.

5. Review and approve proposal from Ernst and Young to perform audit of 1995 financial statements.

6. Review and approve reimbursement expense reports from the current and former trustees.

7. Review and approve invoice from Vinson and Elkins, L.L.P.

8. Review and approve proposal for directors and officers/errors and omissions insurance policies.

9. Receive an activity report from TGF Management Corporation.

10. Review and approve TGF Management Corporation's 1996 budget request.

11. Such other matters as may come before the Board of Trustees.

Contact: Janet Waldeier, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: December 4, 1995, 3:04 p.m.

TRD-9515684

◆ ◆ ◆
Texas Department of Health

Monday, December 11, 1995, 9:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Department of Health/Board of Nurse Examiners Memorandum of Understanding Advisory Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes from the last meeting; action items (training requirements of unlicensed personnel providing respite services under the Texas Department of Health/Board of Nurse Examiners memoranda of understanding; and data collection on outcome of clients receiving respite services under the Texas Department of Health/Board of Nurse Examiners memoranda of understanding); and public comment.

Contact: Merne Dufлот, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6648. 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 or (512) 458-7708 at least two days prior to the meeting.

Filed: December 2, 1995, 4:34 p.m.

TRD-9515577

Monday, December 11, 1995, 9:30 a.m.

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

Austin

Midwifery Board

AGENDA:

The board will discuss and possibly act on: approval of the minutes of the September

11, 1995 meeting; grievance committee report (resolution and disposition of complaints); education committee report (finalizing amended education rules and documentation rules); legislative committee (report on previous meeting for possible changes in law for 1997 legislation); and conflict resolution committee (report on initial meeting of a committee that has been formed by midwives for better communication between the Texas Department of Health and midwives); new business (continuing education for midwives in the Valley; and discussion of possible sources for continuing education for midwives in the Valley); proposed certificate for midwives to hang on the wall; current chair has resigned and new chair has been appointed and wants floor to state objectives; and report on status of nominations for public member position on the Midwifery Board); and an open forum.

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 30, 1995, 10:48 a.m.

TRD-9515437

◆ ◆ ◆
State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments

Friday, December 15, 1995, 6:00 p.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Applications Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on the approval or denial of applications of James Cobb and Kevin Richards.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6484. 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: December 4, 1995, 9:55 a.m.

TRD-9515648

Friday, December 15, 1995, 6:00 p.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Complaints Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on the following complaints: FD/94-0019A; FD/94-0025; FD/94-0029A; FD/94-0029B; FD/94-0061; FD/95-0018; FD/95-0024; FD/95-0029; FD/96-0003; FD/96-0008; and FD/96-0009.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6484. 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: December 4, 1995, 9:56 a.m.

TRD-9515649

Friday, December 15, 1995, 6:00 p.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Ethics Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on the ethics.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6484. 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: December 4, 1995, 9:56 a.m.

TRD-9515650

Friday, December 15, 1995, 6:00 p.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

Rules Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on public comment on proposed rules to 22 Texas Administrative Code Chapter 141.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6484. 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: December 4, 1995, 9:56 a.m.

TRD-9515651

Saturday, December 16, 1995, 8:30 a.m.

Austin North Hilton and Towers, 6000 Middle Fiskville Road

Austin

AGENDA:

The committee will discuss and possibly act on: approval of the minutes from the previous meeting; committee reports (applications; complaints; ethics; and rules); president's report; executive director report; and setting of the next meeting date and test dates.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6484. 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: December 4, 1995, 9:55 a.m.

TRD-9515647

◆ ◆ ◆
Texas Department of Human Services

Friday, December 8, 1995, 10:30 a.m.

701 West 51st Street, Conference Room 560-W

Austin

Advisory Subcommittee on Nursing Facilities

AGENDA:

1. Call to order. 2. Roll call. 3. Introduction of visitors/staff. 4. Approval of subcommittee minutes. 5. Managed care project. 6. Assistant commissioner's update. 7. Nurse aide study. 8. Improving dental care for residents. 9. Other items of interest. 10. Next meeting and adjournment.

Contact: Mary Sidelnik, P.O. Box 149030, Austin, Texas 78714-9030, (512) 834-6770.

Filed: November 30, 1995, 2:51 p.m.

TRD-9515471

◆ ◆ ◆
Texas Department of Insurance

Wednesday, December 20, 1995, 9:00 a.m.

Alcoholic Beverage Commission of Texas, 5806 Mesa Drive, First Floor

Austin

AGENDA:

454-95-1280.G

In the matter of Residential Property Insurance Benchmark Rate Setting and Catastrophe Property Insurance Association Rate Setting (continued from December 13, 1995).

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

Filed: December 4, 1995, 5:04 p.m.

TRD-9515702

Wednesday, December 20, 1995, 1:00 p.m.

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

Austin

AGENDA:

454-95-1703.c

To consider whether disciplinary action should be taken against Helen F. Francis, Houston, Texas, who holds a Solicitor'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: December 4, 1995, 5:04 p.m.

TRD-9515703

◆ ◆ ◆
Texas Lottery Commission

Monday, December 11, 1995, 9:15 a.m.

6937 North IH-35, American Founders Building, First Floor Auditorium

Austin

Bingo Advisory Committee

AGENDA:

According to the complete agenda, the Bingo Advisory Committee will call the meeting to order; consideration and possible approval of the minutes of the October 6, 1995 and/or October 19, 1995 meeting; report by the Chair of the Bingo Advisory Committee regarding the Senate Interim Committee on Charitable Bingo November 21, 1995 hearing; report by the Chair of the Bingo Advisory Committee regarding the November 22, 1995 Texas Lottery Commission meeting; report by the Chair and Secretary of the Bingo Advisory Committee and possible discussion and/or action regarding their November 10, 1995 and November 15, 1995 meetings with Texas Lottery Commission staff concerning the staff's proposed rules relating to bingo; consideration and possible action regarding draft rules relating to bingo; consideration and possible action regarding designation of future Bingo Advisory Committee meetings; and adjournment.

For ADA assistance, call Rene McCoy at (512) 371-4823 at least two days prior to meeting.

Contact: Kimberly L. Kiplin, P.O. Box 16630, Austin, Texas 78761-6630, (512) 323-3791.

Filed: December 1, 1995, 9:11 a.m.

TRD-9515503

Monday, December 11, 1995, 10:00 a.m.

6937 North IH-35, Americans Founders Building, First Floor Auditorium

Austin

Bingo Advisory Committee

AGENDA:

According to the complete agenda, the Bingo Advisory Committee will call the meeting to order; consideration and possible approval of the minutes of the October 6, 1995 and/or October 19, 1995 meeting; report by the chair of the Bingo Advisory Committee regarding the Senate Interim Committee on Charitable Bingo November 21, 1995 hearing; report by the chair of the Bingo Advisory Committee regarding the November 22, 1995 Texas Lottery Commission meeting; report by the chair and secretary of the Bingo Advisory Committee and possible discussion and/or action regarding their November 10, 1995 and November 11, 1995 meetings with Texas Lottery Commission staff concerning the staff's proposed rules relating to bingo; consideration and possible action regarding draft rules relating to bingo; consideration and possible action regarding designation of future Bingo Advisory Committee meetings; and adjournment.

For ADA assistance, call Rene McCoy at (512) 371-4823 at least two days prior to meeting.

Contact: Kimberly L. Kiplin, P.O. Box 16630, Austin, Texas 78761-6630, (512) 323-3791.

Filed: December 4, 1995, 4:54 p.m.

TRD-9515691

◆ ◆ ◆
**Texas Council on Offenders
with Mental Impairments**

Tuesday, December 12, 1995, 10:00 a.m.

209 West 14th Street, Suite #500

Austin

Executive Committee

AGENDA:

- I. Introductions
- II. Public comments
- III. Approval of minutes
- IV. Retreat follow-up

V. Committee reports

* Planning/Legislative Committee

* Program/Research Committee

* Finance Committee

VI. Nominations Committee

VII. Council agenda

VIII. Executive director's report

Each item above includes discussion and action as necessary.

Contact: Dee Kifowit, 209 West 14th Street, Austin, Texas 78701, (512) 406-5406.

Filed: December 4, 1995, 1:55 p.m.

TRD-9515675

◆ ◆ ◆
**Texas Mental Health and
Mental Retardation Board**

Tuesday, December 12, 1995, 2:00 p.m.

1241 West Mockingbird Lane (Coral Ballroom)

Dallas

Ad Hoc Committee on Mental Retardation and Managed Care

AGENDA:

1. Welcome and introductions
2. Reference and discuss committee parameters
3. Review agenda
4. Recognize and discuss preliminary questions from members
5. Get acquainted exercise
6. Describe the current system

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: December 4, 1995, 3:10 p.m.

TRD-9515685

Wednesday, December 13, 1995, 8:30 a.m.

1241 West Mockingbird Lane (Champagne Ballroom)

Dallas

Ad Hoc Committee on Mental Retardation and Managed Care

AGENDA:

- continued from December 12:
7. Review Managed Care

8. Consider a method for examining a system of services and supports, understanding how to change it, and predicting the results of the change.

9. Discussion of how the previous exercise should be modified for analysis of other services system elements.

10. Method for getting broad-based input

11. Next meeting times and places

12. Meeting evaluation

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: December 4, 1995, 3:10 p.m.

TRD-9515686

◆ ◆ ◆
**Texas Natural Resource
Conservation Commission**

Wednesday, December 7, 1995, 10:00 a.m.

Conrad Blucher Institute, TAMU-CC, 6300 Ocean Drive

Corpus Christi

Scientific/Technical Advisory Committee of the Corpus Christi Bay National Estuary Program

AGENDA:

- I. Call to order/introduction/minutes
- II. Program update
- III. Discussion of fiscal year 1997 project ideas
- IV. Additional items/adjournment

Contact: Richard Volk, Campus Box 290, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: November 30, 1995, 1:56 p.m.

TRD-9515460

Monday, December 11, 1995, 10:00 a.m.
(Rescheduled from: December 7, 1995.)

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 made to the Texas Natural Resource Conservation Commission by Trent Water Works for an increase in water rates effective August 15, 1995 in its service area located in Brazoria and Waller Counties, Texas. SOAH Docket Number 582-95-1624.

Contact: Susan Prior, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: November 30, 1995, 11:08 a.m.

TRD-9515438

Wednesday, December 13, 1995, 9:30 a.m.

Texas Natural Resource Conservation Commission, 12118 North IH-35, Park 35 Circle, Building E, Room 201S

Austin

AGENDA:

A hearing will be held before the Texas Natural Resource Conservation Commission (TNRCC), upon a petition for the creation of Arlington Entertainment Area Management District (the "District"), Docket Number 95-1638-DIS. The petition is filed under Chapter 375 of the Texas Local Government Code. The nature and purpose of the petition is for the organization, creation and establishment of the District as a municipal management district. The general purposes of the District are to promote, develop, encourage and maintain employment, commerce, economic development and the public welfare in the area of the District, which is the "entertainment district" of the City of Arlington, Tarrant County, Texas, by furnishing, operating and maintaining a system for the transportation of people within the District, and otherwise to further the public purposes of the statute.

Contact: Gloria A. Vasquez, MC152, P.O. Box 13087, Austin, Texas 78711, (512) 239-6161.

Filed: December 4, 1995, 3:03 p.m.

TRD-9515681

Wednesday, December 13, 1995, 10:00 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The commission will consider approving the following matters on the agenda: enforcement report; district matter; hearing request; municipal solid waste enforcement; industrial waste discharge enforcement; petroleum storage tank enforcement; public water supply enforcements; air quality enforcements; rules; administrative law judge's proposal for decisions; 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 8:30 a.m. agenda starts 8:45 a.m. until 9:25 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: December 1, 1995, 10:24 a.m.

TRD-9515515

◆ ◆ ◆
Board of Nurse Examiners

Tuesday, December 12, 1995, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 460

Austin

Eligibility and Disciplinary Committee

AGENDA:

The Eligibility and Disciplinary Committee will meet to review and take action on six Declaratory Orders; two Eligibility Orders; two ALJ Proposals for Decision; 26 Agreed Orders; five Eligibility matters; and one exception to Board Order

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 305-6811.

Filed: December 2, 1995, 4:27 p.m.

TRD-9515570

◆ ◆ ◆
Board of Pardons and Paroles

Tuesday-Wednesday, December 12-13, 1995, 1:30 p.m. and 9:00 a.m., respectively.

Central Office, Texas Department of Criminal Justice, 8610 Shoal Creek Boulevard

Austin

Full Board

AGENDA:

I. Call to order by chairman

II. Recognition of guests

III. Approval of minutes of the previous board meeting held August 31, 1995

IV. Report from Policy Council

V. Standing Committee reports; Sunset Committee, Legislative Committee, and Rules Committee

VI. Items for discussion and/or action

A. Rule adoptions: §§141.52, 141.57, 145.6 (Repeal and Adopt New) and §149.2 (Repeal only)

B. Proposed amendment of 37 TAC §145.22(8)

C. Designation of Standardized Distances for Child Safety Zones

D. Voting options for Senate Bill 45 cases

VII. Perspectives on revocation hearing process

VIII. Texas Department of Criminal Justice-Parole Division update

IX. Chairman's designation of 1996 Executive Committee

X. Adjournment

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-7407.

Filed: December 4, 1995, 9:18 a.m.

TRD-9515622

◆ ◆ ◆
Texas Department of Public Safety

Tuesday, December 12, 1995, 1:30 p.m.

DPS Headquarters, 5805 North Lamar Boulevard

Austin

Public Safety Commission

AGENDA:

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real estate matters

Public comment

Miscellaneous and other unfinished business

Contact: James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: December 2, 1995, 4:14 p.m.

TRD-9515568

◆ ◆ ◆
Public Utility Commission of Texas

Monday, December 11, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Legal Administration

AGENDA:

A hearing on Continuation of Service has been scheduled in Docket Number 15060-complaint of David E. Conway against Houston Lighting and Power Company

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: November 30, 1995, 1:56 p.m.

TRD-9515461

Tuesday, December 12, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

There will be a public meeting at which interested persons may make oral comments concerning the proposed amendments in Project Number 14045-rulemaking on transmission access and pricing and stranded investment.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: December 2, 1995, 3:06 p.m.

TRD-9515552

Monday, December 18, 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 15051-application of Texas Comm South, Inc. for a service provider certificate of operating authority. This application was filed on November 29, 1995. Applicant plans to resell local exchange service including tone dialing, custom calling, Caller ID, toll restriction, bill number screening and any other services which are available on a resale basis from the underlying incumbent exchange service in a 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. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by December 13, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: November 30, 1995, 10:40 a.m.

TRD-9515435

Texas Racing Commission

Tuesday, December 12, 1995, 10:30 a.m.

Capitol Extension Auditorium, 1400 Congress Avenue

Austin

AGENDA:

Call to order; roll call; consideration of and action on the following rules: §§303.3,

303.95, 305.35, 305.37, 305.70, 305.241, 307.262, 309.14, 309.199, 309.357, 313.56, 313.504, 315.101, 315.111, 319.7, 319.14, 319.15, 319.111, 321.110, 321.116, 321.117, 321.203, 321.204, 321.205; petition by Sam Houston Race Park for amendments to §303.41 and §303.43; petition by Manor Downs for amendment to §321.235; consideration of and action on Proposals for Decision in the following contested cases: SOAH Number 476-95-0916, TxRC Number 95-02-14, in Re: the appeal by Dallas Keen from Stewards' Ruling Retama 38; SOAH Number 476-95-0953, TxRC Number 95-02-13, in Re: the appeal by Gary Brush from Stewards' Ruling Manor 1188; consideration of and possible action on the following matters: request by Bandera Downs for amendment to Agreed Order suspending Class 2 license; request by Texas Thoroughbred HBPA, Inc. and Trinity Meadows Raceway, Inc.; Horsemen's agreement between Texas HBPA, Inc. and Manor Downs, Inc.; Third amendment to Horsemen's agreement between Texas HBPA, Inc. and Sam Houston Race Park, Limited; First amendment to Horsemen's agreement between HBPA, Inc. and Retama Park; allocation of simulcasting revenue dedicated to purses and Texas-Bred incentive money among the various official breed registries; request by Sam Houston Race Park for additional live race dates for 1996; old and new business; adjourn.

Contact: Paula Cochran, P.O. Box 12080, Austin, Texas 78701, (512) 794-8461.

Filed: December 4, 1995, 8:29 a.m.

TRD-9515610

Railroad Commission of Texas

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: December 1, 1995, 10:55 a.m.

TRD-9515524

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the agency budget, fiscal and administrative matters and the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Mike Regan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: December 1, 1995, 10:55 a.m.

TRD-9515525

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Public Information Office Director's report on division administration, budget, procedures, and personnel matters. Discuss plan for Public Information Office/Alternative Fuels Research and Education Division collaboration on communications outreach.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: December 1, 1995, 10:55 a.m.

TRD-9515526

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on agency administration, budget, policy and procedures, and personnel matters for all divisions. The commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6981.

Filed: December 1, 1995, 10:56 a.m.

TRD-9515527

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Information Resource Manager's report on information resource planning documents.

The commission will consider and act on the Information Resource Manager's report

on the administration, budget, procedures, equipment acquisitions, contracts, work schedules and quarterly updates associated with the Department of Energy-RRC Area of Review (AOR) Data Management Enhancements grant status review.

Contact: Mel Mireles, P.O. Box 12967, Austin, Texas 78701, (512) 463-7249.

Filed: December 1, 1995, 11:00 a.m.

TRD-9515529

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: December 1, 1995, 11:00 a.m.

TRD-9515530

Tuesday, December 12, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Mary Ross McDonald, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: December 1, 1995, 11:01 a.m.

TRD-9515531

Monday, December 18, 1995, 9:00 a.m.
(Rescheduled from: Monday, December 18, 1995, 2:00 p.m.)

1701 North Congress Avenue, 12th Floor, Willa Mae Palmer Conference Room

Austin

Revised Agenda

AGENDA:

The Railroad Commission of Texas will hold a meeting on reorganization and personnel matters; the commission will conduct interviews and may take action on personnel matters. The commission may meet in executive session as permitted by Texas Government Code, Chapter 551.

Contact: Mary Ross McDonald, P.O. Box 12967, Austin, Texas 78711, (512) 463-7008.

Filed: December 2, 1995, 11:36 a.m.

TRD-9515533

Monday, January 8, 1996, 2:00 p.m.

1701 North Congress Avenue, 12th Floor, Willa Mae Palmer Conference Room

Austin

AGENDA:

The Railroad Commission of Texas will hold a meeting on reorganization and personnel matters; the commission will conduct interviews and may take action on personnel matters. The commission may meet in executive session as permitted by Texas Government Code, Chapter 551.

Contact: Mary Ross McDonald, P.O. Box 12967, Austin, Texas 78711, (512) 463-7008.

Filed: December 2, 1995, 11:36 a.m.

TRD-9515534

◆ ◆ ◆
**Texas Residential Property
Insurance Market Assis-
tance Program**

Wednesday, December 13, 1995, 8:30 a.m.

333 Guadalupe, Rooms 1250A and 370A, Tower I

Austin

Executive Committee

AGENDA:

I. General meeting (Room 1250A-8:30 a.m.-Noon)

-Anti-Trust statement

-Public input forum

-General Administrative matters

-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 coverages, rates, Executive Committee, amendments, immunity from liability, termination of MAP

-Other House Bill 1367 provisions that relate to MAP

-Any other general business

2. Working Group I Issues (Room 1250A-1:00 p.m.-3:30 p.m.)

-Anti-Trust statement

-Eligibility

-Criteria for mandatory participation

-Monitoring MAP activity

-Suggestions for designation underserved areas

-Other House Bill 1367 provisions that relate to MAP

Working Group II Issues (Room 370A-1:00 p.m.-3:30 p.m.)

-Anti-Trust statement

-Participating insurers

-Participating agents

-Operations

-Other House Bill 1367 provisions that relate to MAP

Contact: Lyndon Anderson, 333 Guadalupe Street, Austin, Texas 78711, (512) 322-2235.

Filed: December 4, 1995, 8:30 a.m.

TRD-9515611

◆ ◆ ◆
**Telecommunications Infra-
structure Fund Board**

Monday, December 11, 1995, 9:00 a.m.

1400 North Congress Avenue, Senate Chamber

Austin

Telecommunications Infrastructure Fund Board

AGENDA:

I. Call to order/quorum call-Chairman Carolyn Bacon

II. Board comments

III. Status of Texas Telecommunications

A. Pat Wood III, Chairman, Texas Public Utility Commission

B. Carolyn Purcell, Executive Director, Department of Information Resources

IV. Dr. Uri Triesman-University of Texas, Texas Education Network

V. Briefing on lawsuit

VI. Governor's general counsel briefing on open meetings

VII. Action items

A. Adopt emergency rules

B. Propose rules

C. Approve minutes from November 27, 1995 meeting

D. Approve solicitation notice of executive director search

E. Elect vice chairman

F. Approve subcommittee assignments

VIII. Other business

Contact: Jimmy Glotfelty, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: December 2, 1995, 4:22 p.m.

TRD-9515569

◆ ◆ ◆ Texans' War on Drugs

Tuesday, December 5, 1995, 10:00 a.m.
(Rescheduled from: December 4, 1995.)

313 East Anderson Lane, #101

Austin

Emergency Revised Agenda Meeting

Board of Directors

AGENDA:

- 1) Call to order
- 2) Establish quorum
- 3) Planning for the future
- 4) Approval of the minutes
- 5) Corporate resolutions
- 6) Executive session
- 7) Action on matters discussed in executive session
- 8) President's report
 - a) Financial report
 - b) Service delivery report
 - c) Executive report
- 9) Set next meeting dates
- 10) Other business
- 11) Adjourn

Reason for Emergency: Meeting rescheduled in order to obtain a quorum.

Contact: William Halsell, 313 East Anderson Lane, #101, Austin, Texas 78752, (512) 452-0141.

Filed: December 4, 1995, 3:04 p.m.

TRD-9515683

◆ ◆ ◆ Texas Southern University

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

3100 Cleburne/Law School-Second Floor

Houston

Litigation Committee

AGENDA:

Meeting to consider a review of cases filed and pending against the university.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: December 1, 1995, 10:53 a.m.

TRD-9515519

Thursday, December 7, 1995, 11:00 a.m.

3100 Cleburne/Hannah Hall-Room 111

Houston

Personnel, Student Services and Academic Affairs Committee

AGENDA:

Meeting to consider: progress reports of academic activities and programs; personnel actions.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: December 1, 1995, 10:53 a.m.

TRD-9515518

Thursday, December 7, 1995, 1:00 p.m.

3100 Cleburne/Hannah Hall-Room 111

Houston

Finance and Buildings and Grounds Committee

AGENDA:

Meeting to consider: matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments; contract awards; and informational items.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: December 1, 1995, 10:53 a.m.

TRD-9515520

◆ ◆ ◆ Texas Workers' Compensation Insurance Facility

Thursday, December 14, 1995, 9:45 a.m.

DoubleTree Guest Suites Hotel, 303 West 15th Street

Austin

Governing Committee Meeting

AGENDA:

Approval of minutes from the October 18, 1995 Governing Committee meeting. Consideration and possible action on the 1996 budget. Report on recoveries and expenses of special projects through the third quarter 1995. Consideration and possible action on the Records Retention Schedule. Consideration and possible action on recommendations from the Appeals Committee and/or

Hearing Officer. Consideration and possible action on servicing company request for reimbursement of legal fees and expenses. Executive director's report. Executive session(s) regarding personnel matters and pending legal matters. Following the closed executive session(s), the Governing Committee will reconvene in Open and Public Session and take any action as may be desirable or necessary as a result of the closed deliberations, including possible approval of settlements of potential or existing litigation, possible approval of facility transition plans and personnel policies.

Contact: Peter E. Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: December 4, 1995, 10:04 a.m.

TRD-9515653

◆ ◆ ◆ Texas Workers' Compensation Insurance Fund

Wednesday, December 13, 1995, 8:30 a.m.

100 Congress Avenue, Suite 310

Austin

Finance Committee of the Board of Directors

AGENDA:

Call to order; roll call; review and approval of the minutes from the November 15, 1995, Finance Committee meeting; summary of financial reports-November 1995; accounts receivable updates; consideration of investment policy; summary investment reports-November 1995; executive session; action items resulting from executive session deliberations; adjourn

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: December 4, 1995, 3:03 p.m.

TRD-9515680

◆ ◆ ◆ Texas Council on Workforce and Economic Competitiveness

Friday, December 8, 1995, 8:30 a.m.

Austin Convention Center, 201 East Second Street, Colorado and Lavaca Rooms

Austin

Emergency Revised Agenda

Full Council

AGENDA:

The following item will be added to the agenda: 11:00 a.m.-action item: approval of

a memorandum of understanding between the Texas Workforce Commission and the Texas Council on Workforce and Economic Competitiveness.

(All time for items after this addition will be moved forward 15 minutes.)

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, (512) 912-7158 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Reason for Emergency: Negotiations were only recently completed on the memorandum of understanding between the Texas Workforce Commission (TWC) and the Texas Council on Workforce and Economic Competitiveness (TCWEC). In order for program responsibilities relating to Workforce Development Areas to proceed expeditiously between the TWC and TCWEC, this item must be added on at TCWEC's December meeting, since the next regularly scheduled TCWEC meeting will not be held until February, 1996.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7158.

Filed: November 30, 1995, 1:56 p.m.

TRD-9515462

Regional Meetings

Meetings Filed November 30, 1995

The Bell County Tax Appraisal District Board of Directors will meet at 411 East Central Avenue, Belton, December 13, 1995, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513, (817) 939-5841. TRD-9515465.

The Ellis County Appraisal District Board of Directors met at 400 Ferris Avenue, Waxahachie, December 5, 1995, at 6:00 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9515434.

The Golden Crescent Private Industry Council (Revised Agenda) Executive Committee met at 2401 Houston Highway, Victoria, November 30, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9515440.

The Middle Rio Grande Quality Work Force Planning Middle Rio Grande Quality Work Force Council met at Jerry's Restaurant, 539 West Main Street, Uvalde, December 5, 1995, at Noon. Information may

be obtained from Pat Gonzales, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-2527. TRD-9515433.

The Permian Basin Regional Planning Commission Board of Directors, Permian Basin Private Industry Council met at 2910 LaForce Boulevard, Midland, December 6, 1995, at 10:00 a.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9515472.

Meetings Filed December 1, 1995

The Austin Travis County MHMR Center Finance and Control Committee met at 1430 Collier, Austin, December 6, 1995, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9515522.

The Bastrop Central Appraisal District Board of Directors met at 1200 Cedar Street, Bastrop, December 7, 1995, at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9515507.

The Creedmoor Maha Water Supply Corporation (Monthly Meeting) met at 1699 Laws Road, Mustang Ridge, December 6, 1995, at 7:00 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991 and/or (512) 243-2113. TRD-9515497.

The Dallas Area Rapid Transit Strategic Plan Task Force met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, December 7, 1995, at 11:30 a.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9515532.

The Deep East Texas Council of Governments Board of Directors and Grants Application Review Committee will meet at the St. Michael's Catholic Church, Highway 190 West, Jasper, December 14, 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-9515514.

The Education Service Center, Region IX Board of Directors will meet at 301 Loop 11, Wichita Falls, December 13, 1995, at 12:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9515506.

The Grand Parkway Association Board of Directors will meet at 5757 Woodway, 140 East Wing, Houston, December 14, 1995, at 8:15 a.m. Information may be obtained

from Jerry L. Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9515521.

The Kempner Water Supply Corporation Board of Directors met at Highway 190, Kempner, December 7, 1995, at 6:30 p.m. Information may be obtained from Donald W. Guthrie, P.O. Box 103, Kempner, Texas 76536, (512) 932-3701. TRD-9515517.

The Middle Rio Grande Development Council Area Agency on Aging Area Advisory Council on Aging met at 200 East Nopal Street, First State Bank, McNelly Room, Uvalde, December 6, 1995, at 11:00 a.m. Information may be obtained from Berta R. Macat, P.O. Box 1199, Carrizo Springs, Texas 78834, 1-800-224-4262. TRD-9515498.

The Shackelford Water Supply Corporation Directors met at the Fort Griffin Restaurant, Albany, December 6, 1995, at Noon. Information may be obtained from Gaynell Perkins, Box 11, Albany, Texas 76430, (817) 345-6868 or (915) 762-2575. TRD-9515516.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson, Suite D, Mt. Pleasant, December 5, 1995, at 9:30 a. m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9515496.

The West Central Texas Council of Governments Private Industry Council will meet at the Career Stop, 809 North Judge Ely Boulevard, Abilene, December 14, 1995, at 10:00 a.m. Information may be obtained from Mary Ross, P. O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9515523.

Meetings Filed December 2, 1995

The Andrews Center Board of Trustees met at 2323 West Front Street, Board Room, Tyler, December 7, 1995, at 3:00 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 535-7338. TRD-9515559.

The Brazos Valley MHMR Authority Personnel/Budget Committee met at 103 East Highway 21, Caldwell, December 7, 1995, at 12:15 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9515556.

The Brazos Valley MHMR Authority Board of Trustees met at 103 East Highway 21, Caldwell, December 7, 1995, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan,

Texas 77805, (409) 822-6467. TRD-9515557.

The Dawson County Central Appraisal District Board of Directors met at 1806 Lubbock Highway, Lamesa, December 6, 1995, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9515550.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, December 13, 1995, at 9:00 a.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9515560.

The Edwards Aquifer Authority Litigation Oversight Committee met at Akin, Gump, Strauss, Hauer and Feld L.L.P., 300 Convent Street, San Antonio, December 5, 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-9515558.

The Golden Crescent Private Industry Council met at 2401 Houston Highway, Victoria, December 6, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9515555.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, December 5, 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-9515535.

The Lower Colorado River Authority Board of Trustees for LCRA's benefit plans met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, December 5, 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-9515537.

The Lower Colorado River Authority Investment Subcommittee of the Board of Trustees for LCRA's benefit plans met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, December 5, 1995, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-4043. TRD-9515536.

The Northeast Texas Rural Rail Transportation District Board met at the Hopkins County Courthouse, Judge Minter's Chambers, First Floor, Sulphur Springs, December 6, 1995, at 3:00 p.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD-9515554.

The Northeast Texas Rural Rail Transportation District Board will meet at the Hopkins County Courthouse, Judge Minter's Chambers, First Floor, Sulphur Springs, December 8, 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-9515553.

◆ ◆ ◆
Meetings Filed December 4, 1995

The Bell-Milam-Falls WSC Board will meet at Industrial Boulevard, Cameron, December 12, 1995, at 7:00 p.m. Information may be obtained from Murray Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9515704.

The Brazos Student Finance Corporation Executive Committee of the Board of Directors will meet in the Crooker Conference Room, Offices of Fulbright and Jaworski, 51st Floor, 1301 McKinney, Houston, December 12, 1995, at 4:00 p.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9515677.

The Brazos Valley MHMR Authority (Revised Agenda.) Board of Trustees met at 103 East Highway 21, Caldwell, December 7, 1995, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9515629.

The Carson County Appraisal District Appraisal Review Board will meet at 102 Main Street, Panhandle, December 8, 1995, at 1:30 p.m. Information may be obtained from Donita Herber, Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9515682.

The Central Texas Area Consortium (Regular Meeting) met at 2 North Fifth, Temple, December 7, 1995, at 7:00 p.m. Information may be obtained from Michael B. Herring, 3311 SW H. K. Dodgen Loop #248, Temple, Texas 76502, (817) 791-9102. TRD-9515692.

The Comal Appraisal District Board of Directors will meet at 178 East Mill Street #102, New Braunfels, December 11, 1995, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9515671.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the St. Michael's Catholic Church, Highway 190 West, Jasper, December 14, 1995, at 11:00 a.m. Information may be obtained from Andy Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9515688.

The Edwards Aquifer Authority Board will meet in the Board Room, San Antonio River Authority, 100 East Guenther, San Antonio, December 9, 1995, at 10:00 a.m. Information may be obtained from Mike Beldon, 100 East Guenther, San Antonio, Texas, (210) 270-0800. TRD-9515694.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Stephenville, December 14, 1995, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9515613.

The Falls County Appraisal District Board of Directors will meet at Interstate of Highway 6 and 7, Falls County Courthouse-First Floor, Marlin, December 11, 1995, at 5:30 p.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD-9515632.

The Falls County Appraisal District Appraisal Review Board will meet at Interstate of Highway 6 and 7, Falls County Courthouse-First Floor, Marlin, December 12, 1995, at 9:00 a.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD-9515631.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, December 13, 1995, at 9:00 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9515660.

The Leon County Central Appraisal District Leon County Appraisal Review Board met at 103 North Commerce, Corner Highway 7 and 75, Leon County Central Appraisal District Office, Gresham Building, Centerville, December 7, 1995, at 9:00 a.m. Information may be obtained from Jeff Beshears, P.O. Box 536, Centerville, Texas 75833-0536, (903) 536-2252. TRD-9515690.

The Parmer County Appraisal District (Emergency Meeting.) Board of Directors met at 305 Third Street, Bovina, December 4, 1995, at 7:00 p.m. (Reason for Emergency: Last minute scheduling.) Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9515670.

The Sabine Valley Center (Emergency Meeting.) Personnel Committee met at 401 North Grove, Marshall, December 7, 1995, at 2:00 p.m. Information may be obtained from Inman White, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9515689.

The South Texas Private Industry Council, Incorporated met at 901 Kennedy Street, Zapata, December 7, 1995, at 4:00

p.m. Information may be obtained from Myrna V. Hervst, P.O. Box 1757, Laredo, Texas 78044-1757, (210) 722-0546. TRD-9515616.

The Stephens County Rural WSC Board (Regular Monthly Meeting) met at 301 West Elm Street, Breckenridge, December 7, 1995, at 7:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9515669.

The West Central Texas Council of Governments (Revised Agenda.) Career Stop Advisory Committee met at 809 North Judge Ely Boulevard, Abilene, December 6, 1995, at 10:00 a.m. Information may be obtained from Cheryl Haliburton, 809 North Judge Ely Boulevard, Abilene, Texas 79601, (915) 672-8544. TRD-9515679.



Meetings Filed December 5, 1995

The Education Service Center, Region VI (Revised Agenda.) Board met at 1929 Country Club Drive, Bryan, December 7, 1995, at 5:00 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9515705.

The Gray County Appraisal District Appraisal Review Board will meet at 815 North Sumner, Pampa, December 11, 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-9515755.

The Hickory Underground Water Conservation District Number 1 Board and Advisors will meet at 2005 South Bridge Street, Brady, December 12, 1995, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9515756.





Name: Yannett Mejia
Grade: 12
School: Harlandale High School, Harlandale ISD

IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Environmental Awareness Network

Notice of Monthly Meeting

Notice of Monthly Meeting of the Texas Environmental Awareness Network Tuesday, December 12, 1995-8:30a.m.

TEAN will meet at its usual location, the Texas Parks and Wildlife Department, Wild Basin Preserve Offices, 805 South Capital of Texas Highway, Austin, Texas 78746.

Agenda:

1. Introductions
2. Sign in/Mailing List Update
3. Eye on Earth Program
November 15th show-recap
December 13th show-"Energize Your Classroom"
January 17th show-"Careers That Make a Difference"
4. TEAN representation at CAST
5. TEAN representation at NSTA-San Antonio, December
6. TEAN agencies interested in participating in TNRCC's "Teaching Environmental Sciences" summer course
7. Other announcements

Mark your calendar for these 1996 TEAN meeting dates: January 9; February 13; March 12; April 9; May 14; June 11; July 9; August 13; September 10; October 8; November 12; and December 10, 1996.

For information about the meeting, or to place an item on the agenda, contact Sue Bumpous, TEAN Chair, by mail at P.O. Box 13087, MC 194, Austin, Texas 78711; by phone at (512) 239-0049; or by fax at (512) 239-0055.

Issued in Austin, Texas, on December 5, 1995.

TRD-9515612 Sigrid Cliff
Interim Cliff
Texas Environmental Awareness Network

Filed: December 5, 1995

Texas Ethics Commission

List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports, filed late reports, or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you

may contact Kristin Newkirk at (512) 463-5800 or (800) 325-8506.

Deadline: Personal Financial Statement, due May 1, 1995:

The Honorable Mary L. Parsons, P.O. Box 12884 Odessa, Texas 79768; The Honorable Yolanda Flores, 4801 Irvington Boulevard, Houston, Texas 77009; The Honorable Charles E. Chatman, 2300 West Taylor Street, Suite 1902, Sherman, Texas, 75090; The Honorable Ron Mansolo, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; The Honorable Karen Allison, 14205 Burnet Road, Suite 420, Austin, Texas, 78728-6522; The Honorable John H. Wright, 16815 Royce Crest Drive, Suite A-3, Houston, Texas 77058.

Deadline: Monthly PAC report due August 7, 1995:

Chris B. Clark, South Belt PAC, P.O. Box 750444, Houston, Texas 77275; LeRoy Bruner, International Longshoremen's Association Local #24 7811, Harrisburg, Houston, Texas 77012; Octavino Rodriguez, Webb County, Deputy Sheriffs PAC, P.O. Box 2903, Laredo, Texas 78044; Patricia N. Woodard, Vocational PAC, 11202 Janet Lee, San Antonio, Texas 78230; Rhonda Piatkowski, 3DI, Inc. PAC 1900 West Loop South, Suite 600, Houston, Texas 77027; The Honorable G. David Mena, El Paso County Democratic Party (CEC), 400 East Overland, El Paso, Texas 79901.

Deadline: Lobby Activities Report due, August 10, 1995:

Mr. Tol S. Higginbotham IV, P.O. Box 13052, Austin, Texas 78711; Mr. Richard Alvarez, P.O. Box 720121, McAllen, Texas 78504; Ms. Pauline A. Cashion, 905 D W Oltorf, Austin, Texas 78704.

Deadline: Semi-Annual Report of Contributions and Expenditures due, July 17, 1995:

Mr. Donald Fogo, P.O. Box 36346, Houston, Texas 77236.

Issued in Austin, Texas, on November 30, 1995.

TRD-9515474 Lucia Dodson
Executive Assistant
Texas Ethics Commission

Filed: November 30, 1995

General Services Commission

Notice of Readvertisement for Request for Proposal

The General Services Commission has issued a Readvertisement for Request for Proposal (RFP) #3-1095RC for rental car contract services to be provided to

the State of Texas for the period January 1, 1996-December 31, 1997. Deadline for submission of proposals is 11:00 a.m. on December 15, 1995.

Evaluation of Proposals will be based on the criteria listed in the Request for Proposals. Evaluation will be performed by an evaluation team composed of persons designated by the issuing office. The evaluation team will make a recommendation to the Director who shall determine and recommend to the Executive Director the offerors chosen for contract awards. A notice of award will be sent to the offerors whose proposals are accepted.

If you are interested in receiving a copy of the RFP, contact Gerry Pavelka, Acting Travel Manager, at (512) 463-3559 or 1711 San Jacinto, Austin, Texas to request a copy.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515551 David Ross Brown
Assistant General Counsel
General Services Commission

Filed: December 1, 1995

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Texas Department of Health

Notice of Availability of Funds to Support HIV Prevention Projects in Dallas County, Texas

The Texas Department of Health (department) requests proposals from governmental, public, and private non-profit entities to provide health education and risk reduction (HERR) programs to prevent the spread of HIV among persons at high risk in Dallas County, Texas. This project was initiated in order to fill gaps in current HERR services. Grant funds will be used to create new health education and risk reduction programs or augment existing outreach/education programs to ensure that adequate and appropriate HIV education/outreach services are available to certain unserved populations at high risk as identified in the *1996 Comprehensive HIV Prevention Plan*.

Pending notification of available federal funds, the department intends to fund three or more projects with budgets not to exceed \$100,000. The total amount available is \$229,600. Start dates for projects will be individually negotiated, with all projects ending December 31, 1996. Continuation funding after the project period will not be guaranteed but will be on a competitive basis.

Requests for Proposals (RFPs) will be mailed directly to all existing department HIV contractors in Dallas County, Texas. Others may obtain copies of the RFP by calling Laura Ramos at (512) 490-2525. Proposals must be received by 5:00 p.m. on Friday, December 29, 1995 at the Texas Department of Health, HIV/STD Health Resources Division offices, 1100 West 49th, Austin, Texas, 78756.

A public hearing will be held in Dallas County in January, 1996 to hear public comment on local applications. Persons interested in the hearing may contact Deborah Mayhew, Regional HIV Coordinator, Public Health Region 2 & 3, for more information by calling (817) 792-7213.

Issued in Austin, Texas on December 1, 1995.

TRD-9515582 Susan K. Steag
General Counsel
Texas Department of Health

Filed: December 2, 1995

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Notice of Emergency Impoundment Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered William L. George, D.D.S. (registrant-R09421) of Houston to immediately surrender to the bureau for impoundment all sources of radiation possessed under the certificate of registration. The bureau determined that the registrant had failed to comply with the Order of Revocation issued by the bureau on July 28, 1995. Continued operation of x-ray equipment without a valid certificate of registration and failure to correct health related violations found during previous inspections of the facility constitute an immediate threat to public health and safety, and the existence of an emergency. The order will remain in effect until the bureau has received, reviewed and approved the actions taken to ensure compliance with the Order of Revocation.

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 29, 1995.

TRD-9515383 Susan K. Steag
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 29, 1995

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Notice of Intent to Revoke a Certificate of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following registrant: Saginaw's Family Chiropractic Clinic, Saginaw, R17504.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid and the items in the complaint are corrected within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid or if the items in the complaint are not corrected, the certificate of registration will be revoked at the end of the 30-day period of notice. 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 December 1, 1995.

TRD-9515583 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: December 2, 1995

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Rudy Ramos, Jr., D.D.S., P.C., Houston, R19735; Matlock Road Veterinary Clinic, Arlington, R20431; Hidalgo County Health Department, Edinburg, R20453; Larry J. Goates, D.D.S., Arlington, R21154; Furside Animal Clinic, Houston, R21162; Boyd Medical Clinic, Decatur, R21236; SGS Industrial Services, Deer Park, R20462; Associate Sales, Inc. of Texas, Victoria, R20465; Southern Medical Services of Houston Inc., League City, R21132.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. 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 29, 1995.

TRD-9515382 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 29, 1995

Notice of Intent to Revoke a Radioactive Material License

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Technical Industries, Inc., Channelview, L04476.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such

radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the licensee for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material license will be revoked at the end of the 30-day period of notice. 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 29, 1995.

TRD-9515384 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: November 29, 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 Public Service Mutual Insurance Company, a foreign fire and casualty company. The home office is in New York, New York.

Application for admission in Texas for Imperial Fire and Casualty Insurance Company, a foreign fire and casualty company. The home office is in Opelousas, Louisiana.

Application for admission in Texas for Southwide Life Insurance Corporation, a foreign life, accident and health company. The home office is in Birmingham, Alabama.

Application for a name reservation in Texas for Superior HealthPlan, L.P., a domestic health maintenance organization. The home office is in Austin, 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 December 1, 1995.

TRD-9515571 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: December 2, 1995

Notice of Availability of Request

Notice of Commissioner's Intent to Designate Statistical Agents for Certain Lines of Insurance in Texas

Notice of Availability of Requests for Information and Qualifications from Organizations Interested in Being Designated as Statistical Agents for Certain Lines of Insurance in Texas

December 4, 1995

1. The Texas Commissioner of Insurance intends to designate a statistical agent, pursuant to Article 21.69, Texas Insurance Code, for each of three lines of insurance in Texas: residential property, commercial lines and workers' compensation.

2. The Commissioner seeks statements of interest and qualifications from organizations interested in being designated as the statistical agent for one or more of these three lines of insurance. Organizations interested in designation as a Texas statistical agent must provide a response to the Department's Request for Interest and Qualifications (RFIQ). The RFIQs will be available on and after the following dates:

Date of Availability

RFIQ

December 5, 1995

Residential Property

December 6, 1995

Commercial Lines

December 7, 1995

Workers' Compensation

3. The purposes of the RFIQ are to:

describe the Department's expectations regarding the services and performance of a designated statistical agent;

provide detailed instructions for interested parties to submit statements of interest and qualifications for serving as the Department's statistical agent; and

provide information necessary for interested parties to understand the requirements of a designated statistical agent and adequately respond to the RFIQ.

4. Relevant Dates for the Decision to Designate Texas Statistical Agents include:

Date

Activity

December 4, 1995

Notice of Commissioner's Intent to Designate Texas Statistical Agents for Residential Property, Commercial Lines and Workers' Compensation Insurance.

December 5, 1995

Availability of Request for Interest and Qualifications (RFIQ) from Organizations Interested in Designation as the Texas Residential Property Statistical Agent

December 6, 1995

Availability of RFIQ from Organizations Interested in Designation as the Texas Commercial Lines Statistical Agent

December 7, 1995

Availability of RFIQ from Organizations Interested in Designation as the Texas Workers' Compensation Statistical Agent

January 3, 1995

Deadline for Submission of Questions Regarding RFIQs

January 16, 1996

Questions and Answers Distributed to Interested Parties

January 30, 1996

Responses to RFIQs Due

February 20, 1995

Publication of Proposals to Designate Texas Residential Property and Commercial Lines Statistical Agents

February 27, 1995

Publication of Proposal to Designate Texas Workers' Compensation Statistical Agent

March 5, 1995

Public Hearing to Consider Proposed Designation of Texas Residential Property and Commercial Lines Statistical Agents

March 12, 1995

Public Hearing to Consider Proposed Designation of Texas Workers' Compensation Statistical Agent

5. Organizations interested in obtaining any or all of the RFIQs should contact the following:

Birny Birnbaum

Associate Commissioner for Policy and Research

Texas Department of Insurance MC 113-1C

333 Guadalupe Street

P.O. Box 149104

Austin, Texas 78714-9104

Phone: (512) 305-7194

Fax: (512) 475-2005

6. The designation of a statistical agent in Texas is at the sole discretion of the Commissioner of Insurance, subject to the statutory requirements of the Texas Insurance Code. By issuing these RFIQs, the Department makes no guarantee that one of the respondents to the RFIQs will be designated as the statistical agent for residential property, commercial lines or workers' compensation insurance.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515572

Alicia M. Fectel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: December 2, 1995

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Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2194 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 §§3.901-3.913, concerning the required reinstatement relating to mental incapacity for individual life policies without nonforfeiture benefits.

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §§3.901-3.913 were

published in the October 24, 1995 issue of the *Texas Register* (20 TexReg 8781).

Issued in Austin, Texas, on December 1, 1995.

TRD-9515578

Alicia M. Fectel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: December 2, 1995

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**Texas Natural Resource Conservation
Commission**

Application for Sludge Registration

Notice of Receipt of Application and Declaration of Administrative Completeness for sludge registrations issued during the period of November 20-December 1, 1995

MAGNA-FLOW INTERNATIONAL, INC.; located 1/2 mile south of the intersection of Farm-to-Market Road 969 and Dunlap Road, adjacent to and on the northwest side of Dunlap Road, 7-1/2 miles northwest of Del Valle in Travis County, Texas; new; 710717

This application has been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that this application is subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as it relates to the protection of the environment and public health.

Persons desiring a public meeting regarding this application should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711. The request should contain the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning this application may be obtained by contacting the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515547

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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Application for Standby Fees

Notice of Application to Levy Standby Fees issued during the period of November 20-December 1, 1995.

Application by HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 105 (the "District") for renewal of the authority to adopt and impose standby fees on undeveloped property. The amended application has been executed by the Board of Directors of the District. The District received approval from the Commission for authority to impose standby fees from the calendar years 1993 through 1995. Any revenues collected from the standby fees shall be used to pay operation and maintenance

expenses and debt service on the bonds. The amount of the standby fee requested is \$470.00 per equivalent single-family connection (ESFC) for the debt service and \$246.91 per ESFC for operation and maintenance for the calendar years 1996 through 1998 on Sections 1, 2 and 3 of Settlers Village in the District.

The Commission may approve the standby fee as requested or it may approve a lower standby fee, but it will not approve a standby fee greater than that requested. The standby fee is a personal obligation of the person owning the undeveloped property on January 1 of the year for which the fee is assessed. A person is not relieved of the obligation on transfer of title to the property. On January 1 of each year, a lien attaches to the undeveloped property to secure payment of any standby fee imposed and the interest or penalty, if any, on the fee. The lien has the same priority as a lien for taxes of the District.

The Executive Director is authorized to act on behalf of the TNRCC and 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 the 30 days after newspaper publication of this notice: 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 as follows.

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 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 or questions concerning procedures should be submitted in writing to the Office of the Chief Clerk-Mail Code 105, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3315.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515546

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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Enforcement Orders

An agreed enforcement order was entered regarding APPLE DODGE INC, Docket Number 95-1582-PST-E (TNRCC Facility I. D. 53069; Enforcement I.D. E10904) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O.

Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding CEN-TEX AG SUPPLY, Docket Number 95-1562-PST-E (TNRCC Facility I.D. 25100; Enforcement I.D. E10905) on November 22, 1995, assessing \$3,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding ETHERIDGE GAYLON, Docket Number 95-1580-PST-E (TNRCC Facility I.D. 50137; Enforcement I.D. E10771) on November 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding GARCIA JOSE S, Docket Number 95-1602-PST-E (TNRCC Facility I.D. 28072; Enforcement I.D. E10847) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding HARPER JOHN R DOING BUSINESS AS HARPER CONSTRUCTION SERVICES, Docket Number 95-1603-SLG-E (Transporter Registration Number 21881) on November 22, 1995, assessing \$810 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bill Main, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4481.

An agreed enforcement order was entered regarding JAMES FERGUSON, Docket Number 95-1601-PST-E (TNRCC Facility I.D. 26053; Enforcement I.D. E10911) on November 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding JOHN J HEBERT DISTRIBUTOR INC, Docket Number 95-1591-PST-E (TNRCC Facility I. D. 25926; Enforcement I.D. E10560) on November 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting William C. Foster, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3407.

An agreed enforcement order was entered regarding LA LOMITA INC, Docket Number 95-1563-PST-E (TNRCC Facility I.D. 54161; Enforcement I.D. E10856) on November 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding MAC'S OLD PONTIAC GMC INC, Docket Number 95-1592-PST-E (TNRCC Facility I.D. 12992; Enforcement I.D. E10813) on November 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting William C. Foster, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3407.

An agreed enforcement order was entered regarding R A BAGWELL OIL COMPANY, Docket Number 95-1594-PST-E (TNRCC Facility I.D. 31852; Enforcement I.D. E10914) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding ROCKPORT CITY OF, Docket Number 95-1581-PST-E (TNRCC Facility I.D. 37565; Enforcement I.D. E10793) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding STAR HOUSTON INC, Docket Number 95-1564-PST-E (TNRCC Facility I.D. 22935; Enforcement I.D. E10469) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding TANG CHAU, Docket Number 95-1583-PST-E (TNRCC Facility I.D. 42480; Enforcement I.D. E10916) on Novem-

ber 22, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

An agreed enforcement order was entered regarding TEXAS HAWAII LTD DBA WALNUT CREEK MOBILE HOME PARK, Docket Number 95-0682-MWD-E (Expired Permit Number 13431-01) on November 22, 1995, assessing \$11,997 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Roxanne Cook, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4496.

An agreed enforcement order was entered regarding USDA, AGRICULTURAL RESEARCH SERVICES, SUBTROPICAL AGRICULTURAL RESEARCH LABORATORY, Docket Number 95-1565-PST-E (TNRCC Facility I.D. 16653; Enforcement I.D. E10857) on November 22, 1995, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Greg Warmink, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0612.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515542 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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Enforcement Order—Public Water Supply

An Enforcement Order was entered regarding KEY LARGO UTILITIES (Docket Number 95-0059-PWS-E) on November 17, 1995, assessing \$1,600 in administrative penalties.

Information concerning any aspect of this Order may be obtained by contacting Guy Henry, Staff Attorney, Enforcement Coordination and Litigation Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6259.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515543 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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Invitation for Bids

The TNRCC is soliciting bids for Performance of Regulatory Oversight of Leaking Petroleum Storage Tank (LPST) cases.

The primary objective of regulatory oversight of LPST cases is to effectively manage corrective actions associated

with release incidents in a timely, cost-effective manner and in accordance with State laws and agency rules, guidance and policy. LPST cases are managed throughout release determination, assessment, prioritization, risk assessment, remediation, monitoring and site closure.

Oversight of LPST cases may at a minimum include: review of assessment reports, risk assessment reports, remedial action plans, monitoring reports, cost proposals, site closure requests, and all other technical reports and case file information to issue appropriate responses to the responsible party; response to telephone, written or direct contact inquiries by responsible parties, consultants, the general public, legislative offices, government entities, TNRCC personnel, or other interested parties; and maintenance of databases and records.

A mandatory Pre-Bid Conference will be held at the TNRCC Park 35 Complex, Building E, Room 201S, at 10:00 a.m., on December 18, 1995. Attendance at this Conference is mandatory for all prospective bidders. The TNRCC requests that prospective bidders reserve questions and comments for this Conference so that all prospective bidders will be privy to the responses provided by the TNRCC.

Bid Opening will be at 3:00 p.m., January 8, 1996.

An Invitation For Bids (IFB) package has been mailed to companies listed under Class 926 on the General Services Commission (GSC) Master Bidders List and to the parties who requested a copy in accordance with the notice printed in the October 3, 1995 edition of the *Texas Register*. Any prospective bidder who is not on the GSC bid list and has not already requested a copy in response to the previous notice should fax a request to the following location and refer to Requisition Number 582-6-41352: ATTN: Charlie Willis, Purchasing Section, FAX (512) 239-6004.

Issued in Austin, Texas, on December 4, 1995.

TRD-9515645 Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 4, 1995

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Notices of Applications for Waste Disposal Permits

Issued during the period of November 21, 1995-December 1, 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.

EFFLUENT TREATMENT SERVICES; commercial storage and processing facility for the management of Class I and II non-hazardous industrial solid waste; The facility is located at 6401 Bradley Space P in the Minnis Industrial Park in Haltom City, Tarrant County, Texas; renewal; SW-39061.

TEMPLE-INLAND FOREST PRODUCTS CORPORATION; The applicant operates an integrated forest products complex; The plant site is north of Farm-to-Market Road 2426 approximately 1/4 mile east of the intersection of Farm-to-Market Road 2426 and Farm-to-Market Road 1 in the City of Pineland, Sabine County, Texas; amendment; 01820.

CITY OF BALLINGER; The wastewater treatment facilities are approximately 3,000 feet southeast of U.S. Highway 67 and Elm Creek Crossing and 4,000 feet east of the intersection of U.S. Highways 67 and 83 near the Courthouse in Rannels County, Texas; renewal; 10325-03.

SOUTHWESTERN ELECTRIC POWER COMPANY; The permittee operates the Welsh Steam Electric Station; The plant site is approximately two miles northwest of the Town of Cason, Texas and approximately one and one-half miles north of State Highway 11, Titus County, Texas; amendment; 01811.

PARIS GOLF AND COUNTRY CLUB, INC.; The wastewater treatment facilities are northeast of Paris and north of Farm-to-Market Road 195, approximately 1/2 mile west-southwest of the Farm-to-Market Road 195 crossing of Six Mile Creek in Lamar County, Texas; renewal; 11400-01.

POINT AQUARIUS MUNICIPAL UTILITY DISTRICT; The wastewater treatment facilities are approximately 1 mile southwest of the intersection of Farm-to-Market Road 1097 and Aquarius Boulevard in Montgomery County, Texas; renewal; 11219-01.

CITY OF NEW WAVERLY; The wastewater treatment facilities are on the west bank of Chicken Creek, approximately 1,600 feet south of the intersection of Chicken Creek to State Highway 150 in Walker County, Texas; amendment; 11020-01.

CITY OF KOUNTZE; The wastewater treatment facilities are approximately 5,000 feet east-northeast of the intersection of U.S. Highway 69 and State Highway 326 and approximately 0.25 mile southeast of the intersection of Old Highway 418 and the Gulf Colorado and Santa Fe Railroad in Hardin County, Texas; renewal; 10203-03.

GUADALUPE-BLANCO RIVER AUTHORITY; The wastewater treatment facilities are on the east bank of the Guadalupe River, immediately north of U.S. Highway 59 in Victoria County, Texas; amendment; 11078-01.

CITY OF LA VILLA; The wastewater treatment facilities are approximately 1,300 feet west of the western levee of North Floodway and 2,500 feet north of State Highway 107, east of La Villa in Hidalgo County, Texas; new; 13794-01.

UNION CARBIDE CORPORATION; The applicant operates an organic chemicals manufacturing plant; The plant site is at 3301 5th Avenue South in the City of Texas City, Galveston County, Texas; renewal; 00448.

WILLOW RUN PUBLIC SERVICE, INC.; The wastewater treatment facilities are approximately 1-1/8 miles west southwest of the intersection of Interstate Highway 45 and Farm-to-Market Road 149; approximately 1,400 feet southwest of the intersection of Stuebner-Airline Road and Farm-to-Market Road 149 in Harris County, Texas; renewal; 10699-01.

CITY OF ELDORADO; The wastewater treatment facilities are approximately 5,000 feet northeast of the intersection of U.S. Highway 277 and U.S. Highway 915 in Schleicher County, Texas; amendment; 10165-01.

CITY OF HALLSVILLE; The wastewater treatment facilities are approximately 6,200 feet east of the intersection of Farm-to-Market Road 450 and U.S. Highway 80 and 1,100 feet south of U.S. Highway 80 in Harrison County, Texas; amendment; 10460-01.

BROWNSVILLE NAVIGATION DISTRICT; The wastewater treatment facilities are on the north side of State Highway 48 approximately 0.7 mile east of the intersection of State Highway 48 and Farm-to-Market Road 511 northeast of City of Brownsville in Cameron County, Texas; renewal; 10332-05.

PONDEROSA JOINT POWERS AGENCY; The wastewater treatment facilities are at 17940 Butte Creek Drive in Houston, immediately south of Cypress Creek and approximately 2.3 miles west of Interstate Highway 45 in Harris County, Texas; renewal; 11081-01.

CITY OF WHARTON; The wastewater treatment facilities are approximately 0.8 mile due north of the intersection of U.S. Highway 59 and Farm-to-Market Road 102, 1.8 miles northwest of the intersection of Richmond Road (State Highway 60) and Ogden Street (Farm-to-Market Road 102) in Wharton County, Texas; renewal; 10381-02.

BROWNING-FERRIS, INC.; landfill facility; The plant site is on a 161-acre tract 2.4 miles south of Interstate Highway 10 on Jenkins Road, Chambers County, Texas; renewal; 03064.

J. M. HUBER CORPORATION; The applicant operates a limestone mine and processing plant; The plant site is adjacent to U.S. Highway 281, approximately 1.3 miles south of the City of Marble Falls in Burnet County, Texas; renewal; 02411.

LA POYNOR INDEPENDENT SCHOOL DISTRICT; The wastewater treatment facilities are on the La Poynor I.S.D. campus, approximately 2 miles southeast of the intersection of U.S. Highway 175 and Farm-to-Market Road 2588 in Henderson County, Texas; renewal; 13538-01.

TEMPLE-INLAND FOREST PRODUCTS CORPORATION; The permittee operates a wet deck log storage facility for hardwood and pine logs; The plant site is approximately 0.6 mile east of State Highway 1 and 0.5 mile north of Farm-to-Market Road 2426 in the City of Pineland in Sabine County, Texas; new; 03848.

CITY OF LORENA; The wastewater treatment facilities are adjacent to the northern boundary of Lorena Cemetery and immediately west of the Missouri-Kansas-Texas Railroad right-of-way, approximately 3,500 feet south of the intersection of Center Street and Front Street in McLennan County, Texas; renewal; 12195-01.

CITY OF WILLS POINT; The wastewater treatment facilities are off Goshen Avenue, approximately 6,000 feet south of U.S. Highway 80 and 4,000 feet east of State Highway 47 in Van Zandt County, Texas; renewal; 10623-01.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515548 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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**Notice of Opportunity to Comment on
Permitting Actions.**

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.

Consideration of the application of Rodney L. Walston doing business as Rosehill Ranchettes Water System to Acquire the Facilities and Transfer Water CCN Number 11955 Paul Rosenberg doing business as Rosehill Ranchettes Water System in Harris County, Texas. (Application #30960-S, Doug Holcomb)

Consideration of the application of Jerry W. Rollins doing business as H & S Water System to Purchase Facilities and to Transfer Water CCN Number 11731 from Polly Driver doing business as H & S Water System in Aransas County, Texas. (Application #30951-S, Doug Holcomb)

Consideration of the application of Blacksher Development Corporation for a Rate/Tariff Change; Water and Sewer Certificates of Convenience and Necessity (CCN) Pending in Orange County, Texas. (Application #30893-G, Doug Holcomb)

OCCIDENTAL CHEMICAL CORPORATION for a minor amendment to Permit Number 01539 in order to revise the biomonitoring requirements following completion of a toxicity reduction evaluation. The permit currently authorizes a discharge of treated process wastewater, stormwater, and previously monitored effluents at volume not to exceed an average flow of 2,150,000 gallons per day plus an intermittent, flow variable discharge of stormwater from a chloro-alkali manufacturing plant. The plant site is on the east side of State Park Road 1836 (Vista Road) approximately 1,000 feet north of the intersection with State Highway 134 (Battleground Road) in the City of La Porte, Harris County, Texas.

ALUMAX PRODUCTS, INC. for a minor amendment to Permit Number 02742 in order to revise the biomonitoring requirements. The current permit authorizes a discharge of treated process and utility wastewaters at a volume not to exceed an average flow of 127,000 gallons per day via 002, which will remain the same. The plant site is approximately five miles west of the City of Texarkana, southwest of the junction of U.S. Interstate Highway 30 and Farm Road 989 and adjacent to the northern limit of the Town of Nash, Bowie County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 33 for a minor amendment to Permit Number 11904-01 in order to change the chlorine residual from 1.0 mg/l after a detention time of at least 20 minutes to 0.5 mg/l after a detention time of at least 40 minutes. The current permit authorizes a discharge of treated domestic wastewater effluent at an interim volume not to exceed an average flow of 2,000,000 gallons per day and a final volume not to exceed an average flow of 3,000,000 gallons per day, which will remain the same. The wastewater treatment facilities are approximately 700 feet east of the intersection of Greens Bayou with Veterans Memorial Drive on the north bank of Greens Bayou in northwest Harris County, Texas.

Application Number 23-851F by Starr County WCID #2, MUD for a Texas Water Code Section 11.122 Water Use Permit Application. Amendment to Certificate Number 23-851 to sever 149.7525 acre-feet of Class "B" irrigation water rights from Certificate Number 23-652, and to change ownership, point of diversion, purpose and place of use authorized for these water rights and to combine them with water rights owned by applicant under Certificate

Number 23-3997, Rio Grande, Rio Grande Basin, Starr County, Texas. (Kellye Rila 239-4612)

Consideration of the applications of the City of Rockdale to Amend Water CCN Number 10012 and Sewer CCN Number 20004 in Milam County, Texas. (Application #30943-C and 30944-C, City of Rockdale)

Consideration of the application of City of Buda to Cancel Sewer Certificate of Convenience and Necessity Number 20647 in Hays County, Texas. (Application #30838-Q, Vera Poe)

Consideration of the application of Southwest Milam Water Supply Corporation to Decertify a Portion of Water Certificate of Convenience and Necessity Number 10027 in Milam County, Texas. (Application #30899-C, Darrell Nichols)

Consideration of a Proposed Order Acting on the Petition by Beeler/Sanders V Ltd. Requesting Appointment of Temporary Directors for Harris County Municipal Utility District Number 199. For Executive Director consideration. The Petitioner requests the Commission to appoint Doug Bailey and Todd Mueller to terms ending May, 1996, and A. David Schwarz, Sean A. Moore and Bruce H. Phillips to terms ending May, 1998. (TNRCC Internal Control Number 101995-D03; Robert Ferguson).

Consideration of an Order Approving the Application by Northwest Harris County Municipal Utility District Number 5 for Approval of \$2,400,000 Unlimited Tax and Revenue Bonds, Fourth Issue, 8.25% Net Effective Interest Rate, Series 1995. The District's application requests Commission approval of a bond issue to finance District administration building, WWTP improvements, land costs, regional drainage fees, detention pond construction, and water, wastewater & drainage facilities for Fairwood Section 6 and Lakewood Oaks Estates Section 3. (TNRCC Internal Control Number 050595-D03, Robert Ferguson)

Issued in Austin, Texas, on December 1, 1995.

TRD-9515544 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 1995

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**Notices of Receipt of Application and
Declaration of Administrative
Completeness for Municipal Solid
Waste Management Facility Permits
for the Week Ending December 1,
1995**

APPLICATION BY ENVIROCLEAN MEDICAL SERVICES, LLC; Proposed Permit Number MSW2245, authorizing a Type VWI (thermal oxidation unit) medical and municipal solid waste facility permit. The site covers approximately 3.0 acres of land and is to receive approximately 48 tons of medical and municipal solid waste per day. The proposed site is located on the west side of Industrial Lane, which is bordered on the north by Wood Street and on the south by Kingsley Road, in the City of Dallas, Dallas County, Texas.

CITY OF DENTON, Proposed Permit Amendment Number 1590-A, authorizing an amendment to their existing Type I municipal solid waste management facility permit.

The amendment would allow the applicant to vertically and laterally expand their facility. The site covers approximately 243 acres of land and is to continue to receive approximately 104,000 tons of Type I municipal solid waste annually. The facility is located adjacent to the south side of Edwards Road, approximately 1,800 feet east of the intersection of Edwards Road and Mayhill Road, approximately 1,800 feet south of the sewage treatment plant, and approximately 1.7 miles east of the intersection of Loop 288 and Interstate Highway 35E, in the city of Denton, Denton, 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 December 1, 1995.

TRD-9515545 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 1, 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) will conduct a public hearing to receive testimony concerning revisions to Chapter 344.

The TNRCC proposes the repeal of Chapter 344, relating to Irrigators Advisory Council, and a new Chapter 344, relating to Landscape Irrigators.

The purpose of the proposed new sections is to provide a licensing and regulatory framework for landscape irrigators and installers in accordance with recent legislation. The proposed new rules reflect the implementation of new legislation (House Bill 2510) passed by the 74th Legislature regarding the membership and terms of offices of the Texas Irrigators Advisory Council, establishment of criteria for a continuing education program for licensed irrigators, increased maximum limits on fees the agency is allowed to charge for taking an examination and/or issuance of a certificate of registration, and better defined processes for certificate renewal, complaints and enforcement.

A public hearing on the proposal will be held 10:00 a.m. on January 3, 1996 in Room 254S, Building E, of the TNRCC, located at 12100 Park 35 Circle, Austin, Texas. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration.

Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments on the proposal should mention Log number 95148-344-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Written 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 Jack Kramer, Compliance Support Division, (512) 239-6300.

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 December 4, 1995.

TRD-9515644 Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 4, 1995

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**North Central Texas Council of
Governments**

Notice of Consultant Contract Award

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of consultant contract award. The consultant proposal request appeared in the August 11, 1995, issue of the *Texas Register* (20 TexReg 6161). The consultant will provide technical assistance and support in the Major Investment Study process for the western section of the Loop 9 corridor from S.H. 360 to I.H. 35W in Tarrant County.

The consultant selected for this project is Barton-Aschman Associates, Inc., 5485 Belt Line Road, Suite 199, Dallas, Texas 75240. The maximum amount of this contract is \$59,285. The contract began December 1, 1995 and will terminate November 30, 1996.

Issued in Arlington, Texas, on November 17, 1995.

TRD-9515463 Mike Eastland
Executive Director
North Central Texas Council of
Governments

Filed: November 30, 1995

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Texas Parks and Wildlife Department

**Notice of Public Comment Hearing for
Permit to Remove Sand, Gravel or
Marl from Public Waters of the State
of Texas-Nueces River (Permit
Number SNR 76-061)**

Notice is hereby given that City of Uvalde, whose address is P.O. Box 799, Uvalde, Texas 78801, as of November

16, 1995, filed an administratively complete application with the Texas Parks and Wildlife Department for a non-revenue permit to remove up to 110 tons of gravel per month from the Nueces River, Uvalde County, by the use of a front end loader at a site located approximately ten miles west of Uvalde, Texas, starting south of the existing old one-way bridge and extending 440 feet, adjacent to the properties of Vanco Trusts, Charles Thomas Lambright, Cora Carter Felts, Joe M. Everett, and Joseph G. Smyth, III.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in Chapter 86 of the Parks and Wildlife Code and will not authorize the crossing of any private property.

The hearing to receive public comment on this application will be conducted on Tuesday, December 19, 1995 at 3:00 p.m. in Conference Room A-200 at the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, at which time all interested persons may appear and be heard. Comments may be mailed to the Department at the following address, or presented orally or in writing at the hearing. Comments sent by mail should be received by the Department prior to the public comment hearing.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to the Administrative Procedure Act, Government Code, §2001.054. Any person wishing to request such a hearing should submit a written request to Paul M. Shinkawa at the following address. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact which may be suffered by the requestor. Requests for formal contested case hearings must be received by the Department no later than 30 days after the date of issuance of this notice as listed in this notice or by the close of the public comment hearing, whichever is later.

Further information concerning any aspect of the application or hearing may be obtained by contacting Paul M. Shinkawa, Resource Protection Attorney, 4200 Smith School Road, Austin, 78744 (512) 389-4433 Fax: (512) 389-8058.

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

TRD-9515376 Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife Department

Filed: November 29, 1995

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**Notice of Public Comment Hearing for
Permit to Remove Sand, Gravel or
Marl from Public Waters of the State
of Texas-North Sulphur River (Permit
Number SNR77-028)**

Notice is hereby given that Delta County, whose address is 200 West Cooper, Cooper, Texas 75432, as of November 20, 1995, filed an administratively complete application with the Texas Parks and Wildlife Department for a non-revenue permit to remove up to 2,700 tons of gravel per month from the North Sulphur River, Delta County, by the use of a front end loader at the following sites:

Site 1: located approximately three miles northeast of Pecan Gap, Texas starting at a point two miles upstream of

F.M. Highway 38 and extending downstream for 1.36 miles adjacent to the properties of J. C. Lancaster, Ellen Miller, and D. K. Foster;

Site 2: located approximately eight miles north of Cooper, Texas starting at a point 3,200 feet upstream of F.M. Highway 2675 and extending downstream for 1,400 feet adjacent to the properties of Billy Joe Stanley and Bruce Hirley;

Site 3: located approximately eight miles north of Cooper, Texas starting at a point 300 feet downstream of F.M. Highway 2675 and extending downstream for 2,600 feet adjacent to the property of Billy J. Stanley;

Site 4: located approximate three miles northeast of Enloe, Texas starting at a point 1,250 feet downstream of the Southern Pacific Bridge and extending downstream for 1,350 feet adjacent to the property of Joe Foust;

Site 5: located approximately three miles northeast of Enloe, Texas starting at a point 1,550 feet upstream of the Mount Joy Crossing and extending downstream 1,550 feet adjacent to the properties of Dean Gillean, Dr. Pat Cox, and Mr. William Justice, Jr.;

Site 6: located approximately three miles northeast of Enloe, Texas starting at a point 3,300 feet downstream for 2,225 feet adjacent to the properties of W. B. Burns, Rae Davis, and Pat Cox;

Site 7: located approximately two miles north of Vasco, Texas starting at a point 11.9 miles downstream of the State Highway 24 bridge and extending downstream for 2,800 feet adjacent to the properties of Wesley Cochran, W. W. Vernon, L. D. Malone, and John McCorley. To reach the proposed site, turn north at the Vasco Store on an unnamed road and go 1.5 miles to the site;

Site 8: located approximately three miles north of Pacio, Texas starting at a point 8.2 miles downstream of the State Highway 24 bridge and extending downstream for 3,000 feet adjacent to the properties of Cotton McDarrell. To reach the proposed site, turn north at the Pacio Store on an unnamed road, and go one mile to the site; and

Site 9: located approximately one mile north of Kensing, Texas starting at a point 14 miles downstream of the State Highway 24 bridge and extending downstream for 3,120 feet adjacent to the properties of Alvin Malone. To reach the proposed site, turn north from Highway 19 in Kensing at the ASGS Ranch Signpost onto an unnamed road and go one mile to the site.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in Chapter 86 of the Parks and Wildlife Code and will not authorize the crossing of any private property.

The hearing to receive public comment on this application will be conducted on Tuesday, January 9, 1996 at 3:00 p.m. in Conference Room A-200 at the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, at which time all interested persons may appear and be heard. Comments may be mailed to the Department at the following address, or presented orally or in writing at the hearing. Comments sent by mail should be received by the Department prior to the public comment hearing.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to the Administrative Procedure Act, Government Code, §2001.054. Any person wishing to request such a hearing should submit a written request to Paul Shinkawa

at the following address. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact which may be suffered by the requestor. Requests for formal contested case hearings must be received by the Department no later than 30 days after the date of issuance of this notice as listed below or by the close of the public comment hearing, whichever is later.

Further information concerning any aspect of the application or hearing may be obtained by contacting Paul Shinkawa, Resource Protection Attorney, 4200 Smith School Road, Austin, 78744 (512) 389-4433 Fax: (512) 389-8058.

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

TRD-9515377

Bill Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife Department

Filed: November 29, 1995



Public Utility Commission

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 Structural Metals Inc. in Seguin, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Structural Metals Inc. pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15049.

The Application. Southwestern Bell Telephone Company is requesting approval of a 120-station addition to the existing PLEXAR-Custom service for Structural Metals Inc. The geographic service market for this specific service is the Seguin, 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 December 1, 1995.

TRD-9515566

Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 2, 1995



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Prairie View A&M University in Prairie View, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Prairie View A&M University pursuant to Public Utility

Commission Substantive Rule 23.27. Tariff Control Number 15057.

The Application. Southwestern Bell Telephone Company is requesting approval of a 1071-station addition to the existing PLEXAR-Custom service for Prairie View A&M University. The geographic service market for this specific service is the Prairie View, 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 December 1, 1995.

TRD-9515567 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 2, 1995

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Railroad Commission of Texas
Notice of CNG/AE Task Force Meeting

The Railroad Commission of Texas will hold a meeting of the CNG/AE Task Force on January 11, 1996, in the William B. Travis Building, Room 9-147, 1701 North Congress Avenue, Austin, Texas, from 8:30 a.m. to 5:00 p.m. to consider amendments to the Commission's *Regulations for Compressed Natural Gas* to consider proposed revisions relating to specification requirements, including consideration of the use of acoustic emissions testing as a recertification test for CNG cylinders. The changes result from recent National Highway Transportation Safety Association rulemakings. Technical experts familiar with CNG and acoustic emissions testing will discuss possible rule language and the requirements that should be adopted. The task force's recommendations will be presented at a later date to the commissioners for proposal and adoption as a regular rulemaking item. For further information, call Kellie Martinec, Rules Coordinator, Office of General Counsel, at (512) 475-1295.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515580 Mary Ross McDonald
Acting General Counsel, Office of General
Counsel
Railroad Commission of Texas

Filed: December 2, 1995

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Notice of LP-Gas Advisory Committee Meeting

The Railroad Commission of Texas will hold a meeting of the LP-Gas Advisory Committee on January 9, 1996, in the William B. Travis Building, Room 9-147, 1701 North Congress Avenue, Austin, Texas, from 9:00 a.m. to 12:00 p.m. to consider the following matters:

9:00 a.m.—Convene in Room 9-147; call to order; opening remarks; review of meeting minutes; old business

12:00 p.m.—Adjourn

Items for Discussion

1. 9.964—Allow use of Schedule 40 pipe if the connecting joints are welded;

2. Amend rules to allow use of corrugated stainless steel flexible tubing for supply piping;

3. Schedule next regular (quarterly) meeting; and

4. Open discussion

For further information, call Kellie Martinec, Rules Coordinator, Office of General Counsel, at (512) 475-1295.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515579 Mary Ross McDonald
Acting General Counsel, Office of General
Counsel
Railroad Commission of Texas

Filed: December 2, 1995

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Notice of NFPA 54 Task Force Meeting

The Railroad Commission of Texas will hold a meeting of the NFPA 54 Task Force on January 9, 1996, in the William B. Travis Building, Room 9-147, 1701 North Congress Avenue, Austin, Texas, from 1:30 p.m. to 5:00 p.m., and continuing on January 10, 1996, from 8:30 a.m. to 5:00 p.m., if necessary, to consider the consolidation of the National Fire Protection Association's Pamphlet 54, *National Fuel Gas Code*, with the Commission's LP-Gas Safety Rules. Technical experts in the LP-gas industry will review NFPA 54 to determine what, if any, exceptions should be allowed in Texas, and how those exceptions should be adopted. The task force's recommendations will be presented at a later date to the commissioners for proposal and adoption as a regular rulemaking item. For further information, call Kellie Martinec, Rules Coordinator, Office of General Counsel, at (512) 475-1295.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515581 Mary Ross McDonald
Acting General Counsel, Office of General
Counsel
Railroad Commission of Texas

Filed: December 2, 1995

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Railroad Commission of Texas Demand-Side Management Workshop

On Thursday, December 14, 1995, from 9:00 a.m. to 5:00 p.m., the Texas Railroad Commission will sponsor a workshop on criteria for effective demand-side management programs. The workshop will be held in Room E2.016 of the Capitol Extension, 1400 North Congress Avenue, Austin, Texas 78701. Participants will include Railroad Commissioners, Public Utility Commissioners, legislators, and agency and legislative staff. The purpose of the workshop is to help inform key policymakers and start a dialogue between the two regulatory agencies in the interest of fostering a fair and open energy market in Texas. Additional information may be obtained from Heather Ball, Assistant Director, Alternative Fuels Research and Education Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; (512) 463-7359.

Issued in Austin, Texas, on December 1, 1995.

TRD-9515578 Mary Ross McDonald
Acting General Counsel, Office of General
Counsel
Railroad Commission of Texas

Filed: December 2, 1995

PUBLICATION SCHEDULE

The following is the 1995 Publication Schedule for the Texas Register. Listed below are the deadline dates for the June-December 1995 issues of the Texas Register. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the Texas Register are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 7, November 10, November 28, and December 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

| FOR ISSUE PUBLISHED ON | ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M. | ALL NOTICES OF OPEN MEETINGS BY 10 A.M. |
|-------------------------|---|---|
| 75 Tuesday, October 3 | Wednesday, September 27 | Thursday, September 28 |
| 76 Friday, October 6 | Monday, October 2 | Tuesday, October 3 |
| Tuesday, October 10 | Wednesday, October 4 | Thursday, October 5 |
| 77 Friday, October 13 | THIRD QUARTERLY INDEX | |
| 78 Tuesday, October 17 | Wednesday, October 11 | Thursday, October 12 |
| 79 Friday, October 20 | Monday, October 16 | Tuesday, October 17 |
| 80 Tuesday, October 24 | Wednesday, October 18 | Thursday, October 19 |
| 81 Friday, October 27 | Monday, October 23 | Tuesday, October 24 |
| 82 Tuesday, October 31 | Wednesday, October 25 | Thursday, October 26 |
| 83 Friday, November 3 | Monday, October 30 | Tuesday, October 31 |
| 84 Tuesday, November 7 | Wednesday, November 1 | Thursday, November 2 |
| Friday, November 10 | No Issue Published | |
| 85 Tuesday, November 14 | Wednesday, November 8 | Thursday, November 9 |
| 86 Friday, November 17 | Monday, November 13 | Tuesday, November 14 |
| 87 Tuesday, November 21 | Wednesday, November 15 | Thursday, November 16 |
| 88 Friday, November 24 | Monday, November 20 | Tuesday, November 21 |
| Tuesday, November 28 | NO ISSUE PUBLISHED | |
| 89 Friday, December 1 | Monday, November 27 | Tuesday, November 28 |
| 90 Tuesday, December 5 | Wednesday, November 29 | Thursday, November 30 |
| 91 Friday, December 8 | Monday, December 4 | Tuesday, December 5 |
| 92 Tuesday, December 12 | Wednesday, December 6 | Thursday, December 7 |
| 93 Friday, December 15 | Monday, December 11 | Tuesday, December 12 |
| 94 Tuesday, December 19 | Wednesday, December 13 | Thursday, December 14 |
| 95 Friday, December 22 | Monday, December 18 | Tuesday, December 19 |
| 96 Tuesday, December 26 | Wednesday, December 20 | Thursday, December 21 |
| Friday, December 29 | NO ISSUE PUBLISHED | |