

TEXAS REGISTER

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

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Doc Wright

Circulation/Marketing
Roberta Knight
Jill S. Ledbetter

TAC Editor
Dana Blanton

TAC Typographer
Madelino Christer

Documents Section
Supervisor
Patty Webster

Document Editors
Janicene Allen
Robert Macdonald

Open Meetings Clerk
Jamie Alworth

Production Section
Supervisor
Ann Franklin

Production Editors/
Typographers
Carla Carter
Mimi Sanchez
Chad Kissinger

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except March 11, July 22, November 11, and November 29, 1994. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701.

Subscription costs: one year - printed, \$95 and electronic, \$90; six-month printed, \$75 and electronic, \$70. Single copies of most issues are available at \$7 per copy.

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

How to Use the Texas Register

Information Available: The 10 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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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

Open Meetings - notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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 22, April 16, July 13, and October 12, 1993). 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 §3.704950, 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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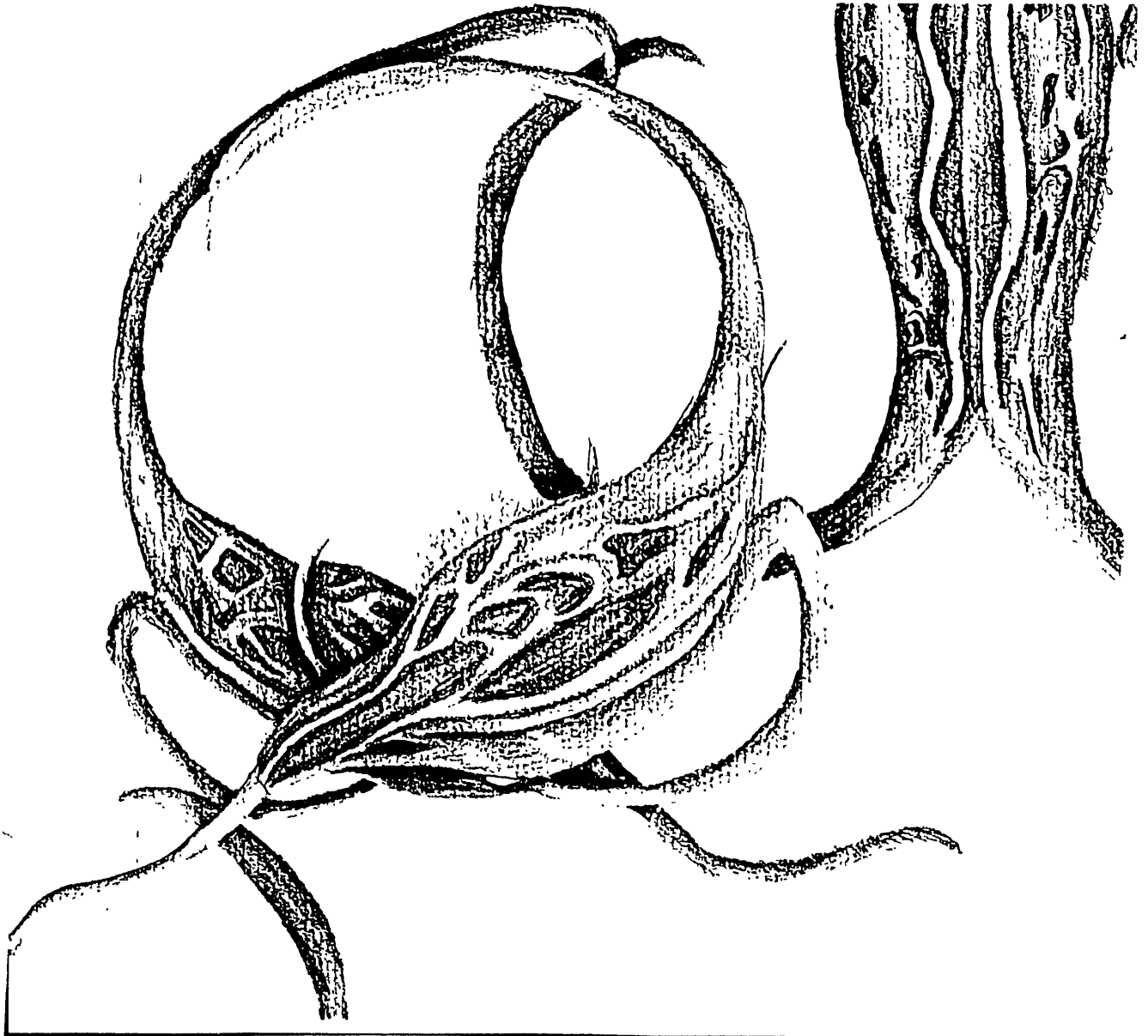
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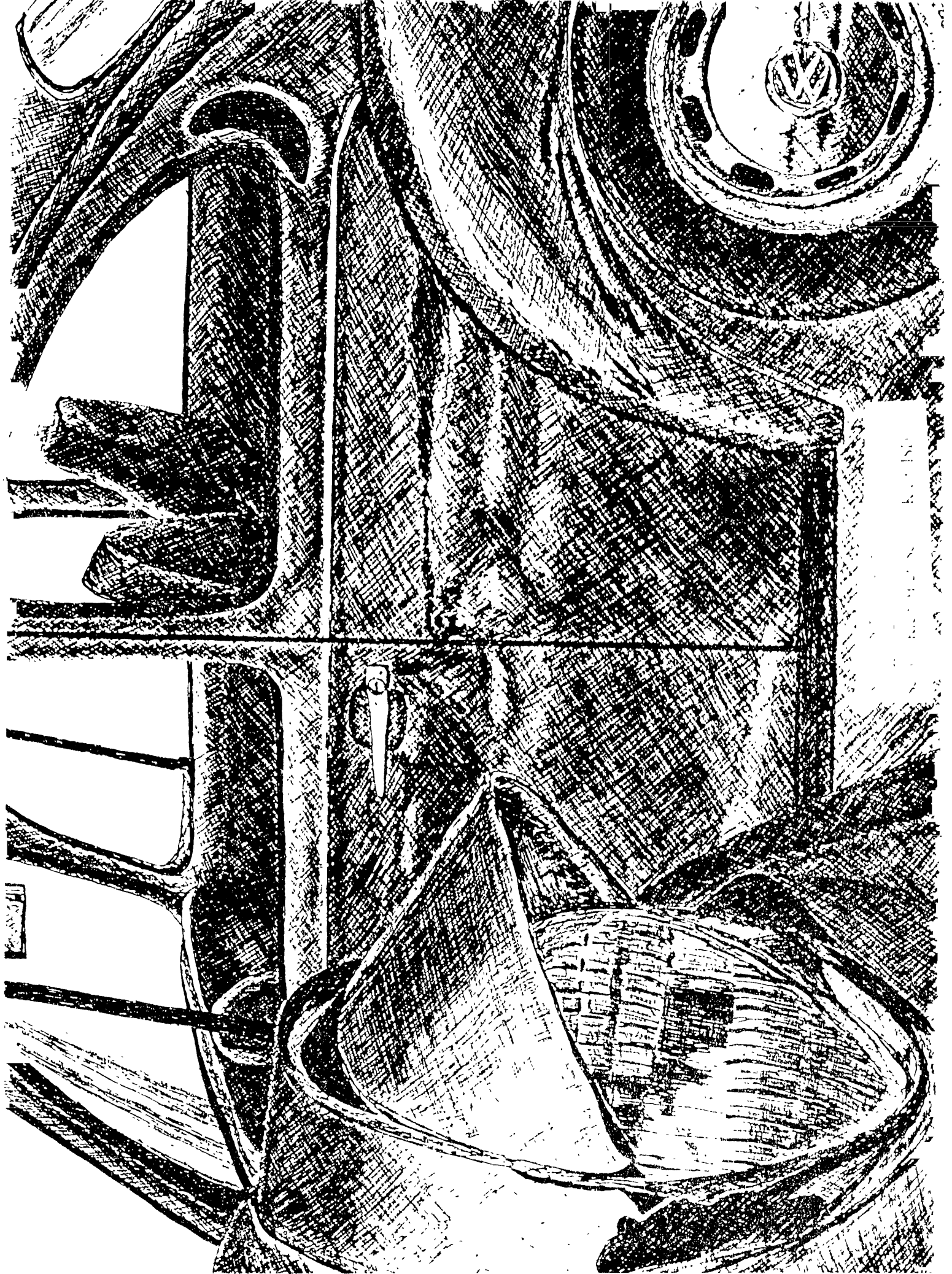
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Name: Sarah Oscarson
Grade: 12
School: Klein High School, Klein ISD



Name: Anna Klimaszewski
Grade: 12
School: Klein High School, Klein ISD





Name: Christine Ogilvie
Grade: 11
School: Klein High School, Klein ISD



Name Christine Ogilvie
Grade 11
School Klem High School, Klem ISD

ATTORNEY GENERAL

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

Letter Opinions

LO-93-114 (ID#-21704). Request from Marcus D Taylor, Criminal District Attorney of Wood County, Quitman, concerning whether the nepotism statutes require the termination of a deputy sheriff who has been employed by the elected sheriff for at least five years prior to the sheriff's marriage to the deputy's sister.

Summary of Opinion. The nepotism provisions, now codified as Chapter 573 of the Government Code, do not require the termination of a deputy sheriff upon his sister's marriage to the sheriff when the deputy has served in his position for over one year continuously immediately before the sheriff's election to his present term. While the deputy sheriff continues in his position, the sheriff "may not participate in any deliberation or voting on the appointment, reappointment, change in status, compensation or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees."

TRD-9436094

LO-93-115 (RQ-607). Request from Allen Place, Chair, Committee on Criminal Jurisprudence, Texas House of Representatives, Austin, concerning whether it is a violation of the Private Investigators and Private Security Agencies Act for a reserve peace officer to perform traffic control flagperson duties on a construction site without being licensed by the Texas Board of Private Investigators and Private Security Agencies.

Summary of Opinion. In the absence of an applicable statutory exception, it is a violation of §13(a) of the Private Investigators and Private Security Agencies Act (the act), Texas Civil Statutes, Article 4413(29bb), for a reserve peace officer to perform any service as a "guard company" as defined in §1(4) of the act unless the officer is licensed by the Texas Board of Private Investigators and Private Security Agencies.

TRD 9436095

LO-93-116 (ID#-22879). Request from Judith Zaffrin, Chair, Health and Human Services Committee, Texas State Senate, Austin, concerning Scope of requirement of the Local Government Code, §232.004, that a utility provider in certain counties hold a certificate of compliance with platting requirements with respect to land it connects with utility service.

Summary of Opinion. Subsection (d) of §232.004, Local Government Code, excepts from that section's requirement that a utility provider in certain counties hold a certificate of compliance with platting requirements before connecting the utility service it provides "land" which the provider had connected or served with the utility service prior to September 1, 1989, even if there have been changes subsequent to that date in the persons or entities receiving and/or being billed for such service.

TRD-9436096

LO-93-117 (RQ-625). Request from Jeannene Fox, Acting Administrator, Texas Alcoholic Beverage Commission, Austin, concerning whether the Texas Lottery Commission may accept as security under the Bingo Enabling Act, Texas Civil Statute, Article 179d, §38(a), a written promise of a licensee to pay taxes and bingo prize fees if the commission deems that promise sufficient to secure the payment of required taxes and prize fees.

Summary of Opinion. The Texas Lottery Commission may not in any circumstance, accept as security under the Bingo Enabling Act, Texas Civil Statute, Article 179d, §38(a) a licensee's written promise to pay taxes and bingo prize fees if the promise is not subject to forfeit.

TRD-9436097

LO-94-001 (ID#-22815). Request from Ron Wilson, Chair, Committee on Licensing and Administrative Procedures, Texas House of Representatives, Austin, concerning

whether a private psychiatric treatment facility may provide airfare to a patient.

Summary of Opinion. It is beyond the purview of the opinion process to scrutinize particular contracts between private individuals or entities and to determine whether they satisfy specific statutory requirements or are otherwise legally permissible. A private psychiatric facility which pays the transportation costs of patients should consider whether its practice violates §307(c) of Article 449 (b), Texas Civil Statute, and the Health and Safety Code, §161.091, as well as any other applicable state or federal statute or regulation.

TRD 9436098

LO 94-002 (ID#-22682). Request from Bob Bullock, Lieutenant Governor of Texas, Austin, concerning whether the Sunset Act of the Government Code, Chapter 325 provides the exclusive means of reviewing the Public Utility Commission during the 73rd Legislative Session and prevents interim legislative committees from studying the regulation of public utilities and the Public Utility Commission.

Summary of Opinion. Pursuant to House Concurrent Resolution 101 of the 73rd Legislature, the lieutenant governor and the speaker of the house have created the Joint Interim Committee on Telecommunications and the Joint Interim Committee on the Public Utility Commission to study and make recommendations on specific issues relating to the regulation of telecommunications and the organization, procedures, and functions of the Public Utility Commission and the Office of Public Utility Counsel.

The Sunset Act, Government Code, Chapter 325, requires the Sunset Advisory Commission and Office of Public Utility Counsel by September 1, 1994. The Sunset Act does not provide the exclusive means by which the Public Utility Commission may be reviewed, and does not prohibit or limit either of the two interim committees from per-

forming their charges. The charges to the two committees are not in conflict with the Texas Sunset Act. Neither a concurrent resolution nor an interim committee established pursuant to a concurrent resolution has authority to usurp the functions of the Sunset Advisory Commission or otherwise to prevent it from carrying out its statutory duties.

TRD-9436099

LO-94-003 (ID#-22243). Request from Albert G. Valadez, District Attorney, 83rd Judicial District of Texas, Fort Stockton, concerning grand jury terms in the 83rd District Court, Brewster County.

Summary of Opinion. Pursuant to the provisions of subdivision (1), subsection (c) of the Government Code, §24.185, Brewster County has four annual grand jury terms. Those terms will commence for calendar year 1994 on January 31, March 21, August 1, and September 19.

TRD-9436100

LO-94-004 (ID#-23532). Request from Roy W. Wiesner, Waller County Auditor, Hempstead, concerning procedure for setting annual salaries of elected county officials.

Summary of Opinion. County and precinct officers of Waller County are not entitled to the three percent across-the-board salary increase adopted by the Waller County Commissioners Court, because the special notice required by the Local Government Code, §152.013, was not published.

TRD-9436101

LO-94-005 (ID#-20997). Request from Daniel C. Rice, District Attorney, 9th Judicial District, Conroe, concerning whether the composition of a board established pursuant to the Local Government Code, §262.011, for the purpose of appointing a county purchasing agent must change in accordance with that section if the county's population moves above or below 150,000.

Summary of Opinion. The composition of a board that appoints a county purchasing agent under the Local Government Code, §262.011, must change in accordance with that section if the county's population moves above or below 150,000.

TRD-9436102

LO-94-006 (ID#-17797). Request from Michael G. Mask, County Attorney, Jacksboro, concerning disposition of surplusage in an interest and sinking fund account.

Summary of Opinion. If no explicit provision was made at the institution of an interest and sinking fund for the disposition of any surplusage after the retirement of the bonded indebtedness for which the fund was established, such surplus should be re-

funded to the taxpayers.

TRD-9436103

LO-94-007 (RQ-21133). Request from Sam C. Turk, Major General (TX), TXARNG, Adjutant General, Austin, concerning whether a city may deny military leave to an employee called up by the Texas National Guard for special service.

Summary of Opinion. A municipal employee is entitled to the 15-day leave of absence for military duty authorized by the Government Code, §431.005, whether the military service for which the employee is called up is annual duty or special service.

TRD-9436104

LO-94-008 (ID#-22659). Request from Robert T. Jarvis, Grayson County Attorney, Grayson County Justice Center, Sherman, concerning whether a home-rule municipality may use public funds to pay one year of the property taxes, maintenance costs, and insurance costs for a private nonprofit corporation that holds land within the municipality for sale to industrial prospects.

Summary of Opinion. Pursuant to Article III, §52(a) and Article XI, §3 of the Texas Constitution, the governing board of a home-rule municipality must, prior to expending public funds to pay one year of the property taxes, maintenance costs, and insurance costs for a private nonprofit corporation that holds land within a municipality for sale to industrial prospects, determine in the first instance that such expenditure serves a legitimate public purpose and that the city has placed sufficient controls on the transaction to ensure that the public purpose will be carried out.

TRD-9436105

LO-94-009 (ID#-21366). Request from Keith Oakley, Chair, Committee of Public Safety, Texas House of Representatives, Austin, concerning whether an individual may lawfully carry a handgun while fishing on a privately owned pier that is open to the public and licensed by the Texas Alcoholic Beverage Commission.

Summary of Opinion. The Penal Code, §46.02, prohibits an individual from carrying a handgun while engaging in the sport of fishing on a privately owned pier that is open to the public and on which the owner of the pier is licensed by the Texas Alcoholic Beverage Commission to sell alcoholic beverages.

TRD-9436106

LO-94-010 (ID#-21832). Request from Kenny Marchant, Chair, Committee on Investments and Banking, Texas House of Representatives, Austin, concerning whether a county treasurer must provide access to the actual returned and unpaid checks issued by the county, in lieu of a

computer printout listing such checks, when the actual checks are requested under the Open Records Act, Government Code, Chapter 252, and related questions.

Summary of Opinion. Under the circumstances of this case, when a requestor seeks access to original unpaid checks under the Open Records Act, a county treasurer must provide the original checks rather than a computer printout of the information found on the checks. A county treasurer must provide access to public records on a daily basis for a minimum of ten days per request, a minimum of 20 days if the requestor makes a timely request for an extension, and a minimum of 30 days if the requestor properly seeks additional time in writing under the Government Code, §542.225. Assuming that the records do not contain information made confidential by §552.101, a county treasurer may not charge for access to public records up to legal size under the act. If the records are larger than legal size or if they are maintained in computer record banks, microfilm records, or other similar record keeping systems, the requestor must bear the cost of access to the records. The actual cost of providing access to other than up to legal size records includes all costs related to providing the records, including costs of materials, labor, and overhead. If a request is made for a copy of a record maintained by a county treasurer, the county treasurer may charge \$1.00 per copy pursuant to the Local Government Code, §118.141. A county treasurer may not treat a request from a "money hunter" any differently than a request from the general public under the act or under the Local Government Code, §118.141.

TRD-9436107

LO-94-011 (RQ-604). Request from Hugo Berlanga, Chair, Committee on Public Health, Texas House of Representatives, Austin, concerning reconsideration of Attorney General Opinion WW-1246(1962).

Summary of Opinion. Attorney General Opinion WW-1246 (1962) is overruled. For the purposes of the exemption from tuition and fees for higher education for veterans authorized by the Education Code, §54.203, discharges under honorable conditions should be treated as the equivalent of honorable discharges.

TRD-9436108

LO-94-012 (ID#-23780). Request from Rene O. Oliveira, Chair, Economic Development Committee, Texas House of Representatives, Austin, concerning whether the union membership of a director of the Brownsville Navigation District disqualifies him or her from voting on certain matters.

Summary of Opinion. Absent a violation of Chapter 171 of the Local Government

Code, the union membership of a director of a navigation district does not disqualify him or her from voting on certain matters before the district

TRD-9436109

LO-94-013 (ID#-22548). Request from David T Tatum, Interim Executive Director, Texas Commission on Alcohol and Drug Abuse, Austin, concerning whether the Texas Commission on Alcohol and Drug Abuse may investigate a complaint regarding the conduct of a person practicing as a chemical dependency counselor if the alleged conduct occurred prior to January 1, 1992

Summary of Opinion. The Texas Commission on Alcohol and Drug Abuse may not investigate a complaint regarding the conduct of a person practicing as a chemical dependency counselor if the alleged conduct occurred prior to January 1, 1992, and violates Texas Civil Statutes, Article 4512o, §16(1), (2), (3), (5), (6), or (8) However, the commission may investigate a claim that, prior to January 1, 1992, a person who is now a licensed chemical dependency counselor, or who is applying to be a licensed chemical dependency counselor, violated Texas Civil Statutes, Article 4512o, §16(4), (7), and (9) because the actions specified in those subsections were unlawful prior to the effective date of Article 4512o

The commission may not investigate any alleged violations of 40 TAC §150.22 that occurred prior to §150.22's effective date, January 10, 1992

TRD-9436110

LO-94-014 (ID#-22899). Request from Bryan M Perot, Executive Officer, Texas Polygraph Examiners Board, Austin, concerning whether the Psychologists' Certification and Licensing Act, Texas Civil Statutes, Article 4512c, precludes licensed polygraph examiners from referring to themselves as "forensic psychophysiologicals" or to the polygraph services they provide as "the psychophysiological detection of deception" or "forensic psychophysiology"

Summary of Opinion. A polygraph examiner who uses the term "psychophysiological" to describe his or her profession, or the terms "psychophysiological" and "psychophysiology" to describe his or her services is not subject to the Psychologists' Certification and Licensing Act, Texas Civil Statutes, Article 4512c, by virtue of §22(c) of that act The Polygraph Examiners Act, Texas Civil Statutes, Article §4413(29cc), does not authorize licensed polygraph examiners to describe their licenses as anything other than "polygraph examiner's licenses" or to describe themselves as anything other than "licensed polygraph ex-

aminers," or authorize the board to issue anything other than "polygraph examiner's licenses."

TRD-9436111

LO-94-015 (ID#-21326). Request from Barbara J. Childress, Chair, Texas Commission on Law Enforcement Officer Standards and Education, Austin, concerning propriety of Texas Commission on Law Enforcement Standards and Education by rule applying requirements regarding licensure of peace officers to licensure of public security officers, and related questions

Summary of Opinion. Except as noted, the Texas Commission on Law Enforcement Officer Standards and Education may by rule apply the same licensure requirements, appointing agency reporting requirements, and bases for license revocations and suspensions, for peace officers and public security officers, if the rules are otherwise within their authority.

TRD-9436112

LO-94-016 (ID#-16536). Request from John Sharp, Comptroller of Public Accounts, Austin, concerning whether an appraisal district is authorized to maintain an addressing system for the provision of 9-1-1 emergency services.

Summary of Opinion. An appraisal district is not authorized to assign official addresses to rural parcels of land for the provisions of 9-1-1 emergency services. The commissioners courts are expressly empowered to assign addresses under Texas Civil Statutes, Article 6702-1, §2.011.

TRD-9436113

LO-94-017 (ID#-21129). Request from Linda Shoemaker Lowrey, Criminal District Attorney, 121st Judicial District, Plains, concerning whether, under Chapter 2257 of the Government Code, a depository institution may secure a deposit of public funds with Small Business Administration Certificates.

Summary of Opinion. Pursuant to Chapter 2257 of the Government Code, a municipal depository institution may secure a deposit of public funds with, among other things, "an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit" or an obligation of the United States or its instrumentalities Whether a particular investment security is eligible to secure a deposit of public funds is a question that the municipality must determine in the first instance.

TRD-9436114

LO-94-018 (ID#-23386). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether Harris County is authorized to acquire county park land

located outside the boundaries of Harris County.

Summary of Opinion. In acquiring county park land, Harris County is limited by the Local Government Code, §331.001, to land within the county.

TRD-9436115

LO-94-019 (RQ-523). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether an appraisal review board, under the Tax Code, §25.25(d), may correct the market value of real property that receives productivity valuation under Chapter 23 of the Tax Code.

Summary of Opinion. Pursuant to the Tax Code, §25.25(d), an appraisal review board may correct an erroneous market value of real property that was appraised at a value based on a capitalization method used under the Tax Code, §§23.41, 23.52, or 23.73 if the corrected market value would be less than the appraised value and the other conditions of §25.25(d) are satisfied.

TRD-9436116

Open Records Decision

ORD-622 (RQ-552). Request from Steve Baker, City Attorney, City of Galveston, Galveston, concerning whether social security numbers are excepted from public disclosure under the Open Records Act, §552.101, in conjunction with federal law, and whether the former home addresses and telephone numbers of public employees are accepted from public disclosure under §552.117(1)(A) of the act.

Summary of Opinion. A social security number is excepted from required public disclosure under the Open Records Act, §552.101, in conjunction with 1990 amendments to the Social Security Act, 42 United States Code, §405(c)(2)(C)(vii), only if it was obtained or is maintained by a governmental body pursuant to any provision of law, enacted on or after October 1, 1990.

The former home addresses and telephone numbers of public employees are excepted from required public disclosure under the Open Records Act, §552.117(1)(A).

TRD-9436117

Opinions

DM-279 (RQ-295). Request from James L. Anderson, Jr., Aransas County Attorney, Rockport, concerning whether a concrete material company owned by a county commissioner may provide services and materials to the county or to another contractor under contract with the county.

Summary of Opinion. Chapter 171 of the

Local Government Code authorizes a county to enter into contracts or take actions in which a member of the commissioners court is pecuniarily interested to the same extent that other local governmental bodies may take such actions. The Local Government Code, §81.002, which requires the county judge and each county commissioner to take an oath that he will not be directly or indirectly interested in a contract with the county, is impliedly repealed to the extent it is inconsistent with Chapter 171.

If Aransas County decides to buy materials from a corporation owned entirely or in large part by a member of the commissioners court, this decision will, as a matter of law, "have a special economic effect on the... [corporation] that is distinguishable from the effect on the public." The county commissioner who owns the corporation will have to file the affidavit and abstain from further participation in the matter, including participation in discussion leading up to a vote or decision on the contract.

Attorney General Opinion JM-1090 (1989) is modified to the extent it is inconsistent with this opinion.

TRD-9436118

DM-280 (RQ-609). Request from Ken Armbrister, Chair, Committee on Intergovernmental Relations, Texas State Senate, Austin, concerning whether Senate Bill 522, Acts 1993, 73rd Legislature, Chapter 774, which sets forth certain exceptions to the definition of the term "gambling device," conflicts with provisions of Senate Bill 1067, Acts 1993, 73rd Legislature, Chapter 900, defining that term.

Summary of Opinion. The definition of the term "gambling device" set forth in Senate Bill 522, Acts 1993, 73rd Legislature, Chapter 774, §1, applies only to an offense committed on or after August 30, 1993, and before September 1, 1994. After September 1, 1994, Senate Bill 522 continues in effect only for the limited purpose of prosecuting offenses committed before that date. The definition of the term "gambling device" set forth in Senate Bill 1067, Acts 1993, 73rd Legislature, Chapter 900, §1 01, will be effective on September 1, 1994, and will apply to all prosecutions after that date, except for prosecutions of offenses committed before that date.

TRD-9436119

DM-281 (RQ-585). Request from Barry L. Macha, Criminal District Attorney, Wichita Falls, concerning whether the State Board of Education is authorized to enact a regulation providing for the deduction of a school district's debt to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf from available school fund payments to the school district.

Summary of Opinion. The State Board of Education is not authorized by the Education Code, §21.507(f), to enact a regulation providing for the mandatory deduction of a school district's debt to the Texas School for the Deaf from available school fund payments to the school district.

TRD-9436120

DM-282 (RQ-565). Request from S. E. Seely, El Paso County Auditor, El Paso, concerning whether a county must maintain a special and separate account for cash bail bond funds that the county receives pursuant to the Code of Criminal Procedure, Article 17.02, and related questions.

Summary of Opinion. The clerk of a district court may deposit into an account separate from the county's general account cash paid in lieu of a bail bond if the court or another authority orders the clerk to do so. Because cash paid in lieu of a bail bond is to be held in trust for the bailee unless the cash is forfeited, any interest that accrues on the cash during the time it is in the county's possession belongs to the bailee; the county may keep only a portion of the interest in accordance with the Local Government Code, §117.054.

The sheriff of a county may decide where to keep inmates' money for safekeeping. The sheriff's discretion is limited, however, by the county auditor, who may regulate the keeping of inmate funds as necessary for the purposes of collecting, checking, and accounting of revenues and other funds and fees belonging to an inmate. The disposition of any interest that accrues on an inmate's money during the inmate's incarceration in county jail depends on whether the money is held in trust for the inmate. If so, the inmate is entitled to the accrued interest, except for an amount reasonably related to the values of services in safeguarding and investing the principal that the county may retain.

TRD-9436121

DM-283 (RQ-613). Request from James M. Kuboviak, Brazos County Attorney, Brazos County Courthouse, Bryan, and Mike Driscoll, Harris County Attorney, Houston, concerning whether §291.007 of the Local Government Code authorizes a county commissioners court to set a security fee of not more than \$5.00 to be taxed as court costs in each civil case filed in a probate court, as well as in a county court, county court at law, and district court and related questions.

Summary of Opinion. Pursuant to the Local Government Code, §291.007, a commissioners court may set a security fee not to exceed \$5.00, which the clerk must collect at the time of filing in each civil case filed in a county court, county court at law, and district court, as well as in a statutory probate court or another statutory court ex-

ercising the jurisdiction of a probate court. If the commissioners court sets such a security fee, the clerk also must collect a security fee of \$1.00 for filing each document that is not related to an existing civil case or criminal case (so long as no other statute specifically exempts the document from the imposition of a fee such as the fee of the Local Government Code, §291.007, authorizes a clerk to collect). Of course, Article 102.017 of the Code of Criminal Procedure applies to documents filed in connection with criminal cases in a county court, county court-at-law, or district court. The security fee is cumulative of other filing fees. Finally, under §291.007, the commissioners court may choose whether to impose a security fee, but if it chooses to do so, it must set the fee in an amount not to exceed \$5.00. The commissioners court may not delegate to the clerks of court the responsibility of setting the amount of the fee.

TRD-9436122

DM-284 (RQ-409, 410, 411, and 412). Request from J. Robert Hunter, Commissioner, Texas Department of Insurance, Austin, concerning whether the Open Meetings Act, Government Code, Chapter 551, applies to the governing bodies of the Health Maintenance Organization Solvency Surveillance Committee, Insurance Code, Article 20A.36; the Life, Accident, Health, and Hospital Service Insurance Guaranty Association, Insurance Code, Article 21.28-D; the Texas Property and Casualty Insurance Guaranty Association, Insurance Code, Article 21.28-C; and the Texas Title Insurance Guaranty Association, Insurance Code, Article 9.48, and related questions.

Summary of Opinion. The governing bodies of the Health Maintenance Organization Solvency Surveillance Committee, Insurance Code, Article 20A.36, the Life, Accident, Health, and Hospital Service Insurance Guaranty Association, Insurance Code, Article 21.28-D, the Texas Property and Casualty Insurance Guaranty Association, Insurance Code, Article 21.28-C, and the Texas Title Insurance Guaranty Association, Insurance Code, Article 9.48, are governmental bodies subject to the Open Meetings Act. Government Code, Chapter 551 (former Texas Civil Statutes, Article 6252-17, repealed and codified by Acts 1993, 73rd Legislature, Chapter 268, §1 and §46). Notice of their meetings must be posted by the secretary of state for at least seven days before the day of the meeting.

The Insurance Code, Article 20A.36(b)(2), does not authorize the board of directors of the HMO solvency surveillance committee to meet in executive session, but does prohibit the directors from revealing the contents of certain material in a public meeting or elsewhere. Section 12 of Article 12.28-D of the Insurance Code does not authorize the board of directors of the LAHHSI

guaranty association to meet in executive session. Section 13 of Article 21.28-C of the Insurance Code does not authorize the board of directors of the PCI guaranty association to meet in executive session. Section 14(e)(3) of Article 9.48 of the Insurance Code specifically authorizes the board of directors of the TI guaranty association to meet in executive session to advise the commissioner about matters relating to the solvency of insurers, and precludes the directors from revealing information received at such an executive session in a public meeting. Section 10(c)(3) of Article 21.28-D of the Insurance Code authorizes the board of directors of the LAHHSI guaranty association to meet by telephone conference.

TRD-9436123

DM-285 (RQ-629). Request from David H Cain, Chair, Committee on Transportation, Texas House of Representatives, Austin, concerning what court is the proper forum for prosecutions brought under House Bill 1084, Acts 1993, 73rd Legislature, Chapter 88, at 175-76

Summary of Opinion. A defendant who has not been previously convicted of the offense of "overtaking and passing a school bus," as described in Texas Civil Statutes, Article 6701d, §104, may be prosecuted either in the justice court precinct in which the offense occurs, or, subject to certain limitations as described in Attorney General Opinion JM-1089 (1989), in the constitutional or statutory county court of the county in which it occurs. Persons who have been once convicted of the offense may not be tried in justice court

TRD-9436124

DM-286 (RQ-614). Request from William R Ratliff, Chair, Senate Education Committee, Austin, concerning authority of a state licensing agency to require the disclosure of social security numbers.

Summary of Opinion. Under the federal Privacy Act of 1974, 5 United States Code, §552a note (Act of December 31, 1994, Public Law 93-579, §7, 88 Statute 1909), the Texas Real Estate Commission may not

refuse to renew a license because of the licensee's failure to disclose his or her social security number unless the disclosure is required by a federal statute or the commission uses the information in a system of records in existence and operating before January 1, 1975, under a statute or regulation adopted prior to that date to verify the identity of an individual. Even if the commission is authorized to require the disclosure of an individual's social security number, it must "inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it" 5 United States Code, §552a note

TRD-9436125

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Name: Michael Woolan
Grade: 5
School: Ehrhardt Elementary, Klein ISD

TEXAS ETHICS COMMISSION

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

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

Texas Ethics Commission

Opinions

AOR-217. A member of the legislature has asked the Ethics commission whether he may use state resources to perform "routine [legislative] duties" for constituents in an area that will become part of his district in 1995. Specifically, the legislator asks about constituent casework, meetings with members of a community in regard to a project that requires a state permit, and traveling to the area to "discuss concerns which may require legislative solutions."

AOR-218. The Ethics Commission has been asked to consider whether a member of the legislature who has "a controlling interest or substantial interest in a broker-dealer" is prohibited from representing the broker-dealer before a state agency or whether the broker-dealer itself is prohibited from appearing before a state agency. If so, the legislator asks, does the restriction apply if the legislator is not compensated.

AOR-219. A local elected official has made certain expenditures from personal funds. He has asked the Ethics Commission to consider whether he may reimburse his personal funds from political contributions. The specific expenditures are for membership in the Freedom of Information Foundation, a donation to a school fund raiser, charity lunches, an employee lunch, and an office Christmas tree.

AOR-220. The Ethics Commission has been asked about the use of a car purchased with political contributions for state business. The officeholder using the car would be reimbursed by the state for use of the car on state business. The question is whether the officeholder could use the state reimbursement to reimburse his political funds for the use of the car for state business.

AOR-221. A person who was appointed to the position of district attorney after the elected district attorney has asked about the terms he may use to describe himself in campaign literature. Specially, the questions are whether he may use the phrase "keep [Name of appointee] District Attorney" or the phrase "I am [Name of appointee] your District Attorney."

AOR-222. The Texas Ethics Commission has been asked to consider whether a former supervisor of hearings examiner for a state agency may represent parties before the state agency.

The Texas Ethics Commission is authorized by §1.29 of Subchapter D of Chapter 571 of the Government Code, to issue advisory opinions in regard to the following statutes: (1) Subchapter D of Chapter 572 of the Government Code; (2) Chapter 302, Government Code; (1) Chapter 305, Government Code; (3) Title 15, Election Code; (5) Chapter 36, Penal Code; and (6) Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

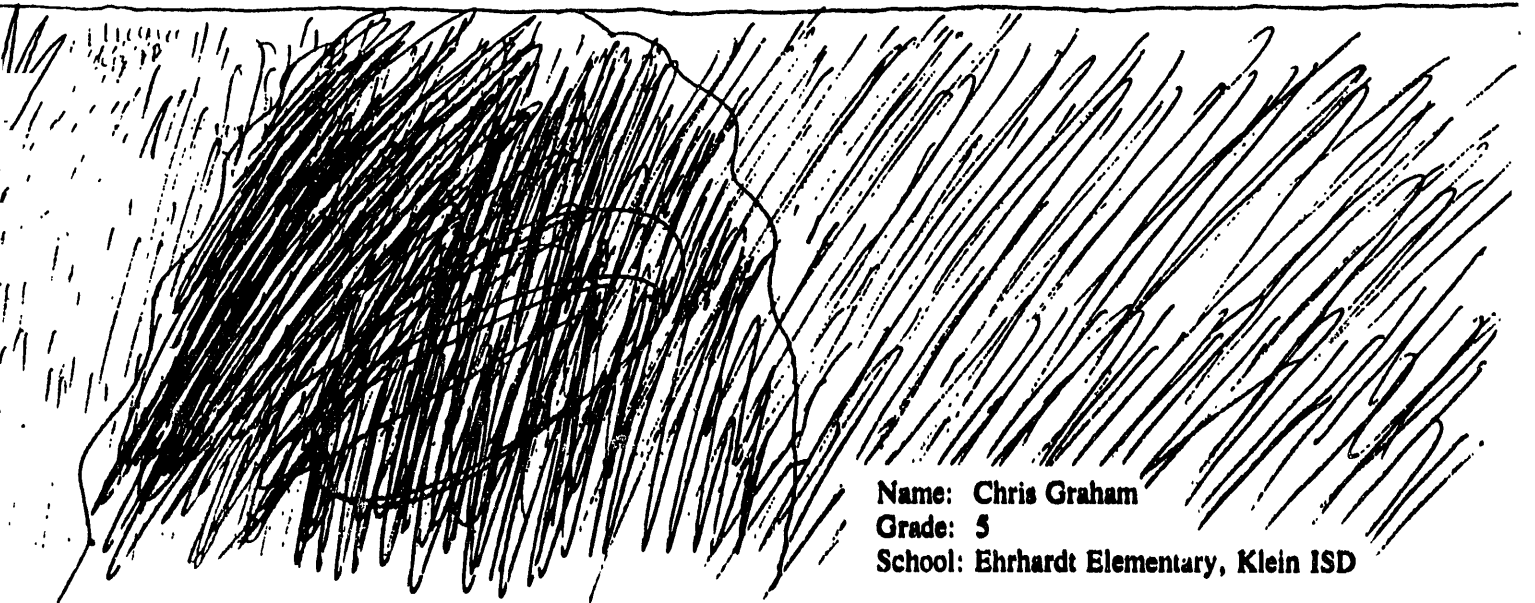
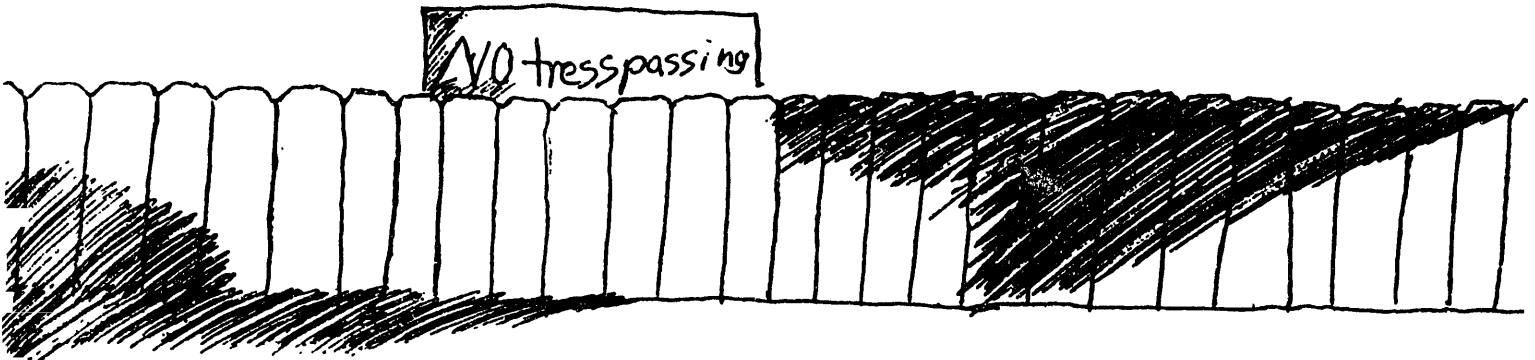
Issued in Austin, Texas, on February 7, 1994

TRD-9435944

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed February 9, 1994





Name: Chris Graham
Grade: 5
School: Ehrhardt Elementary, Klein 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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 133. Hospital Licensing

Minimum Standards for State Mental Hospitals, State Schools for the Retarded, and State Tuberculosis Hospitals

• 25 TAC §§133.1-133.7

The Texas Department of Health is renewing the effectiveness of the emergency adoption of repealed §§133.1-133.7, for a 60-day period effective March 3, 1994. The text of repealed §§133.1-133.7 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7964).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435920 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date March 3, 1994

Expiration date. May 2, 1994

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

Subchapter A. General Provisions

• 25 TAC §§133.1-133.3

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§133.1-133.3, for a 60-day period effective March 3, 1994. The text of new §§133.1-133.3 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7967).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435928 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date March 3, 1994

Expiration date: May 2, 1994

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

Subchapter B. Application and Issuance of a Hospital License

• 25 TAC §§133.11-133.14

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§133.11-133.14, for a 60-day period effective March 3, 1994. The text of new §§133.11-133.14 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7970).

Issued in Austin, Texas, on February 9, 1994

TRD-9435927 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date. March 3, 1994

Expiration date. May 2, 1994

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

Subchapter C. Operational Requirements for All Hospitals [Standards]

• 25 TAC §133.21, §133.22

The Texas Department of Health is renewing the effectiveness of the emergency adoption of amended and new §133.21 and §133.22, for a 60-day period effective March 3, 1994. The text of amended and new §133.21 and §133.22 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7971).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435926 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date. March 3, 1994

Expiration date. May 2, 1994

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

Standards

• 25 TAC §133.29

The Texas Department of Health is renewing the effectiveness of the emergency adoption of repealed §133.29, for a 60-day period effective March 3, 1994. The text of repealed §133.29 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7973).

Issued in Austin, Texas, on February 9, 1994

TRD-9435919 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date. March 3, 1994

Expiration date. May 2, 1994

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

Permits

• 25 TAC §133.31, §133.32

The Texas Department of Health is renewing the effectiveness of the emergency adoption of repealed §133.31 and §133.32, for a 60-day period effective March 3, 1994. The text of repealed §133.31 and §133.32 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7973).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435918 Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

Subchapter D. Special Service Requirements

• 25 TAC §§133.51-133.54

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§133.51-133.54, for a 60-day period effective March 3, 1994. The text of new

§§133.51-133.54 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7977).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435925 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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**Subchapter E. Physical Plant
and Life Safety Code**

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• 25 TAC §133.71, §133.72

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §133.71 and §133.72, for a 60-day period effective March 3, 1994. The text of new §133.71 and §133.72 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7980).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435924 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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Subchapter F. Patient Transfers

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• 25 TAC §133.101, §133.102

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §133.101 and §133.102, for a 60-day period effective March 3, 1994. The text of new §133.101 and §133.102 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7980).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435923 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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Subchapter G. Enforcement

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• 25 TAC §§133.111-133.113

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§133.111-133.113, for a 60-day period effective March 3, 1994. The text of

new §§133.111-133.113 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7984).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435922 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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**Subchapter H. Internal Investi-
gation**

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• 25 TAC §133.121

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §133.121, for a 60-day period effective March 3, 1994. The text of new §133.121 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7987).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435921 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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**Chapter 134. Private Mental
Hospitals and Mental
Facilities Licensing**

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**Subchapter A. General Provi-
sions**

◆ ◆ ◆
• 25 TAC §§134.1-134.3

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§134.1-134.3, for a 60-day period effective March 3, 1994. The text of new §§134.1-134.3 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7992).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435917 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

**Subchapter B. Application and
Issuance of a License**

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• 25 TAC §§134.11-134.14

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§134.11-134.14, for a 60-day period effective March 3, 1994. The text of new §§134.11-134.14 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7995).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435916 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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**Subchapter C. Operational Re-
quirements**

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• 25 TAC §§134.21-134.23

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§134.21-134.23, for a 60-day period effective March 3, 1994. The text of new §§134.21-134.23 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7998).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435915 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

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**Subchapter D. Physical Plant
and Life Safety Code**

◆ ◆ ◆
• 25 TAC §§134.51-134.54

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§134.51-134.54, for a 60-day period effective March 3, 1994. The text of new §§134.51-134.54 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7998).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435914 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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

Subchapter E. Enforcement

• 25 TAC §§134.71-134.73

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §§134.71-134.73, for a 60-day period effective March 3, 1994. The text of new §§134.71-134.73 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 8020).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435913 Susan K. Steeg
 General Counsel
 Texas Department of
 Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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



**Subchapter F. Internal Investi-
gation**

• 25 TAC §134.91

The Texas Department of Health is renewing the effectiveness of the emergency adoption of new §134.91, for a 60-day period effective March 3, 1994. The text of new §134.91 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 8023).

Issued in Austin, Texas, on February 9, 1994.

TRD-9435912 Susan K. Steeg
 General Counsel
 Texas Department of
 Health

Effective date: March 3, 1994

Expiration date: May 2, 1994

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





Name: Ruben Rodriguez
Grade: 10
School: Lopez High School, Brownsville ISD

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 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter B. Powers and Du- ties of the Commission

• 16 TAC §303.43

The Texas Racing Commission proposes an amendment to §303.43, concerning live race dates for Class 1 racetracks. The amendment clarifies that, unless otherwise agreed to in writing, the commission will grant at least 17 weeks of live thoroughbred racing and at least 17 weeks of live quarter horse racing to each Class 1 racetrack each year. The amendment also clarifies that the actual dates must be awarded pursuant to other commission rules.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the Class 1 racetracks will be assured of live race dates. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of pari-mutuel racetracks; and §8.01, which authorizes the commission to allocate live race dates to pari-mutuel horse racetracks.

The proposed rule implements Texas Civil Statutes, Article 179e.

§303.43. [Allocation of] Live Race Dates for Class 1 Racetracks.

(a) (No change.)

(b) Except as otherwise provided by this subsection, the [For any year in which there are less than three Class 1 racetracks in Texas holding final non-appealable licenses, the] commission shall grant each year [allocate] to each Class 1 [such] racetrack at least 17 consecutive weeks of live thoroughbred racing and at least 17 consecutive weeks of live quarter horse racing, unless otherwise agreed to by the appropriate breed registry. Each week of live racing shall consist of a minimum of four consecutive race days. If a Class 1 racetrack informs the commission in writing that it does not desire the full number of weeks of racing for either breed, the commission may allocate the extra weeks to another racetrack. The actual dates on which a Class 1 racetrack will conduct live races must be applied for and approved by the commission in accordance with §303.41 of this title (relating to Allocation of Race Dates.) A Class 1 racetrack is not entitled to the days guaranteed by this subsection if the racetrack and the commission have agreed in writing to a different allocation.

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 February 11, 1994.

TRD-9436017 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call: (512) 794-8461



Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Li- censes

General Provisions

• 16 TAC §305.35

The Texas Racing Commission proposes an amendment to §305.35, concerning license fees. The amendment establishes new licensing categories, lowers the fees for some categories, and alphabetizes the category list

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section. Although the implementation of the new licensing categories will result in the payment of license fees, it is anticipated that the persons being licensed in the new categories have previously been licensed in other categories and there will be no net gain in the number of licenses issued or fees received.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's occupational licensing program will be more efficient and effective. There will be no effect on small businesses. For a person obtaining a license as association management personnel or racing industry representative, the economic cost will be \$75 per year.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §5.01, which authorizes the commission to prescribe reasonable license fees for each category of license, §7.02, which authorizes the commission to adopt categories of licenses for the various occupations licensed by the commission; and §7.05, which authorizes the commission to adopt by rule a fee schedule for

occupational licenses.

The proposed rule implements Texas Civil Statutes, Article 179e.

§305.35. *License Fees.* The [Effective January 1, 1992, the] annual fee for an individual license is as follows:

TYPE OF LICENSE	FEE
Admissions person	\$ 20
Adoption Program Personnel	\$ 20
Announcer	\$ 20
Apprentice Jockey	\$ 65
Association - Office Staff	\$ 20
Association - Other	\$ 50
Association Chaplain	\$ 20
Association Judge/Steward	\$ 50
Association Asst. Management Personnel	\$ 35
Association Management Personnel	\$ 50
Association Officer/Director	\$ 75
Association Veterinarian	\$ 50
Asst. Starter	\$ 20
Asst. Trainer	\$ 75
Asst. Trainer/Owner	\$ 75
Authorized Agent (Add Principals only)	\$ 10
Authorized Agent (New License)	\$ 10
Box Person	\$ 20
Cool-out	\$ 20
Duplicate Badge	\$ 15
Entry Clerk	\$ 20
Exercise Rider	\$ 20
Farrier/Plater/Blacksmith	\$ 65
Farrier/Plater/Blacksmith's Asst.	\$ 20
Food Service	\$ 20
Groom	\$ 20
Jockey	\$ 75
Jockey Agent	\$ 75
Kennel Helper	\$ 20
Kennel Owner	\$ 75
Kennel Owner/Owner	\$ 75
Kennel Owner/Owner/Trainer	\$ 75
Kennel Owner/Trainer	\$ 75
Leadout	\$ 20
Maintenance	\$ 20
Marketing Staff	\$ 20
Medical Staff	\$ 20
Miscellaneous	\$ 20
Multiple Owner	\$ 20
Mutuel - Other	\$ 20
Mutuel Clerk	\$ 20
Official	\$ 20
Outrider	\$ 20
Owner	\$ 75
Owner/Trainer	\$ 75
Parking Attendant	\$ 20
Pony Person	\$ 20
Racing Industry Representative	\$ 75
Security Officer	\$ 20
Stable Foreman	\$ 20

Stable/Kennel Registration	\$ 50
Tattooer	\$ 75
Test Technician	\$ 20
Tooth Floater	\$ 75
Tote Technician	\$ 20
Trainer	\$ 75
Valet	\$ 20
Vendor/concessionaire	\$ 75
Vendor/concessionaire employee	\$ 20
Veterinarian	\$ 75
Veterinarian Asst.	\$ 20
[Owner	\$ 75
[Kennel Owner	\$ 75
[Kennel Owner/Owner	\$ 75
[Kennel Owner/Trainer	\$ 75
[Trainer	\$ 75
[Asst. Trainer	\$ 75
[Asst. Trainer/Owner	\$ 75
[Jockey	\$ 75
[Apprentice Jockey	\$ 65
[Exercise Rider	\$ 20
[Groom	\$ 20
[Stable Foreman	\$ 50
[Veterinarian	\$ 75
[Veterinarian Asst.	\$ 20
[Jockey Agent	\$ 75
[Farrier/Plater/Blacksmith	\$ 65
[Tattooer	\$ 75
[Cool-out	\$ 20
[Pony Person	\$ 20
[Valet	\$ 20
[Kennel helper	\$ 20
[Owner/Trainer	\$ 75
[Official	\$ 75
[Asst. Starter	\$ 20
[Association - Other	\$ 50
[Admission's person	\$ 20
[Entry Clerk	\$ 20
[Parking attendant	\$ 20
[Maintenance	\$ 20
[Leadout	\$ 20
[Food Service	\$ 20
[Chart-writer	\$ 20
[Announcer	\$ 20
[Outriders	\$ 20
[Security Officer	\$ 20
[Test Technician	\$ 20
[Mutuel Clerk	\$ 20

[Mutuel - Other	\$ 20
[Vendor/concessionaire	\$ 75
[Vendor/concessionaire employee	\$ 20
[Association Officer/Director	\$ 75
[Association - Office Staff	\$ 20
[Multiple Owner	\$ 20
[Authorized Agent (New License)	\$ 75
[Authorized Agent (Add Principals only)	\$ 10
[Duplicate Badge	\$ 15
[Stable/Kennel Registration	\$ 50
[Medical Staff	\$ 20
[Association Chaplain	\$ 20
[Tooth Floater	\$ 75
[Association Judge	\$ 65
[Tote Technician	\$ 20
[Box Person	\$ 20
[Miscellaneous	\$ 20]

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 February 11, 1994.

TRD-9436016 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call (512) 794-8461

Specific Licensees

• 16 TAC §305.44

The Texas Racing Commission proposes an amendment to §305.44, concerning trainer or assistant trainer. The amendment requires an applicant for an assistant trainer's license to be qualified in all respects for a trainer's license. The amendment also clarifies that an assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the integrity of pari-mutuel racing will be assured. There will be no effect on small businesses. There is no economic cost individuals required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §7.02, which authorizes the commission to adopt rules setting the qualifications for the various categories of occupational licenses.

The proposed rule implements Texas Civil Statutes, Article 179e.

§305.44 *Trainer or Assistant Trainer.*

(a) Except as otherwise provided by this section, to be licensed by the commission as a trainer, a person must:

(1) be at least 18 years old (of age),

(2)-(3) (No change)

(b)-(d) (No change)

(e) To be licensed as an assistant trainer, a person must qualify in all respects for a trainer's license and be in the employ of a licensed trainer. An assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

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 February 11, 1994.

TRD-9436015 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call (512) 794-8461

• 16 TAC §305.45

The Texas Racing Commission proposes an amendment to §305.45, concerning authorized agent. The amendment provides that an agency appointment expires on December 31 of each year unless revoked earlier by the principal.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the integrity of pari-mutuel racing will be assured. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§305.45 *Authorized Agent.*

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

(c) An agency appointment is valid until December 31 of the year [for the duration of the race meeting] for which it was executed, unless the principal submits written notice of revocation to the stewards or racing judges.

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 February 11, 1994.

TRD-9436014 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call (512) 794-8461

• 16 TAC §305.49

The Texas Racing Commission proposes an amendment to §305.49, concerning emergency license. The amendment prohibits an owner from obtaining an emergency license more than once.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the integrity of pari-mutuel racing will be assured. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§305.49 *Emergency License*

(a)-(c) (No change)

(d) A license issued under this section [is temporary and] expires on the 21st day after the date the emergency owner's license is issued. An owner may obtain an emergency owner's license only once.

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 February 11, 1994.

TRD-9436013

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call: (512) 794-8461

◆ ◆ ◆
Chapter 309. Operation of Racetracks

Subchapter B. Horse Race-tracks

Operations

• 16 TAC §309.199

The Texas Racing Commission proposes an amendment to §309.199, concerning the horsemen's bookkeeper. The amendment requires an association to provide an accounting to each owner and the commission within 30 days after the end of a race meeting.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the integrity of pari-mutuel racing will be assured. There will be fiscal implications for small businesses as a result of enforcing the section, relating to the costs of preparing the accountings required by the amendment. The exact cost cannot be determined at this time, however, because the cost will depend greatly on the number of owners who have participated in the race meeting, the degree of activity in each account, the length of the meeting, and the accounting system used by the racetrack. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§309.199. Horsemen's Bookkeeper

(a)-(f) (No change)

(g) Not later than 30 days after the last day of each race meeting, the horsemen's bookkeeper shall mail to each

owner with funds in the horsemen's account a check for the total amount in the owner's racing account and a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting the account.

(h) Not later than 30 days after the last day of each live or simulcast race meeting, an association shall provide to the commission a report regarding the status of the purse account.

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 February 11, 1994.

TRD-9436012

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call (512) 794-8461

◆ ◆ ◆
Chapter 311. Conduct and Duties of Individual Licensees

Subchapter B. Specific Licensees

General Provisions

• 16 TAC §311.106

The Texas Racing Commission proposes an amendment to §311.106, concerning stable or kennel names. The amendment eliminates the references to kennel names.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's occupational licensing program will operate efficiently and effectively. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§311.106. Stable [or Kennel] Names.

(a) An owner that wants to participate in racing using a stable [or kennel] name must register with the commission by filing an application on a form prescribed by the commission and paying the prescribed annual fee. A person may not use the real name of an owner of a race animal as a stable [or kennel] name. A stable [or kennel] name which has already been registered with the commission may not be registered by another owner.

(b) Registering a stable [or kennel] name with the commission does not affect a person's obligation to file or register a fictitious name as provided by the laws of Texas.

(c) An application to register a stable [or kennel] name must disclose the real names of all interests participating in the stable [or kennel] and the percentage of ownership interest of each, including the interest owned by a corporation, general partnership, limited partnership, trust, estate or individual.

(d) A stable [or kennel] name may be changed by registering a new stable [or kennel] name and by paying the prescribed annual fee. A stable [or kennel] name may be abandoned by giving written notice to the commission. A change of 5.0% or more in ownership of a stable [or kennel] registered under a stable [or kennel] name shall be immediately reported to the commission.

(e) A stable [or kennel] name that advertises a product or service other than the stable [or kennel] may not be registered.

(f) A licensee who has registered a stable [or kennel] name under this section may not use the licensee's real name for racing purposes except on approval of the stewards or racing judges.

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 February 11, 1994.

TRD-9436010

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call: (512) 794-8461

◆ ◆ ◆
Licensees for Horse Racing

• 16 TAC §311.153

The Texas Racing Commission proposes

new §311.153, concerning owner/trainers. The new section prohibits an owner/trainer from having his or her horses in the care, custody, or control of another trainer at the same racetrack.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be of the utmost integrity. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new section is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§311.153 Owner/Trainer A person licensed as an owner/trainer who is participating in racing at a racetrack may not have any horse owned by the owner/trainer under the care, custody or control of another trainer at that racetrack.

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 February 11, 1994.

TRD-9436009 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption March 21, 1994.

For further information, please call (512) 794-8461.

Licensees for Greyhound Racing

• 16 TAC §311.172

The Texas Racing Commission proposes an amendment to §311.172, concerning use of Texas-bred greyhounds. The amendment clarifies the powers of the racing judges to enforce the provisions of the section.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be of the utmost integrity. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.07, which authorizes racing judges to impose sanctions on occupational licensees, and §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack.

The proposed rule implements Texas Civil Statutes, Article 179e.

§311.172. Use of Texas-bred Greyhounds

(a)-(b) (No change)

(c) The racing secretary of an association shall maintain the records necessary to enforce this section. If the racing secretary determines that a kennel owner is in violation of this section, the racing secretary shall notify the racing judges. The racing judges may take disciplinary action against the kennel owner, including requiring the kennel owner to take the necessary action [require the racing secretary to delete from the active list for that kennel the appropriate number of greyhounds that are not Texas-bred] to achieve the appropriate percentages.

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 February 11, 1994.

TRD-9436008 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption March 21, 1994.

For further information, please call (512) 794-8461.

Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

• 16 TAC §319.111

The Texas Racing Commission proposes an amendment to §319.111, concerning bleeders and the furosemide (Lasix) program. The amendment makes several changes to the commission's bleeder program, including extending the period of time after a race or exercise that a horse may exhibit signs of bleeding to be classified as a bleeder.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be safe for race horses. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack; and §14.03, which authorizes the commission to adopt rules relating to the use of medication in race animals.

The proposed rule implements Texas Civil Statutes, Article 179e.

§319.111 Bleeders and Furosemide (Lasix) Program

(a) (No change)

(b) The evidence of bleeding described in subsection (a) of this section must be exhibited not later than two hours after the last race on the day on which the horse raced or not later than two hours after the scheduled close of workouts at the racetrack at which the horse worked. The costs of conducting an endoscopic examination to determine whether a horse is a bleeder must be borne by the owner or trainer of the horse. A horse that is seen by the commission veterinarian to bleed during the running of a race or within one hour after the race or a workout must be certified as a bleeder by the commission veterinarian, on a form prescribed by the commission. The commission veterinarian shall maintain a list of all confirmed bleeding incidents in Texas and a copy of the list shall be posted in the racing secretary's office. The certification of a horse as a bleeder shall be noted on the horse's registration papers.

(c) The trainer of a horse confirmed as a bleeder in Texas may request that the commission veterinarian admit the horse to the furosemide (Lasix) program for its next race. The request must be made on a form prescribed by the commission not later than scratch [entry] time for the race for which the request is made. A trainer shall declare at the time of entry whether the horse will race with or without furosemide (Lasix). The failure to make such a declaration or the making of a false declaration is grounds for disciplinary action by the stewards or the commission

(d)-(g) (No change.)

(h) For the first confirmed incident of bleeding in this state, the horse shall be placed on the veterinarian's list and is not eligible to enter in a race before the 10th [11th] day after the date the horse is placed on the list. For the second confirmed incident of bleeding in this state, the horse shall be placed on the veterinarian's list and is not eligible to enter in a race before the 30th day after the date the horse is placed on the list. For the third confirmed incident of bleeding in this state, the horse shall be placed on the veterinarian's list and is not eligible to enter in a race before the 180th day after the date the horse is placed on the list. For the fourth confirmed incident of bleeding in this state, the horse is barred from pari-mutuel racing in this state.

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 February 11, 1994.

TRD-9436007 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 21, 1994

For further information, please call. (512) 794-8461



Chapter 321. Pari-mutuel Wagering

Subchapter B. Distribution of Pools

• 16 TAC §321.109

The Texas Racing Commission proposes an amendment to §321.109, concerning exacta pools. The amendment clarifies the method of payout of the exacta pool when no tickets are sold selecting the correct first and second place finishing animals.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be of the utmost integrity. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3 02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack; and §11.01, which authorizes the commission to adopt rules relating to pari-mutuel wagering.

The proposed rule implements Texas Civil Statutes, Article 179e.

§321.109. *Exacta.*

(a)-(d) (No change.)

(e) If no ticket is sold on the winning combination in an exacta race, the net pool shall be distributed [equally] among the holders of tickets selecting the winner to finish first. If no such ticket is sold, the net pool shall be distributed among [and] the holders of tickets selecting the second place animal to finish second

(f)-(j) (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 February 11, 1994.

TRD-9436006 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption March 21, 1994

For further information, please call (512) 794-8461



Subchapter C. Simulcast Wagering

Common Pool Wagering

• 16 TAC §321.273

The Texas Racing Commission proposes an amendment to §321.273, concerning distribution of common pool. The amendment clarifies that a wager made into a common pool is made at the location where the pool originates

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be of the utmost integrity. There will be no effect on small businesses. There is no economic cost persons required to comply with the section as proposed

Comments on the proposal may be submitted on or before March 23, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P O Box 12080, Austin, Texas 78711

The amendment is proposed under Texas Civil Statutes, Article 179e, §3 02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6 06, which authorizes the commission to adopt rules on all matters relating to the operation of a pari-mutuel racetrack, §11.01, which authorizes the commission to adopt rules relating to pari-mutuel wagering, and §11.011, which authorizes the commission to adopt rules to regulate wagering on simulcast races and to facilitate the intermingling of pari-mutuel pools

The proposed rule implements Texas Civil Statutes, Article 179e

§321.273 *Distribution of Common Pool*

(a) A wager is made at the place at which the pool originates [at the point of sale in the state where the wager is placed].

(b)-(d) (No change.)

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

Issued in Austin, Texas, on February 11, 1994

TRD-9436005 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption March 21, 1994

For further information, please call (512) 794-8461



TITLE 25. HEALTH SERVICES

Part VIII. Interagency Council on Early Childhood Intervention

Chapter 621. Early Childhood Intervention Service Delivery

Procedural Safeguards and Due Process Procedures

• 25 TAC §621.3, §621.4

(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 Interagency Council on Early Childhood Intervention or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Interagency Council on Early Childhood Intervention (ECI) proposes the repeal of §621.3 and §621.4, and proposes new §621.3. The repeal will allow for reorganization. The new section will combine existing §621.3 and §621.4 to include policies and procedures, and adds a new subsection that will clarify reimbursement procedures for the Council for child care and attendant care when on official ECI business.

Mary Elder, executive director, Interagency Council on Early Childhood Intervention has determined that for the first five-year period the rules are in effect there will be minor fiscal implications for state or local government as a result of the payment of compensatory per diem and child care expenses.

Ms. Elder also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be that public members of the Council will have the necessary financial support to attend Council and/or Advisory Committee meetings. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with these rules as proposed. There will be no impact on local employment.

Comments on the proposed amendments may be submitted to Mary Elder, Executive Director, Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756, (512) 502-4900. Ms. Elder will receive comments for 30 days after the proposed amendments have been published in the *Texas Register*.

The repeals are proposed under the Human Resources Code §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays. The repeals will effect the Health and Safety Code, Chapter 73.

§621.3 Notice of Meetings

§621.4 Transition of Business

This council 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 February 14, 1994.

TRD-9436147

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on
Early Childhood
Intervention

Earliest possible date of adoption: March 21, 1994.

For further information, please call (512) 502-4900.

• 25 TAC §621.3

The new section is proposed under the Human Resources Code, §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays. The new section will effect the Health and Safety Code, Chapter 73.

§621.3 Council Procedures

(a) Notice of Meetings

(1) Written notice giving the date, time, place and subject of each meeting shall be prepared as required by the Open Meetings Law.

(2) A copy of the notice will be sent to each Council member prior to the meeting.

(3) The meetings will be held at least quarterly and generally will be located in Austin.

(b) Transaction of Business

(1) All meetings will be conducted according to Roberts Rules of Order except that the Chairperson may vote on any action as any other member of the Council.

(2) All actions taken must be approved by a majority vote of the members present.

(c) Compensatory Per Diem

(1) Members who are parents of children with developmental delay are entitled to reimbursement of expenses for meals, lodging and transportation as established in Article V of the current Texas State Appropriations Act. Members who were appointed as parents of children with developmental delay are entitled to reimbursement for child care necessitated by their participation in an official capacity as a Council member.

(2) All members are entitled to reimbursement for expenses related to attendant care necessitated by their participation in an official capacity as a Council member.

This council 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 February 14, 1994.

TRD 9436146

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on
Early Childhood
Intervention

Earliest possible date of adoption: March 21, 1994.

For further information, please call (512) 502-4900.

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter B. Fees, Charges, and Costs

• 28 TAC §§1.301, 1.302, 1.303, 1.304, 1.305, and 1.306

(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 Commissioner of Insurance of the Texas Department of Insurance (TDI) proposes the repeal of §§1.301, 1.302, 1.303, 1.304, 1.305, and 1.306. Section 1.301 relates to costs of copies and access to public records. Section 1.302 relates to charges for specified board publications. Section 1.303 relates to the charge for the Insurance Code and related laws. Section 1.304 relates to the charge for copies of insurance-related legislation published after each legislative session. Section 1.305 relates to the charge for the board's report to the Sunset Commission. Section 1.306 relates to certain publications distributed without charge. The proposed repeal is necessary because House Bill 1009, 73rd Legislature, 1993, requires each state agency to review its processes for providing access to and copies of public records and to review the charges made for copies. Essentially, House Bill 1009 requires the General Services Commission (GSC) to conduct a study of the charges made by state agencies for copies of public records and to prepare a report of its findings under the study. After completion of the study, and after the GSC specifies by rule the methods and procedures that a state agency may use in determining the amounts the agency should charge, TDI must adopt rules reflecting the recommended charges. In the interim, TDI has complied with House Bill 1009 and has increased the charges currently specified in 28 TAC §1.301. The repeal of these sections is also necessary because the results of the GSC study will require TDI to follow new guidelines reflecting the study's recommended charges, because the sections refer to obsolete or discontinued publications or procedures, and because the sections refer to the three-member board, which no longer exists.

Karen Phillips, chief financial officer, has determined that, for the first five-year period the proposed repeal will be in effect, there will be no fiscal implication for state or local government resulting from enforcement or administration of the repeal, and that there will be no

effect on local employment or the local economy

Ms. Phillips, also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing the repeal is the adherence to methods and procedures specified by GSC that TDI may use in determining the amounts that should be charged to recover the full cost to TDI of providing copies of public records. Enforcement of the repeal will also eliminate reference to obsolete or discontinued publications and to the three-member board, which no longer exists. There will be no effect on small business. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal to be considered by the Commissioner of Insurance of the Texas Department of Insurance must be submitted within 30 days after publication of the proposed sections in the Texas Register to Linda K von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC# 113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Karen Phillips, Chief Financial Officer, MC# 105-9A Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Request for public hearing on this proposal should be submitted separately to the office of the Chief Clerk.

The repeal is proposed under House Bill 1009, 73rd Legislature, 1993, and the Insurance Code, Article 1.03A. House Bill 1009, 73rd Legislature, 1993, requires all state agencies to increase the costs they charge for providing copies of public records and to follow GSC guidelines. Article 1.03A authorizes the Commissioner to adopt rules and regulations for the conduct and execution of the duties and functions by TDI.

The following code is affected by this repeal: §§1.301-1.306-The Government Code, Title 5, Chapter 552, Subchapter F.

§1.301 Cost of Copies of and Access to Public Records

§1.302 Charge for Specified Publications

§1.303 Charge for the Insurance Code

§1.304 Charge of Insurance Related Legislation

§1.305 Report to the Sunset Commission

§1.306 Certain Publications Distributed without Charge

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 February 11, 1994.

TRD-9436089

Linda K von Quintus-Dorn
Chief Clerk

Texas Department of
Insurance

Earliest possible date of adoption: March 21, 1994.

For further information, please call (512) 463-6327.

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 53. Finance

License Fees and Boat and Motor Fees

• **31 TAC §53.8**

The Texas Parks and Wildlife Department proposes an amendment to §53.8(b), which lists those license fees which may be set by the Parks and Wildlife Commission. New fees for a tarpon tag (proposed at \$100 per tag) and a duplicate tarpon tag (proposed at \$25 per tag) are proposed under authority of Parks and Wildlife Code, §46.0045, which authorizes the Parks and Wildlife Commission to establish fees for initial and duplicate tags issued under authority of Parks and Wildlife Code, Chapter 46, Subchapter A. There are no proposed changes to §53.8(a).

These tags, as proposed, would serve to both regulate the take of tarpon and to allow lawful possession of trophy-size tarpon. An angler in possession of a valid tarpon tag, or duplicate tarpon tag, could retain a single tarpon, per license year, of 80 inches total length or greater. Currently, tarpon of all sizes cannot be legally retained.

Robin Riechers, staff economist, has determined that adoption of these rules for each year of the first five years will have only minimal fiscal implications to state, local governments, and small businesses. The benefits are expected to be positive to the state as a result of the ability to charge a fee to allow for the retention of a trophy tarpon. Positive benefits may accrue to small businesses as a result of any increased effort in the tarpon fishery which may occur.

Mr. Riechers 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 to provide on a continuing basis the protection and enhancement of the tarpon fishery. These rules serve to provide greater recreational enjoyment of this resource while maintaining and enhancing the current population. There will be economic costs to persons who are required to comply with the proposed section, however there should be no decrease in participation as this is a liberalization of the current fishery.

Economic benefits associated with the proposed section may occur in the fishery through greater participation per individual or through increasing the number of people who

are in the tarpon and red drum fisheries as a result of this rule.

In compliance with Senate Bill 612 and the Administrative Procedure Act (§2001.002), the proposed rule changes have been submitted for review to the Texas Employment Commission.

Comments on the proposed fees for tarpon and duplicate tarpon tags may be submitted to Gene McCarty, Chief Coastal Fisheries, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, 1-(800) 792-1112, Ext. 4863 or (512) 389-4863.

The amendment is proposed under authority of Parks and Wildlife Code, §46.0045, which authorizes the Parks and Wildlife Commission to establish fees for initial and duplicate tags issued under authority of Parks and Wildlife Code, Chapter 46, Subchapter A.

§53.8 License Fees Set by Commission

(a) (No change.)

(b) The following license fee amounts are effective for the licensing period beginning September 1, 1994:

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

(3) tarpon tag fee-\$100.

(4) duplicate tarpon tag fee-\$25.

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 February 11, 1994.

TRD-9436132

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Earliest possible date of adoption: March 21, 1994.

For further information, please call 1-(800) 792-1112, Ext. 4433 or (512) 389-4433.

◆ ◆ ◆
Chapter 57. Fisheries

Shrimp

• **31 TAC §57.661, §57.662**

The Texas Parks and Wildlife Commission proposes amendments to §57.661 and §57.662, concerning management of shrimp in Texas. The amendments are proposed under authority of Parks and Wildlife Code, §77.007, which directs the Commission, by proclamation, to regulate the catching, possession, purchase, and sale of shrimp.

The proposed changes are consistent with the guidelines established in the Parks and Wildlife Department's Shrimp Fishery Management Plan and the Gulf of Mexico Fishery Management Council's Fishery Management Plan for the Shrimp Fishery in the Gulf of Mexico. The Texas Shrimp Fishery Manage-

ment Plan and Texas Shrimp Fishery Management Economic Impact Analysis were approved and adopted by the Commission on November 2, 1989. In addition, the Shrimp Advisory Committee met on January 5, 1994, to review these proposed changes in the current shrimping laws. The proposed amendments of existing rules serve to decrease waste and prevent depletion by reducing growth overfishing of the shrimp resource. Economic efficiency in the industry will be enhanced by allowing the harvest of larger, more valuable shrimp. Distribution of the available resource among shrimpers will become more equitable. Standardization and simplification of the rules will increase the ability of law enforcement officials to assure compliance. Environmental impacts on the marine habitat and non-target species by the shrimping industry will be further minimized.

The proposed amendments would include extending the date during which the 2:00 p.m. closure for bay and bait shrimping is in effect (1 April-15 December); authorizing the Commission to extend the closure to shrimping of state outside waters to a maximum of 75 days; establish a maximum amount of shrimp that may be off-loaded from a shrimp vessel operating under daily trip limits in the public waters to another vessel; set a minimum mesh size for shrimp trawls at 1 3/4 inches, and eliminate the legal shrimp count of 50 heads-on per pound in the fall bay shrimp fishery.

Under the provisions of Parks and Wildlife Code, §77.007 the Commission is granted authority to regulate the catching, possession, purchase, and sale of shrimp. In those areas under which the Commission was not granted authority to promulgate regulations such as licenses and penalties and in those sections of the Parks and Wildlife Code over which the Commission is granted authority to promulgate regulations, but has not sought to exercise that authority within this proclamation, the applicable provisions of Parks and Wildlife Code, Chapter 77 will apply.

Under provisions of Parks and Wildlife Code, §77.007(d) proclamations issued under authority granted to the Commission in §77.007 prevail over any conflicting provision of the Parks and Wildlife Code, Chapter 77 and a proclamation of the Commission issued under the Wildlife Conservation Act of 1983 (Parks and Wildlife Code, Chapter 61) to the extent of the conflict. In that regard, the provisions found in Parks and Wildlife Code, §§77.013, 77.062, 77.063, 77.066, 77.086, 77.093, 77.096, and 77.098 have been significantly modified in these proposed rules which will take precedence over the aforementioned sections of the Parks and Wildlife Code.

The proposed new regulations which represent significant modifications from existing provisions of the Parks and Wildlife Code, Chapter 77 are summarized as follows:

In the proposed regulations, §57.661(f) is amended to extend the date during which the 2:00 p.m. closure for bay and bait shrimping is in effect (1 April-15 December).

In the proposed regulations, §57.661(g) is amended to correct a typographical error.

In the proposed regulations, §57.661(a)-(b) and §57.662, the word "Texas" is removed from language in the reference to Texas Parks and Wildlife Code to correct and standardize references to the Parks and Wildlife Code.

The provisions of the Parks and Wildlife Code, §77.062 are modified by new proposed §57.661(k) to authorize the Parks and Wildlife Commission to extend the closure to shrimping of state outside waters to a maximum of 75 days.

In the proposed regulations, the provisions of the Parks and Wildlife Code, §77.013 are modified by new §57.661(l) to eliminate the legal shrimp count of 50 heads-on per pound in the fall bay shrimp fishery.

In the proposed regulations, the provisions of the Parks and Wildlife Code, §§77.063, 77.066, 77.086, 77.093, and 77.096 are modified by new §57.661(m) to set a minimum mesh size for shrimp trawls of 1 3/4 inches.

Under authority of Parks and Wildlife Code, §77.007, new §57.661(n)(1) is added to make it unlawful for any person aboard a licensed commercial bay shrimp boat to off-load, transfer, sell, or barter any amount of live or dead shrimp.

Under the authority of Parks and Wildlife Code, §77.007, new §57.661(n)(2) is added to make it unlawful for any person to off-load, transfer, sell, or barter any amount of live or dead shrimp from a licensed commercial bay shrimp boat while on the public water of Texas.

Under the authority of Parks and Wildlife Code, §77.007, the provisions of the Parks and Wildlife Code, §77.098 are modified by proposed §57.661(n)(3) to establish a maximum amount of live or dead shrimp a licensed commercial bait-shrimp boat operator may off-load, transfer, sell, or barter from a licensed commercial bait-shrimp boat operating under daily trip limits in the public waters to another vessel.

Under the authority of Parks and Wildlife Code, §77.007, the provisions of the Parks and Wildlife Code, §77.098 are modified by proposed §57.661(n)(4) to establish a maximum amount of shrimp any person may off-load, transfer, sell, or barter from a licensed commercial bait-shrimp boat operating under daily trip limits in the public waters to another vessel. In addition, a new rule is added to make it unlawful for any person aboard a licensed commercial bay shrimp boat while on the public waters of Texas to off-load, transfer, sell, or barter any amount of live or dead shrimp.

There were no changes to §57.660 of this proclamation.

Robin Riechers, staff economist, has determined that adoption of these rules for each year of the first five years will have fiscal implications to the state, local governments, and small businesses. As the magnitude of these impacts will largely be determined by the abundance of shrimp available to the bay and gulf fisheries, and as the levels of abundance are variable from year to year, only general impacts are discussed here for the

five-year time horizon.

The combined effects of the proposed rules should either cause no significant change or will reduce the state's enforcement costs. The standardizing of mesh sizes, simplifying shrimping times, restricting shrimp transfer, and elimination of count size should enhance the efficiency of law enforcement officials in monitoring compliance to the rules.

There will be costs associated with the adoption of the proposed rules. Small business which are forced to comply will incur costs associated with this compliance. Those businesses currently using mesh sizes smaller than the proposed minimum will incur increased production costs resulting from escapement of smaller juvenile shrimp. In addition, those persons required to comply with the 2:00 p.m. closure will experience reduced fishing opportunities which may result in a reduction of landings. Those persons required to comply with the off-loading restrictions may incur losses associated with the limitation on opportunities to sell shrimp on public waters and with potential decrease between water sale value and dock-side value.

Mr. Riechers also has determined that for each year of the first five years the sections are in effect the public benefit anticipated will be to provide on a continuing basis the protection and enhancement of the shrimp fishery. These rules serve to decrease waste and prevent depletion by reducing growth overfishing of the shrimp resource. Economic efficiency in the industry will be enhanced by allowing the harvest of more valuable shrimp. Distribution of the available resource among shrimpers will become more equitable. Standardization and simplification of the rules will increase the ability of law enforcement to assure compliance. Environmental impacts on the marine habitat and non-target species by the shrimping industry will be further minimized.

There will be economic costs to persons who are required to comply with the proposed sections, and to those who rely on the expenditures of others who spend money while exercising their commercial privileges in the shrimp fishery, and who may reduce those expenditures as a result of these new amendments.

Economic benefits associated with the proposed sections include, increased efficiency in the enforcement of the proposed regulations and added clarity of regulations to the public which will reduce confusion to those who must comply with the regulations. Insofar as these sections are based on sound management and enforcement tenets, it is anticipated the value of the sections will be positive to the state.

In compliance with Senate Bill 612 and the Administrative Procedure Act (§2001.022), the proposed rule changes have been submitted for review to the Texas Employment Commission.

Comments on the proposed proclamation for shrimp management may be submitted to Gene McCarty, Chief Coastal Fisheries, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744,

1-(800) 792-1112, Ext 4863 or (512) 389 4863

The amendments are proposed under Parks and Wildlife Code, Chapter 77, Subchapter A, §77 004 and §77 007, which delegates authority to the Texas Parks and Wildlife Commission to regulate the catching, possession, purchase, and sale of shrimp after approval and adoption of a shrimp management plan and an economic impact analysis prepared by the department

§57.661 General Rules

(a) Notwithstanding the [Texas] Parks and Wildlife Code, §77 061(a)(1), §77 065, and §77 067, it is unlawful for any person to take or attempt to take shrimp in the outside water during the period from 30 minutes after sunset on May 15 to 30 minutes after sunset on July 15 or during the period as altered under the authority of the [Texas] Parks and Wildlife Code, §77 062

(b) Notwithstanding any other provisions of the [Texas] Parks and Wildlife Code, §77 061(e) applies to commercial shrimp boats operating in the outside or inside water at all times of the year.

(c)-(e) (No change)

(f) Notwithstanding the Parks and Wildlife Code, §§77 088, 77 089, 77 090, 77 091, 77 094, and 77 097, during the period April 1 [May 15] through December 15 [July 15] it is unlawful for any person to take or attempt to take shrimp from the inside water except between the hours of 30 minutes before sunrise to 2 00 p m or fail to have the otter trawl doors or other spreading device on the deck of the vessel and the trawl bag untied from 2 00 p m one day until 30 minutes before sunrise on the next day

(g) Notwithstanding any provision of the Parks and Wildlife Code, Chapter 77, Subchapter E, of [or] it is unlawful to take or attempt to take shrimp from inside water from 30 minutes after sunset to 30 minutes before sunrise except as provided in subsections (e), (f) and (h) of this section

(h)-(j) (No change)

(k) Notwithstanding Parks and Wildlife Code, §77.062, the commission may change the opening and closing dates of the May 15 to July 15 closed season to provide an earlier, later, or longer season not to exceed 75 days.

(l) Notwithstanding Parks and Wildlife Code, Chapter 77, there are no count size requirements on the harvest of shrimp.

(m) Notwithstanding Parks and Wildlife Code, Chapter 77, it is a violation for any person to take or attempt to take shrimp with a trawl having meshes, including meshes of the bag or finer, less

than eight and three-quarter inches in length between the two most widely separated knots in any consecutive series of five stretched meshes;

(n) Notwithstanding Parks and Wildlife Code, Chapter 77, it is unlawful for any person:

(1) aboard a boat licensed as a commercial bay shrimping vessel while on the public waters of Texas to off-load, transfer, sell or barter any amount of live or dead shrimp;

(2) to off-load, transfer sell or barter from a boat licensed as a commercial bay shrimp boat, while on the public waters of Texas any amount of live or dead shrimp;

(3) aboard a boat licensed as a commercial bait-shrimp boat, while on the public waters of Texas to off-load, transfer, sell or barter an amount of live or dead shrimp exceeding two quarts per recipient or one gallon (by volume) per vessel for two or more recipients;

(4) to off-load, transfer, sell or barter from a boat licensed as a commercial bait-shrimp boat, while on the public waters of Texas an amount of live or dead shrimp exceeding two quarts per recipient or one gallon (by volume) per vessel for two or more recipients.

§57 662. *Penalty for Violation.* The penalties for violation of this subchapter are prescribed by [Texas] Parks and Wildlife Code, Chapter 77

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 February 11, 1994

TRD-9436138

Paul M Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Earliest possible date of adoption March 21, 1994

For further information, please call 1-(800) 792-1112, Ext 4433 or (512) 389-4433

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing Proclamation

- 31 TAC §§65.1, 65.3, 65.9, 65.13, 65.21, 65.26-65.28, 65.31, 65.40, 65.46, 65.62, 65.72, 65.78, 65.91

The Texas Parks and Wildlife Department proposes amendments to §§65 1, 65.3, 65 9, 65 13, 65 21, 65 26, 65 27, 65 31, 65 40, 65 46, 65 62, 65 72, 65 78, 65 91, and new

65.28 concerning the Statewide Hunting and Fishing Proclamation. The proposed new rules and amendments allow the department to adjust seasons, bag limits, means, and methods for taking wildlife resources in consideration of the species population. The proposed new rules and amendments are based upon department scientific studies and investigations. These investigations are in compliance with Texas Parks and Wildlife Code, Chapter 61, and represent required findings of fact. These findings are based upon scientific studies and surveys which track trends in relative abundance of the different fish and wildlife species. The rules as proposed are designed to prevent depletion and waste of wildlife resources.

The new rules and amendments that differ from the existing 1993-1994 Statewide Hunting and Fishing Proclamation are summarized, by sections, with one exception. All references to "longbows and arrows" in this proclamation have been changed to "lawful archery equipment" for the purpose of consistency in the rules. Sections in which this language change is the only change are §§65.9, and 65 21. This language change also appears in §§65.26, 65 31, 65 4, and 65 62.

In §65 1, concerning Applications, reference to freshwater mussels is added to the list of wildlife resources not regulated in the Statewide Fishing and Hunting Proclamation. Legislation passed in the 73rd Texas Legislature directed the Parks and Wildlife Commission, through Chapter 78, Parks and Wildlife Code, to regulate freshwater mussels by separate proclamation.

The amendment to §65 3, concerning Definitions, modifies the definition of Antlerless Deer Control Permits (related to new §65 26(3)) to include Spike-Buck Deer, adds new definitions of baited area and baiting for eastern turkeys, spike-buck deer, and muzzleloader, adds or modifies definitions for 13 designated urban lakes and adds six new definitions of designated urban lakes, adds definition of reservoir boundaries for bag, possession, and length limits for Caddo Lake, Cooper Lake, Lake o' the Pines, and Lake Palestine to clarify boundaries for enforcement of special regulations; and deletes definition of freshwater mussel from these rules.

In §65 13, concerning Firearms, a new subsection sets .45 caliber as the minimum caliber of a muzzleloader used during the muzzleloader-only season.

Section 65.26, concerning Antlerless Deer Harvest Systems, is amended to include the taking of spike-buck deer by permit issued by the Department under terms of Antlerless Deer Control Permit systems.

The amendment to §65 27, concerning Permits, includes allowing hunters to procure permits to take antlerless deer from both a landowner or the landowner's agent and allowance for taking of antlerless deer without additional permits unless such a permit is required in other sections of the rules.

New §65 28, concerning Managed Lands Buck Permits, allows the taking of two bucks in a one-buck county if the property is en-

rolled in a Texas Parks and Wildlife approved Habitat and Harvest Annual Recommendation

The amendment to §65.31, concerning Antlerless Mule Deer and White-tailed Deer Permits, deletes reference to Antlerless White-tailed Deer Permits.

Section 65.40, concerning Deer: White-tailed and Mule Deer, contains changes to white-tailed deer general open seasons and bag limits as follows: Burnet County is proposed for a bag limit of one buck and two antlerless deer; Calhoun County is proposed for a late season antlerless season; Deer season boundaries in Upton, Val Verde, McClennan and Liberty Counties are more clarified, season timeframes are generalized to eliminate specific start and end dates; the Hagerman National Wildlife Refuge in Grayson County is opened to general season deer hunting, Gray and Lipscomb Counties are proposed for six doe days; and clarifications are proposed for the description of antlerless harvest options under doe day and permit season regulations.

The amendment to §65.40 also removes the LAMPS antlerless harvest system from statewide application and restricts it to 57 East Texas counties.

In §65.40, white-tailed deer archery season is presented as two options. Section 65.40(2) represents Option I. Under provisions of this proposal, the archery bag limit would be identical to general rifle season bag limit. If a county has a buck-only bag limit restriction in the general season, bag limit would be additionally restricted to buck-only in archery season. Section 65.40(3) represents Option II, which declares all counties with an archery season to have an either-sex bag limit regardless of the general season bag limit. Depending upon the option adopted by the Commission, paragraph (2) or (3) will be deleted and the section referencing the preferred option retained.

A new §65.40(4) establishes a muzzleloader-only season for antlerless white-tailed deer in 26 counties of the Edwards Plateau.

The mule deer general open season section and the mule deer archery-open season section are amended by proposing an open season for mule deer in Coke County. Section 65.40(6) is further amended by proposing antlered-only archery restrictions in Culberson, Hudspeth, and Presidio Counties.

The amendment to §65.46, concerning Desert Bighorn Sheep, creates an open season and bag limits for desert bighorn sheep for Brewster, Culberson, Hudspeth, Jeff Davis and Presidio Counties.

The amendment to §65.58, concerning Pheasants, extends the open season in 38 counties located in the Texas panhandle. The bag limit is increased from two to three cock pheasants and possession limits are increased from four to six cock pheasants.

The amendment to §65.62, concerning Turkey, increases the annual bag limit for turkeys from three turkeys per license year to four turkeys per license year, and in seven East Texas counties that currently have, or are

proposed to have, a spring turkey season it will be illegal to hunt turkeys over baited areas and all turkeys harvested during the spring gobbler season will have to be checked in a check station within 24 hours after harvest.

In Brooks, Kenedy, Kleberg, Kinney, Uvalde, and Willacy Counties the fall season turkey bag limit is proposed to change from three turkeys, gobblers or bearded hens to four turkeys either sex. In Hidalgo and Starr Counties the fall turkey season was opened. The opening of the spring turkey season in the northern half of the State is delayed from the first Saturday in April through the first Sunday in May, to the third Saturday in April for 37 consecutive days. The spring season in Ellis county opens on the third Saturday in April for 37 consecutive days. The spring season in Starr county opens on the first Saturday in April for 37 consecutive days. In South Texas the length of the spring turkey season is increased from the first Saturday in April through the first Sunday in May to the first Saturday in April for 37 consecutive days. The spring turkey season will open in Red River County in Houston, Jasper, Newton, Polk, Trinity, and Tyler Counties the opening of the spring gobbler season will be delayed from the first Saturday in April for 16 consecutive days to the Monday nearest April 20th for 14 consecutive days. Also under consideration is the closing of the turkey season in Houston, Jasper, Newton, Polk, Trinity, and Tyler Counties to enhance the probability of success in turkey restoration activities in those counties.

The amendment to §65.72, concerning Fish, establishes prohibited acts by the possessor of finfish tags issued by the commission, and specifies the type of fish for which a tag has been issued and identifies the location on the fish where the tag must be attached. The amendment also allows, during a license year, the possession of at least one red drum that exceeds the stated maximum size-limit under the authority of a Red Drum Tag and Bonus Red Drum Tag. Stocks of these species have recovered to a level where a modest allowance for increased harvest is justified. A drum tag will allow the development of a trophy fishery for those species. The amendment also allows, during a license year, the possession of one tarpon 80 inches in total length or larger under the authority of a Tarpon Tag. A Tarpon Tag will allow the development of a trophy fishery for this species. The amendment increases the minimum size limit of red snapper from 13 to 14 inches total length. This minimum size limit corresponds to the regulation implemented by the Gulf of Mexico Fishery Management Council in federal waters where most of the red snapper fishery occurs. This would insure consistency in regulation enforcement and reduce confusion for anglers. In addition, the biomass yield per recruit and the spawning success of the over fished red snapper stocks would be improved. The amendment replaces the term "small craft warnings" with "small craft advisories" in order to be consistent with National Weather Service terminology, and exempts persons shrimping with an individual bait shrimp trawl from the provision requiring the non-game finfish portion of the trawl catch

not to exceed 50% by weight of the total trawl catch, except for species with size or bag limits.

The amendment to §65.78, concerning Crabs, changes the number of crab traps a person may fish for commercial purposes to 200. The limitation should reduce fishing pressure on the crab populations, will allow for better distribution of blue crabs among fishermen, will reduce user group conflicts in areas of high fishing density, and will reduce navigational hazards. The amendment changes the number of crab traps a person may fish for non-commercial purposes to 3. The limitation should reduce fishing pressure on the crab populations, will allow for better distribution of blue crabs among fishermen, will reduce user group conflicts in areas of high fishing density, and will reduce navigational hazards. The amendment sets a minimum spacing of 100 feet between crab traps fished in public waters except for traps attached to a pier or dock. Setting a minimum spacing for crab traps will reduce fishing pressure on the crab populations, especially in areas of high fishing density, will allow for better distribution of blue crabs among fishermen, and will reduce navigational hazards. The exception will exempt from the trap spacing requirements crab traps fastened to piers or docks. The amendment clarifies the definition of buoy and disallows the use of plastic bottles of any size as crab trap buoys. One-gallon plastic bottles are commonly used to mark crab traps. These bottles rapidly deteriorate in the sun and are easily broken, causing them to sink. Traps without visible buoys are difficult to find, thus creating a navigational hazard. Lost traps continue to fish, causing mortality of crabs and a waste of the resource, and prohibiting the use of plastic bottles will also reduce marine debris. To minimize disruption in the crab fishery and to allow the use of previously purchased trap buoys this rule is proposed to take effect January 1, 1995. The amendment also prohibits fishing for crabs with more than three crab traps in a portion of the San Bernard River north of the boat ramp at Bernard Acres. Reducing the number of crab traps that individuals may use in this portion of the San Bernard River will reduce fishing pressure on the crab populations, will allow for better distribution of blue crabs among fishermen, will reduce user group conflicts in areas of high fishing density, and will reduce navigational hazards.

The amendment changes Lakes Fort Phantom Hill and Lost Creek from the statewide minimum length limit of 14 inches to a minimum 16 inches, although the daily bag limit will remain at 5 per day, change Lakes Alan Henry, Aquilla, Athens, Bellwood, Casa Blanca, Granbury, Old Mount Pleasant City, Rusk State Park, and Welsh from the statewide minimum length limit of 14 inches and a daily bag limit of 5 per day to a minimum length limit of 18 inches with a daily bag of 3 fish per day, modifies special regulation wording for Purts Creek State Park Lake and Gibbons Creek Reservoir from "any bass over 22 inches" to "any bass 22 inches or greater," changes Lake Grapevine from the statewide minimum length limit of 14 inches and a daily bag limit of 5 per day to a pro-

ected slot-length limit of 14-18 inches with a daily bag of 3 fish per day, changes Lake Timpson from the statewide minimum length limit of 14 inches and a daily bag limit of 5 per day to a protected slot-length limit of 14-21 inches with a daily bag of 3 fish per day, modifies special regulation wording for 14-21-inch slot-limit for largemouth bass from "one bass over 21 inches" to "one bass 21 inches or greater," changes Lakes Belton, Cisco, Greenbelt, Oak Creek, Stillhouse Hollow, White River, and Whitney and the Devil's River from State Highway 163 bridge crossing near Juno downstream to Dolan Falls from the statewide minimum length limit of 14 inches and a daily bag limit of 5 per day to a minimum length limit of 18 inches with a daily bag of 3 fish per day, modifies special regulation wording for striped bass from Lake Toledo Bend from "more than 2 over 30 inches" to "more than 2 striped bass 30 inches or greater," modifies special regulation wording for striped bass from Lake Texoma from "more than 1 over 22 inches" to "more than 1 striped bass 22 inches or greater," moves the description of boundary of Cooper Lake to §65.3, concerning Definitions, adds Lakes Archer City, Bryan, Petrolia City (New), and Petrolia City (Old) to list of locations where use of trotlines is prohibited, and adds Lakes Archer City, Bryan, Petrolia City (New), and Petrolia City (Old) and reservoirs lying totally within boundaries of a state park to the list of locations where use of juglines and throwlines are prohibited

Robin Riechers, staff economist, has determined that for the first five-years the rules are in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the rules

The proposed amendments include both more- and less-restrictive bag, possession, and size limits for selected species of fish and wildlife. The changes in the current rules are designed to reduce the vulnerability of the species to take, prevent overharvest of the species, equitably distribute the available harvest, and in general preserve and enhance

the existing populations while allowing for harvest within prescribed fisheries and wildlife management tenets.

Fiscal implications to small businesses may be reduced sales of gear, supplies, etc., to persons as a result of the amended rules. Expenditures in certain locales may be increased or decreased due to the restrictions upon the targeted species.

Mr Riechers also has determined that for each of the first five-years the rules as proposed are in effect the public benefits anticipated as a result of enforcing the amendments as proposed will permit appropriate take of fisheries and wildlife resources consistent to maintain viable populations. It is anticipated there will be fiscal implications to persons who are required to comply with the rules as proposed. Persons who depend upon the expenditures of others that exercise their recreational or commercial harvest privileges may find reduced income as a result of the rules

The department has filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure Act (Government Code, §2001.022)

Comments on the rules as proposed may be submitted to Dr Rudy Rosen, Fisheries and Wildlife Division Director, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744, (512) 389-4971 or 1-800-792-1112, extension 4971

The amendments are proposed under Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with authority to establish wildlife resource regulations for this state

§65.1 Application.

(a) These sections apply to all of the wildlife resources (except migratory game birds, shrump, freshwater mussels,

and oysters, and as may be noted in the following sections) in the counties of Texas.

(b) (No change.)

(c) These rules [The sections in this subchapter are] to be effective September 1, 1994, [1991,] except where noted in the text

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

Antlerless and Spike-Buck Deer Control Permits [Permit]-Permits [A permit] that when attached to an antlerless or spike-buck white-tailed deer legally harvested under a wildlife management plan (see §65.26(3) of this title (relating to Antlerless Deer Harvest Systems)) allows the carcass to be possessed without the hunting license [antlerless] white-tailed deer tag attached.

Baited area-Means any area where shelled, shucked or unshucked corn, wheat, or other grain, salt, or other feed is distributed so as to constitute for eastern turkeys, a lure, attraction or enticement to, on, or over any area where hunters are taking or attempting to take eastern turkeys.

Baiting for eastern turkey-The placing, exposing, depositing, distributing, or scattering, of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for eastern turkeys a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take eastern turkeys.

Designated urban lakes-for purposes of Texas Parks and Wildlife Code, Chapters 61 and 66, the following public waters are considered designated urban lakes.

COUNTY - Location

BELL

Sammon's Park [Lake]

BEXAR

[Espada]

Hi-Lions

Live Oak City

Millers [Pond]

San Antonio River =

Within boundaries of

Brackenridge and

Espada Parks

[BLANCO

Blanco State Park #5

Five Mile Dam]

BOWIE

Spring Lake Park

BRAZOS

Cy Miller Park [Pond]

Gabbards Park

CAMERON

Dixieland

Ft. Brown Resaca

Harlingen City [Lake]

Harlingen Sports Complex

COLLIN

Bethany Park A

Bethany Park B

Bethany Park C

Bob Woodruff

Shawnee Park

Towne

DALLAS

Kid Springs Park

Lakeside (Duncanville)

Mesquite City [Lake]

Northwest Park [Pond]

(Irving)

O'Bannon (Garland)

Palos Verdes

Samuel Farm Pond A

Samuel Farm Pond #1

COUNTY - Location

DALLAS (Cont.)

Samuel Farm Pond #4

Samuel Farm Pond #5

DENTON

Flower Mound Rheudasil

North Lake Park (Denton)

South Lake Park (Denton)

FORT BEND

Missouri City American
Legion Park

Missouri City Community
Park [Lake]

[GILLESPIE

LBJ State Park]

GRAYSON

Pickens

Waterloo

GREGG

Teague Park [Lake]

HARRIS

Bane Park

Burke-Crenshaw

Burroughs Park

Challenger VII Memorial
Park

Eisenhower City Park

[Forest Lake]

Hermann Park

Tom Bass III [1]

LUBBOCK

Canyon Lake Project 1

Maxey Park

MONTGOMERY

Albert Sallas County Park

ORANGE

Claiborne West Park

POTTER

Medical Center North

Medical Center South

RANDALL

Southeast Park

SMITH

Bellwood

Camp Tyler A

Camp Tyler B

Camp Tyler C

TARRANT

Bedford Boys Ranch

Como

Echo

French

Hurst Chisolm Park

Oakland

COUNTY - Location

TAYLOR

Nelson Park

TOM GREEN

North Concho River - From

the O.C. Fisher

Reservoir stilling

basin downstream

to the dam at Bell

Street in San Angelo

South Concho River - From

the dam at Avenue K

downstream to the dam

at Bell Street in San

Angelo

[Bell Street

Irving Street

Martin Luther King Park

Oak Street (San Angelo)]

TRAVIS

Searight Park Lake #1

VAN ZANDT

Canton City

WICHITA

Kid's Pond

Plum [Lake (Softball
Complex)]

Williams Park

WILLIAMSON

[South San Gabriel River
(Georgetown)]

Round Rock City Park

[San Gabriel Park]

Taylor City Lake #1

Taylor City Lake #2

Taylor City Lake #4

[Freshwater mussel-Bivalve molusks of the family Unionidae (collectively including Amblimidae and Margaritiferidae) as listed by the American Fisheries Society Special Publication 16.]

Muzzleloader-Any firearm that is loaded only through the muzzle using black powder or Pyrodex and separate projectile(s) and is ignited by a flint or percussion mechanism.

Reservoir boundaries for bag, possession, and length limits-

(A) Caddo Lake in Marion and Harrison Counties comprises all impounded waters of Big Cypress Bayou from the Texas-Louisiana border upstream to the State Highway 43 bridge.

(B) Cooper Lake in Delta and Hopkins Counties comprises all waters within the Corps of Engineers lands on Cooper Lake upstream from State Highway 19/154 and downstream from F.M. Road 17;

(C) Lake O'the Pines in Camp, Marion, Morris, and Upshur Counties comprises all impounded waters of Big Cypress Creek from Ferrell's Bridge dam (the Lake O'the Pines dam) upstream to U.S. Highway 259 bridge; and

(D) Lake Palestine in Anderson, Cherokee, Henderson, Smith, and Van Zandt Counties comprises all impounded waters of the Neches River from the Black-

burn Crossing dam (the Lake Palestine dam) upstream to F.M. Road 279 bridge including Kickapoo and Flat Creeks in Henderson Counties.

Spike-buck deer-A deer having a hardened antler protruding through the surface of the skin with neither antler having a fork or branching point.

§65.9. Open Seasons: General Rules.

(a)-(g) (No change.)

(h) No antlerless deer permit will be required to possess an antlerless deer taken with legal archery equipment (see §65.15 of these rules) [longbow and arrows] during the archery-only open season.

(i) -(m) (No change.)

§65.13. *Firearms.*

(a) It is lawful to shoot game animals and game birds with a rifle, shotgun, or other legal firearm including muzzleloading weapons, except it is unlawful to shoot:

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

(3) Turkey gobblers during spring gobbler seasons in Houston, Jasper, Newton, Polk, Red River, Trinity, and Tyler Counties with any firearm other than a shotgun.

(b)-(d) (No change.)

(e) It is unlawful to use a muzzleloader smaller than .45-caliber during the muzzleloader-only deer season.

§65.21. *Falconry.*

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

(d) No person may possess a firearm or archery equipment [longbow and arrow] or be accompanied by a person possessing a firearm or archery equipment [longbow and arrow] while hunting by means of falconry.

§65.26. *Antlerless and Spike-Buck Deer Harvest Systems* Antlerless and Spike-Buck Deer Harvest Systems, previously entitled Deer Management Plan and Required Permits, and previous to that entitled Wildlife Management Plans, as it relates to §65.40 of this title (relating to Deer: White-tailed and Mule Deer), are the three antlerless deer harvest and permitting systems as provided in this section.

(1) Wildlife Habitat and Harvest Annual Recommendation.

(A)-(D) (No change.)

(E) No antlerless mule deer or white-tailed deer permit is required for a deer legally killed with lawful archery equipment (see §65.15 of this title (relating to Archery) [longbow and arrow] during the archery-only open season (§65 40(2) and (4) of this title).

(F)-(N) (No change.)

(2) Landowner-Assisted Management Permit System (LAMPS).

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

(D) No LAMPS antlerless deer permit is required for a deer legally killed with lawful archery equipment (see §65.15 of this title) [longbow and arrow] during the archery only open season

(§65.40(2) and (4) of this title (relating to Deer)).

(E) (No change.)

(F) All deer taken under a LAMPS annual recommendation during the general season must be tagged immediately upon kill with the appropriate hunting license tag and the LAMPS antlerless deer permit; and both shall remain attached until the carcass has reached its final destination and has been finally processed.

(G)-(M) (No change.)

(3) Wildlife Management Plan and Antlerless and Spike-Buck Deer Control Permits.

(A) A Wildlife Management Plan, (see §65.3 of this title (relating to Definitions)) shall include:

(i)-(ii) (No change.)

(B) (No change.)

(C) Antlerless or spike-buck deer control permits [permit] shall be issued to a landowner or landowner's agent designated on the application form for any parcel of land in any county of Texas shown to be threatened by overpopulation of deer.

(D) Antlerless [An antlerless] and spike-buck deer control permits [permit] shall allow the taking of one antlerless or one spike-buck white-tailed deer and neither permit shall be used to take more than one deer.

(E) Antlerless and spike-buck deer control permits [permit] shall be issued only to the landowner or the landowner's agent.

(i) Antlerless and spike-buck [The antlerless] deer control permits [permit] shall be issued only after the landowner or landowner's agent has made application for such permits [permit] to the department on a form prescribed by the department. The antlerless and spike-buck deer control permit application shall require, in part, the name, address and hunting license number of all agents who will be hunting antlerless and/or spike-buck white-tailed deer for control purposes under the wildlife management plan. The maximum number of agents allowed on one application for antlerless and spike-buck deer control permits shall not exceed one tenth of the number of antlerless deer recommended by the Wildlife Management

Plan for harvest. The application shall not be accepted as complete without a departmental approved Wildlife Management Plan. For the application to be considered, the wildlife management plan must recommend an antlerless harvest of greater than 20 antlerless deer and must be approved by a Texas Parks and Wildlife Department (TPWD) biologist classified not less than CS VI. Wildlife Management Plans shall be subject to departmental standards and guidelines.

(ii) The number of antlerless and spike-buck deer control permits to be issued shall be specified in the deer management plan following scientific studies that determine the number of antlerless and spike-buck deer to be harvested to lower the population in order to keep the population prudently within the carrying capacity of the habitat, thereby preventing overuse of habitat by deer. The antlerless and/or spike-buck deer control permit allocation may not be used as a means to solely alter sex ratios of deer herd on the managed property.

(iii) Antlerless and spike-buck [The antlerless] deer control permits [permit] shall be issued only after the landowner or landowner's agent has paid to the department fees equaling \$300.

(F) The antlerless and/or spike-buck white-tailed deer bag limit for the landowner or landowner's agent of the property described in the Wildlife Management Plan and Antlerless and Spike-buck Deer Control Permits (see §65.26(3) of this title) shall not exceed 300 antlerless and/or spike-buck white-tailed deer

(G) Antlerless and spike-buck [The antlerless] deer control permits [permit] shall be valid only during a lawful open deer season during a year beginning on September 1 of one year through August 31 of the following year within which the permits are issued and during legal shooting hours, as prescribed in §65. 40 of this title (relating to Deer: White-tailed and Mule Deer) and Texas Parks and Wildlife Code, §62.004 (relating to Hunting at Night).

(H) Deer taken with an antlerless or a spike-buck deer control permit shall be taken only from the property described in the Wildlife Management Plan

(I) (No change.)

(J) No person may possess the carcass of an antlerless or spike-buck white-tailed deer taken under a wildlife management plan at any time before the carcass has been finally processed and de-

livered to the final destination unless there is attached to the carcass a properly executed antlerless or spike-buck deer control permit or a valid hunting license tag

(K) It is unlawful to falsify ownership of land or amount of acreage owned or leased when applying for antlerless or spike-buck deer control permits.

(L) It is unlawful for any person to use an antlerless or a spike-buck deer control permit on a tract of land other than the designated tract for which the permit was issued.

(M) **Antlerless and spike-buck** [The antlerless] deer control permits [permit] shall be filled out in a legible manner and immediately attached to the carcass upon kill and shall remain attached to the carcass until the carcass has been delivered to its final destination and is finally processed. No other tag shall be required to be attached to the carcass (Texas Parks and Wildlife Code §42.018(c))

(N) **Antlerless and spike-buck** [The antlerless] deer control permits [permit] will not be valid unless the following information is legibly written in the proper places on it

(i)-(iv) (No change.)

(O) An antlerless and spike-buck deer control permit harvest report form provided by the department shall be submitted to the department by the landowner or landowner's agent not later than the fourteenth day of February following the kill or of the year of issue and must contain the sex and date of kill for each deer tagged with a antlerless or a spike-buck deer control permit and the name, address, telephone number, and hunting license number of the landowner or landowner's agent

§65.27 Permits.

(a) Except as may be otherwise provided in these rules, no person may hunt antlerless mule deer, pronghorn antelope, elk, or antlerless white-tailed deer in areas where permits are prescribed unless he first procures a valid permit issued by the landowner or the landowner's agent. No additional antlerless white-tailed deer or spike buck control permit is required for antlerless white-tailed deer except as specifically provided for in these rules

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

(d) No permit is valid unless it has been issued, used, properly executed, and

possessed strictly in accordance with this section; §65.26 of this title (relating to Antlerless Deer and Spike-Buck Deer Harvest Systems); §65.29 of this title (relating to Antelope Permits), §65.31 of this title (relating to Antlerless Mule Deer Permits [and White-tailed Deer Permits]); and §65.33 of this title (relating to Elk Permits).

(e) No person may hunt or possess a spike-buck deer where spike-buck deer permits are required if not in possession of a spike-buck deer control permit.

§65.28. *Managed Lands Buck Permits.*

(a) No Managed Lands Buck Permit is valid unless it has been issued, used, properly executed, and possessed in accordance with this section.

(b) Managed Lands Buck Permits shall only be valid in counties with a one-buck bag limit and only on tracts of land where the landowner has an approved Wildlife Habitat and Harvest Annual Recommendation (See §65.26)

(1)) that specifies an antlered buck harvest quota

(c) All antlered deer taken on a tract of land for which Managed Lands Buck Permits have been issued shall be tagged with the Managed Lands Buck Permit. A valid Managed Lands Buck Hunting License Tag or a valid One-Buck County Hunting License Tag shall also be attached to the deer. Both shall remain attached until the carcass has reached its final destination and has been finally processed. Harvest of antlered deer within any open deer season, including archery, shall not exceed the number of Managed Lands Buck Permits issued for the tract of land

(d) It is unlawful for a landowner or landowner's agent to issue a Managed Lands Buck Permit to a hunter to hunt on a tract of land other than the designated tract of land for which the permit was issued.

(e) The landowner or landowner's agent shall issue permits to individual hunters before the hunter begins hunting on the designated tract.

(f) It is unlawful for a hunter to use a Managed Lands Buck Permit to hunt on a tract of land other than the designated tract of land for which the permit was issued

(g) The Managed Lands Buck Permit shall not be valid unless the date of kill, the hunter's name and the signature of the landowner or landowner's agent on whose tract of land the deer was killed are legibly printed on the permit

§65.31. *Antlerless Mule Deer [and White-tailed Deer] Permits.*

(a) In all counties where antlerless mule deer [or white-tailed deer] are to be harvested, the department shall issue antlerless mule deer [or white-tailed deer] hunting permits, except where subsections (h) and (i) of this section apply, for designated tracts of land only to the landowners or their agents only after the owners or agents have applied in writing for the exact number of permits to be used on the designated tracts.

(b) It is unlawful to falsify ownership of land or amount of acreage owned or leased when applying for antlerless mule deer [or white-tailed deer] hunting permits.

(c) It is unlawful for a landowner or landowner's agent to issue an antlerless mule deer [or white-tailed deer] hunting permit to a hunter to hunt on a tract of land other than the designated for which the permit was issued.

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

(f) It is unlawful for a hunter to use an antlerless mule deer [or white-tailed deer] hunting permit on a tract of land other than the designated tract of land for which the permit was issued.

(g) The permit must be attached to each antlerless mule deer [or white-tailed deer] taken, and shall remain attached until the deer has reached its final destination as defined in Texas Parks and Wildlife Code, §42.001(4)

(h) No antlerless mule deer [or white-tailed deer] hunting permit is required for deer legally killed with lawful archery equipment (see §65.15 of this title (relating to Archery)) [longbow and arrow] during the archery only open season (§65.40(2) and (4) of this title (relating to Deer: White-tailed and Mule Deer), when bag limits are designated as either sex.

(i) No antlerless mule deer [or white-tailed deer] hunting permit is required for deer legally taken during [white-tailed deer and] mule deer general open season (§65.40(3) of this title), when regulations provide that antlerless mule deer [or white-tailed deer] may be taken without an antlerless deer permit.

§65.40 *Deer: White-tailed and Mule Deer.* Except as otherwise provided in §65.26(3) of this title (relating to Antlerless and Spike-Buck Harvest Systems) no [No] person, may take more than the aggregate total of six deer per license year; of which no more than two may be mule deer, only one of which may be a buck mule deer; no more than three white-tailed buck deer, or no more than six antlerless deer, both species combined.

(1) White-tailed deer: general open seasons, bag, and possession limits

shall be as follows.

(A) In Bandera, Bexar, Blanco, Brewster, Brown, [Burnet, Calhoun,] Coke, Coleman, Comal, Concho, Crockett, Culberson, Edwards, Gillespie, Glasscock, Hays, Irion, Jeff Davis, Kendall, Kerr, Kimble, Kinney (only north of U.S. Highway 90), Llano, Mason, McCulloch, Medina (only north of U.S. Highway 90), Menard, Mills, Mitchell, Nolan, Pecos, Presidio, Reagan, Real, Reeves, Runnels, San Saba, Schleicher, Sterling, Sutton, Terrell, Tom Green, Travis, Upton (only in that southeastern portion located south of U.S. Highway 67 and east of state highway 349), Uvalde (only north of U.S. Highway 90), and Val Verde (all that portion located [only north of U.S. Highway 90 [and/or west of Spur 239]; and that portion located south of U.S. 90 and west of Spur 239/277 S) Counties, there is an open season for white-tailed deer

(i)-(iii) (No change.)

(B) In Aransas, Atascosa, Bee, Calhoun, Cameron, Hidalgo, Kinney (only south of U.S. Highway 90), Live Oak, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (only south of U.S. Highway 90), Val Verde (only in that southeastern portion located south of U.S. Highway 90 and east of Spur 239/277S), and Willacy Counties, there is an open season for white-tailed deer

(i)-(ii) (No change.)

(iii) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) [and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits)]

(iv) Special (South Texas) late season In the counties listed in this subparagraph there is a special late antlerless only white-tailed deer season

(I) Open season Sixteen consecutive days starting with the first Saturday following the second Sunday in January [January 15-January 30, 1994]

(II) Bag limit:

(-a-) Four antlerless white-tailed deer in addition to the number of spike-buck deer authorized for take under a valid Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (see §65.26(3) of this title) only Antlerless white-tailed deer may be taken without an antlerless permit in compliance with clause

(iii) of this subparagraph. The bag limit is not in addition to any other [the general or archery only] season bag limits.

(-b-) Spike-buck deer may be taken only by permit(s) issued under provisions of §66.26(3) of this title.

(C) In Brooks, Dimmit, Duval, Frio, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Maverick, McMullen, Webb, Zapata, and Zavala Counties, there is an open season for white-tailed deer

(i)-(ii) (No change.)

(iii) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) [and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits)]

(iv) Special (South Texas) late season In the counties listed in this subparagraph there is a special late antlerless only white-tailed deer season

(I) Open season Fourteen consecutive days starting the first Monday following the third Sunday in January [January 17-30, 1994]

(II) Bag limit:

(-a-) Five antlerless white-tailed deer in addition to the number of spike-buck deer authorized for take under a valid Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(3) of this title) only Antlerless white-tailed deer may be taken without an antlerless permit in compliance with clause (ii) of this subparagraph. The bag limit is not in addition to any other [the general or archery-only] season bag limits.

(-b-) Spike-buck deer may be taken only by permit(s) issued under provisions of §66.26(3) of this title.

(D) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph, except that a second buck may be legally taken in a one-buck county if tagged with a Managed Lands Buck Permit issued in accordance with §65.28 of this title (relating to Managed Lands Buck Permits) and the Managed Lands Buck License Tag.

(i) In Bell, Bosque, Brazoria, Burnet, Callahan, Comanche, Coryell, Eastland, Erath, Fort Bend, Goliad (south of U.S. Highway 59), Grayson (only

on the Hagerman National Wildlife Refuge), Hamilton, Howard, Jackson (south of U.S. Highway 59), Lampasas, Matagorda, McLennan (west of a line running along the Brazos River from the Bosque County line to its conjunction with IH 35 in Waco, then south along IH 35 to the Falls County line [and IH35]), Palo Pinto, Shackelford, Stephens, Taylor, Throckmorton, Victoria (south of U.S. Highway 59), Wharton (south of U.S. Highway 59), and Williamson Counties, there is an open season for white-tailed deer

(I)-(II) (No change.)

(III) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) [and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits)]

(ii) In Angelina, Hardin, Jasper, Liberty (only in that portion located east of the Trinity River and north of U.S. Highway 90), Newton, Polk, and Tyler Counties, there is an open season for white-tailed deer

(I)-(II) (No change.)

(III) During the first sixteen days of the season, antlerless deer may be taken without an antlerless deer permit unless LAMPS permits (see §65.26(2) of this title) have been issued for the tract of land. If LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. After the first sixteen days, antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation (§65.26(1)), LAMPS (§65.26(2)) or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(3) of this title). On National Forest (except Moore Plantation and Bannister WMA), Corps of Engineers, Sabine River Authority and Trinity River Authority lands, antlerless deer may be taken only by antlerless permits issued under a Wildlife Habitat and Harvest Annual Recommendation (see §65.26(1) of this title). [Antlerless deer may be taken only during the first sixteen days of the general season and without an antlerless deer permit required by §65.26 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits). After the first sixteen days, antlerless deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan.)]

(iii) In Fisher (west of State Highway 70), Gray, Hemphill, Hood, Jack, Karnes, Kent (south of U.S. Highway 380), Lipscomb, Parker (west of a line along FM 51 beginning at the Wise County line southward to its junction with State Highway 171, then southward along [and] State Highway 171 to the Hood County line), Scurry, Somervell, Wheeler, Wilson, and Young Counties, there is an open season for white-tailed deer.

(I)-(II) (No change.)

(III) During the first six days of the general season, antlerless deer may be taken without an antlerless deer permit. After the first six days, antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1), (3)) [Antlerless deer may be taken only during the first six days of the general season and without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits). After the first six days, antlerless deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan)].

(iv) In Archer, Baylor, Clay, Cooke, Denton, Hill, Johnson, McClennan (east of Brazos River and IH35), Montague, [Nacogdoches, Panola,] Parker (east of a line along FM 51 beginning at the Wise County line southward to its junction with [and] State Highway 171 to the Hood County line), [Rusk, Sabine, San Augustine, Shelby,] Tarrant, and Wise Counties, there is an open season for white-tailed deer

(I)-(II) (No change.)

(III) During the first two days of the general season, antlerless deer may be taken without an antlerless deer permit. After the first two days, antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1) and (3) of this title). [Antlerless deer may be taken only during the first two days of the general season and without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits). After the first two days, antlerless

deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan).]

(v) In Anderson, [Armstrong, Austin, Bastrop, Borden,] Bowie, Brazos, [Briscoe,] Burleson, [Caldwell,] Camp, [Carson,] Cass, Chambers, Cherokee, [Childress, Collingsworth,] Colorado, [Cottle, Crane, Crosby,] Delta, [De Witt, Dickens, Donley, Ector, Ellis, Falls, Fannin, Fayette, Fisher (east of State Highway 70), Floyd, Foard,] Franklin, Freestone, [Garza, Goliad (north of U.S. Highway 59), Gonzales, Gray,] Gregg, Grimes, [Guadalupe, Hall, Hardeman,] Harris, Harrison, [Haskell,] Hopkins, Houston, [Hutchinson,] Jackson (north of U.S. Highway 59), Jefferson, [Jones, Kent (north of U.S. Highway 380), King, Knox,] Lamar, Lavaca, [Lee,] Leon, Liberty (only west of the Trinity River and south of U.S. Highway 90), Limestone, [Lipscomb, Loving,] Madison, Marion, [Midland, Milam,] Montgomery, Morris, [Motley,] Navarro, [Ochiltree,] Orange, Rains, [Randall,] Red River, [Roberts,] Robertson, San Jacinto, Smith, [Stonewall, Swisher,] Titus, Trinity, Upshur, [Upton (north of U.S. Highway 67 and west of State Highway 349),] Van Zandt, [Victoria (north of U.S. Highway 59),] Walker, [Waller, Ward, Washington,] Wharton (north of U.S. Highway 59), [Wichita, Wilbarger,] and Wood Counties, there is an open season for [buck] white-tailed deer [only, except that antlerless deer may be taken only by the antlerless permit authorized by a Deer Management Plan (see §65.26 of this title relating to Deer Management Plan)].

(I)-(II) (No change.)

(III) Antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation, LAMPS or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1)-(3) of this title). [Antlerless deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan)].

(vi) In Hartley, Moore, Oldham and Potter Counties, there is an open season for [buck] white-tailed deer [only, except that antlerless deer may be taken only by antlerless permit authorized by a Deer Management Plan (see §65.26 of this title relating to Deer Management Plan)].

(I)-(II) (No change.)

(III) Antlerless deer may be taken only by antlerless permits

authorized under a Wildlife Habitat and Harvest Annual Recommendation or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1) and (3) of this title) [Antlerless deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan)].

(vii) In Hunt County, there is an open season for [buck] white-tailed deer [only, except that antlerless deer may be taken only by antlerless permit authorized by a Deer Management Plan (see §65.26 of this title relating to Deer Management Plan)].

(I)-(II) (No change.)

(III) Antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1) and (3) of this title). [Antlerless deer may be taken only by antlerless permits authorized by §65.26 of this title (relating to Deer Management Plan)].

(viii) In Henderson County, there is an open season for [buck] white-tailed deer. [only, except that antlerless deer may be taken only by antlerless permit authorized by a Deer Management Plan (see §65.26 of this title relating to Deer Management Plan)].

(I) (No change.)

(II) Bag limit: Three white-tailed deer, no more than one buck and no more than two antlerless deer, antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation, LAMPS or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (§65.26(1)-(3) of this title) [by §65.26 of this title (relating to Deer Management Plan)].

(III) Special Requirement: In that portion of Henderson County bounded on the north by the county line, on the east by U.S. Highway 175 and Tin Can Alley Road, on the south by State Highway 31, and on the west by State Highway 274, hunting, shooting, or taking of deer is restricted to shotguns with buckshot or lawful archery equipment (see §65.15 of this title) [longbow and arrows], and other game animals or game birds may be taken only with shotgun or lawful archery equipment [longbow and arrows].

(ix) In Nacogdoches, Panola, Rusk, Sabine, San Augustine and Shelby Counties, there is an open season for white-tailed deer.

(I) Open season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three deer, no more than one buck and no more than two antlerless deer.

(III) During the first two days of the season, antlerless deer may be taken without an antlerless deer permit unless LAMPS permits (see §65.26(2) of this title) have been issued for the tract of land. If LAMPS permits have been issued, they must be attached to all deer harvested on the tract of land. After the first two days, antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation, LAMPS or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (see §65.26(1)-(3) of this title). On National Forest (except Moore Plantation and Bannister WMA), Corps of Engineers, Sabine River Authority and Trinity River Authority lands, antlerless deer may be taken only by antlerless permits issued under a Wildlife Habitat and Harvest Annual Recommendation (see §65.26(1) of this title).

(x) In Armstrong, Austin, Bastrop, Borden, Briscoe, Caldwell, Carson, Childress, Collingsworth, Cottle, Crane, Crosby, De Witt, Dickens, Donley, Ector, Ellis, Falls, Fannin, Fayette, Fisher (east of State Highway 70), Floyd, Foard, Garza, Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hall, Hardeman, Haskell, Hutchinson, Jones, Kent (north of U.S. Highway 380), King, Knox, Lee, Loving, Midland, Milam, Motley, Ochilree, Randall, Roberts, Stonewall, Swisher, Upton (all that portion located north of U.S. Highway 67; and in that area located south of U.S. Highway 67 and west of state highway 349), Victoria (north of U.S. Highway 59), Waller, Ward, Washington, Wichita and Wilbarger Counties, there is an open season for white-tailed deer.

(I) Open season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three deer, no more than one buck and no more than two antlerless deer.

(III) Antlerless deer may be taken only by antlerless permits authorized under a Wildlife Habitat and Harvest Annual Recommendation or a Wildlife Management Plan for Antlerless and Spike-Buck Deer Control Permits (see §65.26(1) and (3) of this title).

(E) (No change.)

(2) White-tailed deer: archery-only open seasons, bag, and possession limits shall be as follows.

(A) In Aransas, Atascosa, Bandera, Bee, Bexar, Blanco, Brewster, Brown, Burnet, Calhoun, Cameron, Coke, Coleman, Comal, Concho, Crockett, Culberson, Edwards, Gillespie, Glasscock, Hays, Hidalgo, Iron, Jeff Davis, Kendall, Kerr, Kimble, Kinney, Live Oak, Llano, Mason, McCulloch, Medina, Menard, Mills, Mitchell, Nolan, Nueces, Pecos, Presidio, Reagan, Real, Reeves, Refugio, Runnels, San Saba, San Patricio, Schleicher, Starr, Sterling, Sutton, Terrell, Tom Green, Travis, Upton (in that southeastern portion bounded on the north by U.S. Highway 67 and on the west by State Highway 349 that runs from its juncture with U.S. Highway 67 to the Crockett County line), Uvalde, Val Verde, and Willacy Counties, there is an open season during which white-tailed deer may be taken only with lawful archery equipment (see §65.15 of this title) [longbow and arrows].

(i)-(ii) (No change)

(B) In Brooks, Dimmit, Duval, Frio, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Maverick, McMullen, Webb, Zapata, and Zavala Counties, there is an open season during which white-tailed deer may be taken only with lawful archery equipment (see §65.15 of this title) [longbow and arrows]

(i)-(ii) (No change.)

(C) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph

(i) In [Anderson.] Angelina, Archer, [Austin.] Baylor, Bell, [Borden.] Bosque, [Bowie.] Brazoria, [Brazos, Burleson.] Callahan, [Camp, Cass, Chambers, Cherokee, Colorado.] Clay, Comanche, Cooke, Coryell, Denton, [Delta, De Witt.] Eastland, Erath, [Falls, Fayette.] Fisher (west of State Highway 70), Fort Bend, [Franklin, Freestone.] Goliad (south of State Highway 59), [Gonzales.] Gray, Grayson (only on the Hagerman National Wildlife Refuge), [Gregg, Grimes, Guadalupe.] Hamilton, Hardin, [Harris, Harrison, Haskell.] Hemphill, Hill, [Henderson.]

[Hopkins, Houston.] Howard, [Hutchinson.] Jack, Jackson (south of State Highway 59), Jasper, Johnson, [Jefferson.] Karnes, Kent (south of U.S. Highway 380), [Lamar.] Lampasas, [Lavaca, Lee, Leon.] Liberty (only in that area east of Trinity River and north of U.S. Highway 90), [Limestone.] Lipscomb, [Madison, Marion.] Matagorda, McLennan, Montague, [Milam, Montgomery, Morris.] Nacogdoches, [Navarro.] Newton, [Orange.] Palo Pinto, Panola, Parker, Polk, [Red River, Roberts, Robertson.] Rusk, Sabine, San Augustine, [San Jacinto.] Scurry, Shackelford, Shelby, [Smith.] Somervell, Stephens, Tarrant, Taylor, Throckmorton, [Titus.] Trinity, Tyler, [Upshur, Van Zandt.] Victoria (south of State Highway 59), [Walker.] Wharton (south of State Highway 59), Wheeler, Williamson, Wilson, Wise, [Wood,] and Young Counties, there is an open season during which white-tailed deer may be taken only with lawful archery equipment (see §65.15 of these rules) [longbow and arrows]

(I)-(II) (No change)

(ii) In [Archer.] Anderson, Armstrong, Austin, Bastrop, [Baylor.] Borden, Bowie, Brazos, Briscoe, Burleson, Caldwell, Camp, Carson, Cass, Chambers, Cherokee, Childress, [Clay.] Collingsworth, Colorado, [Cooke.] Cottle, Crane, Crosby, [Denton.] Delta, De Witt, Dickens, Donley, Ector, Ellis, Falls, Fannin, Fayette, Fisher (east of State Highway 70), Floyd, Foard, Franklin, Freestone, Garza, Goliad (north of State Highway 59), Gonzales, Grayson (except on Hagerman National Wildlife Refuge), Gregg, Grimes, Guadalupe, Hall, Hardeman, Harris, Harrison, Hartley, Haskell, Henderson, [Hill.] Hopkins, Houston, Hunt, Hutchinson, Jackson (north of State Highway 59), Jefferson, [Johnson.] Jones, Kaufman, Kent (north of U.S. Highway 380), King, Knox, Lamar, Lavaca, Lee, Leon, Liberty (west of Trinity River and south of U.S. Highway 90), Limestone, [Lipscomb.] Loving, Madison, Marion, Midland, Milam, [Montague.] Montgomery, Moore, Morris, Motley, Navarro, Ochilree, Oldham, Orange, Potter, Rains, Randall, Red River, Roberts, Robertson, San Jacinto, Smith, Stonewall, Swisher, [Tarrant.] Titus, Upshur, Upton (except in that southeastern portion bounded on the north by U.S. Highway 67 and on the west by State Highway 349 that runs from its juncture with U.S. Highway 67 to the Crockett County line), Van Zandt, Victoria (north of State Highway 59), Walker, Waller, Ward, Washington, Wharton (north of State Highway 59), Wichita, [and] Wilbarger, and Wood Counties, there is an open season during which white-tailed buck deer may be taken only with lawful archery

equipment (see §65.15 of this title) [longbow and arrows].

(I)-(II) (No change.)

(D) (No change.)

(E) The archery-only season bag limit is not in addition to any other [the general] open season bag limits for white-tailed deer.

(3) White-tailed deer: archery-only open seasons, bag, and possession limits shall be as follows.

(A) In Aransas, Atascosa, Bandera, Bee, Bexar, Blanco, Brewster, Brown, Burnet, Calhoun, Cameron, Coke, Coleman, Comal, Concho, Crockett, Culberson, Edwards, Gillespie, Glasscock, Hays, Hidalgo, Irion, Jeff Davis, Kendall, Kerr, Kimble, Kinney, Live Oak, Llano, Mason, McCulloch, Medina, Menard, Mills, Mitchell, Nolan, Nueces, Pecos, Presidio, Reagan, Real, Reeves, Refugio, Runnels, San Saba, San Patricio, Schleicher, Starr, Sterling, Sutton, Terrell, Tom Green, Travis, Upton (in that southeastern portion bounded on the north by U.S. Highway 67 and on the west by State Highway 349 that runs from its juncture with U.S. Highway 67 to the Crockett County line)

(i) open season: October 1-31.

(ii) bag limit: Four white-tailed deer, either sex, no more than two bucks.

(B) In Brooks, Dimmit, Duval, Frio, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Maverick, McMullen, Webb, Zapata, and Zavala Counties, there is an open season during which white-tailed deer may be taken only with lawful archery equipment (see §65.15 of this title).

(i) open season: October 1-31.

(ii) bag Limit: Five white-tailed deer, either sex, no more than three bucks.

(C) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph.

(i) In Anderson, Angelina, Archer, Armstrong, Austin, Bastrop, Baylor, Bell, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Burleson, Caldwell, Callahan, Camp,

Carson, Cass, Chambers, Cherokee, Childress, Clay, Collingsworth, Colorado, Comanche, Cooke, Coryell, Cottle, Crane, Crosby, Delta, Denton, DeWitt, Dickens, Donley, Eastland, Ector, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Garza, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hemphill, Henderson, Hill, Hood, Hopkins, Houston, Howard, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Johnson, Jones, Kaufman, Karnes, Kent, King, Knox, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Loving, Madison, Marion, Matagorda, McLennan, Midland, Milam, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Polk, Potter, Rains, Randall, Red River, Roberts, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Scurry, Shackelford, Shelby, Smith, Somervell, Stephens, Stonewall, Swisher, Tarrant, Taylor, Throckmorton, Titus, Trinity, Tyler, Upshur, Upton (except in that southeastern portion bounded on the north by U.S. Highway 67 and on the west by State Highway 349 that runs from its juncture with U.S. Highway 67 to the Crockett County line), Van Zandt, Victoria, Walker, Waller, Ward, Washington, Wharton, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Wise, Wood, and Young Counties, there is an open season during which white-tailed deer may be taken only with lawful archery equipment (see §65.15 of this title).

(I) open season: October 1-31.

(II) bag limit: Three white-tailed deer, no more than one buck and no more than two antlerless deer.

(D) In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Galveston, Hale, Hansford, Hockley, Hudspeth, Lamb, Lubbock, Lynn, Martin, Parmer, Rockwall, Sherman, Terry, Winkler, and Yoakum Counties, there is no archery-only open season for white-tailed deer.

(E) The archery-only season bag limit is not in addition to any other open season bag limits for white-tailed deer.

(4) White-tailed deer: muzzleloader-only open seasons, bag, and

possession limits shall be as follows.

(A) In Bandera, Brown, Coke, Coleman, Concho, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Llano, Mason, Medina (north of U.S. Highway 90), Menard, McCulloch, Mills, Real, Runnels, San Saba, Schleicher, Sterling, Sutton, Tom Green, and Uvalde (north of U.S. Highway 90) Counties, there is an open season during which only antlerless white-tailed deer may be taken only with a muzzleloader.

(B) Open Season: first Saturday following the first Sunday in January for nine consecutive days.

(C) Bag Limit: four antlerless white-tailed deer. The muzzleloader-only season bag limit is not in addition to any other open season bag limits for white-tailed deer.

(5)(3) Mule deer: general open season, bag, and possession limit shall be as follows

(A)-(C) (No change)

(6)(4) Mule deer: archery-only open seasons, bag, and possession limits shall be as follows.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Garza, Gray, Hall, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Stonewall, Swisher, Upton, Val Verde, Ward, and Winkler Counties, there is an open season during which mule deer may be taken only with lawful archery equipment (see §65.15 of this title) [longbow and arrows]

(i)-(ii) (No change.)

(B) In Brewster, [Culberson, Hudspeth,] Pecos, [Presidio,] and Terrell Counties, there is an open season during which mule deer may be taken only with lawful archery equipment (see §65.15 of this title) [longbow and arrows]

(i)-(ii) (No change)

(C) (No change.)

(D) The archery-only season bag limit is not in addition to any other lawful [the general] open season bag limits

for mule deer.

(7)[(5)] White-tailed Deer: national wildlife refuges Hunting season dates may further be restricted in compliance with regulations promulgated by the U.S. Fish and Wildlife Service and published in the *Federal Register*.

§65.46. Desert Bighorn Sheep: Open Seasons and Bag Limits.

(a) In Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties, there is an open season for desert bighorn sheep. [The season on desert bighorn sheep is closed in all counties.]

(b) Open Season: from September 1-August 31.

(c) Bag Limit: One desert bighorn sheep ram as specified on the permit, by permit only.

(d) Possession Limit: one desert bighorn sheep ram.

§65.58. Pheasant: Open Seasons, Bag, and Possession Limits.

(a) In Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Donley, Floyd, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Lubbock, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, and Wilbarger Counties, there is an open season for pheasants.

(1) Open season: the Saturday before Thanksgiving, through December 31 [second Saturday of December for 16 consecutive days].

(2) Bag limit: three [two] cock pheasants per day.

(3) Possession limit: six [four] cock pheasants after the first day.

(4) (No change.)

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

§65.62. Turkey.

(a) General: No person may take more than four [three] turkeys per license year.

(b) General open season, archery-only season, and bag limit. In Archer, Bandera, Bell, Bexar, Blanco, Bosque, Burnet, Calhoun, Clay, Comal, Comanche, Coryell, Erath, Gillespie, Goliad, Gonzales, Hamilton, Hays, Hood, Jack, Karnes, Kendall, Kerr, [Kinney (only north of U.S. Highway 90).] Lampasas, Llano, McLennan, Medina (only north of U.S. Highway 90), Montague, Palo Pinto,

Parker, Real, Somervell, Stephens, Travis, [Uvalde (only north of U.S. Highway 90).] Wichita, Williamson, Wilson, and Young Counties, there are open seasons for turkey.

(1) Open seasons.

(A) (No change.)

(B) Archery-only season: October 1-31, during which turkeys may be taken only with lawful archery equipment (see §65.15 of this title (relating to Archery)) [longbow and arrows].

(2) Bag limit: four [three] turkeys, gobblers or bearded hens.

(c) General (South Texas) open season, archery-only season, and bag limit. In Aransas, Atascosa, Bee, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, [Kinney (only south of U. S. Highway 90).] Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, [Uvalde (only south of U.S. Highway 90).] Val Verde (only in that certain portion located south of U.S. 90 and east of Spur 239/277S), Webb, [Willacy.] and Zavala Counties, there are open seasons for turkey.

(1) Open season.

(A) South Texas open season: In Aransas, Atascosa, Bee, Hidalgo [Kinney (only south of U.S. Highway 90).] Live Oak, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, [Uvalde (only south of U.S. Highway 90).] and Val Verde (only in that portion located south of U.S. Highway 90 and east of Spur 239/277S) [, and Willacy] Counties the open season for turkeys is the second Saturday in November through the second Sunday in January.

(B) Extended south Texas open season: In [Brooks.] Dimmit, Duval, Frio, Jim Hogg, Jim Wells, [Kenedy, Kleberg.] LaSalle, Maverick, McMullen, Webb, and Zavala Counties, the open season for turkey is the second Saturday in November through the third Sunday in January.

(2) Archery only season: October 1-31, during which turkeys may be taken only with lawful archery equipment (see §65.15 of this title) [longbow and arrows].

(3) Bag limit: four [three] turkeys, gobblers or bearded hens.

(d) In Kinney (only south of U.S. Highway 90), and Uvalde (only south of U.S. Highway 90), and Willacy Counties the open seasons and bag limits for tur-

key are as follows:

(1) Open season.

(A) General open season: second Saturday in November through the second Sunday in January.

(B) Archery-only season: October 1-31, during which turkeys may be taken only with longbow and arrows.

(2) Bag limit: four turkeys either sex.

(e) In Brooks, Kenedy and Kleberg Counties the open seasons and bag limits for turkey are as follows:

(1) Open season.

(A) General open season: second Saturday in November through the third Sunday in January.

(B) Archery-only season: October 1-31, during which turkeys may be taken only with longbow and arrows.

(2) Bag limit: four turkeys either sex.

(f)[(d)] Turkey: Exceptions to general open season, archery only season, or bag limits.

(1) In Anderson, Andrews, Angelina, Austin, Bailey, Bastrop, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, Camp, Cass, Castro, Chambers, Cherokee, Cochran, Collin, Colorado, Cooke, Culberson, Dallam, Dallas, Deaf Smith, Delta, Denton, DeWitt, [Ellis.] El Paso, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Gaines, Galveston, Grayson, Gregg, Grimes, Guadalupe, Hale, Hansford, Hardin, Harris, Harrison, Henderson, [Hidalgo.] Hill, Hockley, Hopkins, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, Lamb, Lavaca, Lee, Leon, Liberty, Limestone, Loving, Lubbock, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Parmer, Polk, Presidio, Rains, Red River, Reeves, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Sherman, Smith, [Starr.] Tarrant, Terry, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Winkler, Wise, Wood, Yoakum, and Zapata Counties, there is no general or archery only season on turkey.

(2) In Armstrong, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Childress, Coke, Coleman, Collingsworth, Concho, Cottle, Crane, Crockett, Crosby, Dawson, Dickens, Donley, Eastland, Ector, Edwards, Fisher, Floyd, Foard, Garza,

Glasscock, Gray, Hall, Hardeman, Hartley, Haskell, Hemphill, Howard, Hutchinson, Irion, Jones, Kent, Kimble, King, Kinney (only in that portion north of U.S. Highway 90), Knox, Lipscomb, Lynn, Martin, Mason, McCulloch, Menard, Midland, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Pecos, Potter, Randall, Reagan, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Throckmorton, Tom Green, Upton, Uvalde (only in that portion north of U.S. Highway 90), Val Verde (only in that portion north of U.S. Highway 90 and/ in that certain portion located south of U.S. Highway 90 and [or] west of Spur 239/277S), Ward, Wheeler, and Wilbarger Counties, there are open seasons for turkey.

(A) Open seasons:

(i) (No change.)

(ii) Archery-only open season: October 1-31, during which turkeys may be taken only with lawful archery equipment (see §65.15 of this title) [long-bow and arrows]

(B) Bag limit: four [three] turkeys, either sex.

(g) [(e)] Spring turkey season [Spring turkey gobbler season.]

(1) In Aransas, Archer, Armstrong, [Atascosa,] Bandera, Bastrop, Baylor, [Bee,] Bell, [Bexar,] Blanco, Borden, Bosque, Brewster, Briscoe, [Brooks,] Brown, Burnet, Caldwell, Calhoun, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, DeWitt, Dickens, [Dimmit,] Donley, [Duval,] Eastland, Ector, Edwards, Ellis, Erath, Fisher, Floyd, Foard, [Frio,] Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Guadalupe, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, [Hidalgo,] Hill, Hood, Howard, Hutchinson, Irion, Jack, Jackson, Jeff Davis, [Jim Hogg, Jim Wells,] Johnson, Jones, [Karnes,] Kendall, [Kenedy,] Kent, Kerr, Kimble, King, [Kinney, Kleberg,] Knox, Lampasas, [LaSalle,] Lavaca, Lipscomb, [Live Oak,] Llano, Lynn, Martin, Mason, Matagorda, [Maverick,] McCulloch, McLennan, [McMullen, Medina,] Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Nolan, [Nueces,] Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, [Refugio,] Roberts, Runnels, [San Patricio,] San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, [Uvalde,] Val Verde, Victoria, Ward,

[Webb,] Wheeler, Wichita, Wilbarger, [Willacy,] Williamson, [Wilson,] Wise, Young, and [Zavala] Counties, there is a spring season on turkey gobblers.

(A) Spring season: third Saturday in April for 37 consecutive days [first Saturday in April through the first Sunday in May].

(B) Bag limit: four [three] turkey gobblers

(2) In Atascosa, Bee, Bexar, Brooks, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina, Nueces, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, and Zavala Counties, there is a spring season and bag limit on turkey gobblers is as follows:

(A) Spring season: first Saturday in April for 37 consecutive days.

(B) Bag limit: four turkey gobblers.

(3)[(2)] In Jasper, Newton, Polk, Red River, and Tyler Counties, there is a spring season on turkey gobblers

(A) Spring season: The Monday nearest April 20 for 14 consecutive days [first Saturday in April for 16 consecutive days] only in northern Polk, northern Tyler, northern Jasper, and northern Newton Counties, that area lying within boundaries beginning at the Neches River bridge on U.S. Highway 59 in Polk County, thence southeasterly along the Neches River to the Angelina-Jasper County line, thence easterly along the Angelina-Jasper, San Augustine-Jasper, Sabine-Jasper, Sabine-Newton County Lines to the junction of the Sabine River, thence southerly along the Sabine River to the junction of State Highway 63, thence westerly along State Highway 63 to the junction of U.S. Highway 190 in Jasper, thence westerly along U.S. Highway 190 to the junction of F.M. Road 256 in Tyler County, thence northwesterly along F. M Road 256 to Colmesneil, thence southeasterly along F.M. Road 256 to the junction of U.S Highway 287, thence northwesterly along U.S. Highway 287 to the junction of U.S. Highway 59 in Corrigan, then northerly along U.S Highway 59 to the Neches River bridge

(B) (No change.)

(C) In Jasper, Newton,

Polk, Red River, and Tyler Counties, no person shall take, or attempt to take turkeys, by the aid of baiting, on or over a baited area.

(D) All turkeys harvested during the spring gobbler season in Jasper, Newton, Polk, Red River, and Tyler Counties must be registered at designated stations within 24 hours of the time of kill. Harvested turkeys may be field dressed but must otherwise remain intact.

(4)[(3)] In Newton County, there is an additional area where one turkey gobbler may be taken during the spring season.

(A) Spring season: the Monday nearest April 20 for 14 consecutive days [first Saturday in April for 16 consecutive days] only in that area lying within boundaries beginning at the junction of Big Cow Creek and the Sabine River, thence southerly along the Sabine River to the junction of Big Cypress Creek, thence westerly along Big Cypress Creek to the junction of State Highway 87, thence northerly along State Highway 87 to the junction of F.M Road 1416, thence easterly along F.M Road 1416 to the junction with Big Cow Creek, thence southeasterly along Big Cow Creek to the junction of the Sabine River

(B) (No change.)

(C) In Newton County, no person shall take, or attempt to take turkeys, by the aid of baiting, on or over a baited area.

(D) All turkeys harvested during the spring gobbler season in Newton County must be registered at designated stations within 24 hours of the time of kill. Harvested turkeys may be field dressed but must otherwise remain intact.

(5)[(4)] In Houston, Polk, and Trinity Counties, there is an additional area where one turkey gobbler may be taken during the spring season.

(A) Spring season: the Monday nearest April 20 for 14 consecutive days [first Saturday in April for 16 consecutive days] only in that area lying within boundaries beginning at the junction of U.S. Highway 287 and U.S. Highway 59 in Corrigan, thence southerly along U.S. Highway 59 to the junction of F.M. Road 350, thence westerly and southerly along F.M. Road 350 to the junction of F.M Road 3152, thence southwestly along F.M Road 3152 to the junction of U.S Highway

190, thence westerly along U.S. Highway 190 to the junction of F.M. Road 356, thence northwesterly along F.M. Road 356 to the junction of State Highway 19 in Trinity, thence northerly to the junction of F.M. Road 1280 in Lovelady, thence easterly along F.M. 1280 to the junction of U.S. Highway 287, thence southeasterly along U.S. Highway 287 to the junction of U.S. Highway 59 in Corrigan.

(B) (No change)

(C) In Houston, Polk, and Trinity Counties, no person shall take, or attempt to take turkeys, by the aid of baiting, on or over a baited area.

(D) All turkeys harvested during the spring gobbler season in Houston, Polk, and Trinity Counties, must be registered at designated stations within 24 hours of the time of kill. Harvested turkeys may be field dressed but must otherwise remain intact.

(6) In Houston, Jasper, Newton, Polk, and Trinity Counties, the spring turkey season is closed.

§65.72. Fish.

(a) General rules

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

(5) Finfish tags: Prohibited Acts.

(A) No person may purchase or use more finfish (red drum or tarpon) tags during a license year than the number and type authorized by the commission, excluding duplicate tags issued under Parks and Wildlife Code, §46.006.

(B) It is unlawful for any person to:

(i) use the same finfish tag for the purpose of tagging more than one finfish;

(ii) use a finfish tag in the name of another person;

(iii) use a tag on a finfish for which another tag is specifically required;

(iv) take a finfish required to be tagged and fail to immediately attach and secure a properly executed tag to the finfish at the narrowest part of the finfish tail, just ahead of the tail fin; or

(v) have in possession both a Red Drum Tag and a Bonus Red Drum Tag issued to the same license or saltwater stamp holder.

(b) Bag, possession, and length limits.

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

(4) There are no bag, possession, or length limits on game or nongame fish, except as provided in these rules

(A) Statewide daily bag, possession, and length limits shall be as follows:

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	3	6	32	No limit
Black Basses	5 (in aggregate)	10 (in aggregate)		
Largemouth and smallmouth bass, their hybrids, and subspecies.			14	No limit
Spotted and Guadalupe bass.			12	No limit
Bass, striped, its hybrids, and subspecies.	5 (in aggregate)	15 (in aggregate)	18	No limit
Bass, white	25	50	10	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	9	No limit
Catfish, flathead.	5	10	24	No limit
Catfish, gafftopsail.	No limit	No limit	14	No limit
Cobia.	2	4	37	No limit
Crappie: white and black crappie, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	10	No limit
Drum, black.	5	10	14	30
Drum, red.	3	6	20	28*
<u>*Special Regulation: During a license year, one red drum over the stated maximum size limit may be retained when affixed with a properly executed Red Drum Tag, and one red drum over the stated maximum size limit may be retained when affixed with a properly executed Bonus Red Drum Tag. Any fish retained under authority of a Red Drum Tag or a Bonus Red Drum Tag shall be counted as part of the daily bag and possession limit as stated in this section.</u>				
Flounder: all species, their hybrids, and subspecies.	20	40	12	No limit
Jewfish.	0	0		
Mackerel, king.	2	4	23	No limit

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Mackerel, Spanish.	7	14	14	No limit
Marlin, blue.	No limit	No limit	114	No limit
Marlin, white.	No limit	No limit	81	No limit
Mullet: all species, their hybrids, and subspecies.	No limit	No limit	No limit	*
*Special regulation: During the period October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel.				
Pompano, Florida.	No limit	No limit	9	No limit
Sailfish.	No limit	No limit	76	No limit
Saugeye	3	6	18	No limit
Seatrout, spotted.	10	20	15	No limit
Shark: all species, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit	No limit
Sheepshead.	5	10	12	No limit
Snapper, lane.	No limit	No limit	8	No limit
Snapper, red.	7	14	14[13]	No limit
Snapper, vermilion.	No limit	No limit	8	No limit
Snook.	3	6	20	28
Tarpon.	0	0		Catch and release only*.
<u>*Special Regulation: One tarpon 80 inches in total length or larger may be retained during a license year when affixed with a properly executed Tarpon Tag.</u>				
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in aggregate)	10	No limit (in aggregate)	No limit
Walleye.	5	10	16	No limit

(B) Exceptions to Statewide daily bag, possession, and length limits shall be as follows:

(i)

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass: largemouth and smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.			
Lake Texoma (Cooke and Grayson)	5 (in aggregate)	14	
In all waters in the Lost Maples State Natural Area (Bandera)	0	No Limit	Catch and release only.
Lake Toledo Bend (Newton, Sabine and Shelby).	8 (in aggregate)	14	
Bass: largemouth.			
Lakes Brownwood (Brown), Coleman (Coleman), [and] Conroe (Montgomery and Walker), <u>Fort Phantom Hill (Taylor), and Lost Creek (Jack).</u>	5	16	
Lake Braunig (Bexar).	2	21	
Nelson Park Lake (Taylor), Buck Lake (Kimble), and Calliham State Park Lake (McMullen).	0	No Limit	Catch and release only.
Lakes Fairfield (Freestone), San Augustine City (San Augustine), Ray Roberts (Denton, Cooke, and Grayson), Calaveras (Bexar), O.H. Ivie (Coleman, Concho, and Runnels), Raven (Walker), Madisonville (Madison), Bright (Williamson), [and] Cooper (Delta and Hopkins), <u>Alan Henry (Garza), Aquilla (Hill), Athens (Henderson), Bellwood (Smith), Casa Blanca (Webb), Granbury (Hood), Old Mount Pleasant City (Titus), Rusk State Park (Cherokee), and Welsh (Titus).</u>		3	18

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Purtis Creek State Park Lake (Henderson and Van Zandt) and Gibbons Creek Reservoir (Grimes).	0	No Limit	Catch and release only except that any bass [over] 22 inches <u>or greater</u> in length may be retained in a live well or other aerated holding device and immediately transported to the Purtis Creek State Park or Gibbons Creek Park weigh station. After weighing, the bass must be released immediately back into the lake or donated to the Lone Star Lunker Program.
Lakes Pinkston (Shelby), Waxahachie (Ellis), Bridgeport (Jack and Wise), Weatherford (Parker), Georgetown (Williamson), Tyler State Park (Smith), Striker (Rusk), Caddo Marion and Harrison), [and] <u>Burke-Crenshaw (Harris), and Grapevine (Denton and Tarrant).</u>	3	14-18 Inch Slot Limit	It is unlawful to retain largemouth bass between 14 and 18 inches in length.
Lakes Bastrop (Bastrop), Fayette County (Fayette), Houston County (Houston), Nacogdoches (Nacogdoches), Fork (Wood, Rains and Hopkins), Monticello (Titus), Mill Creek (Van Zandt), Joe Pool (Dallas, Ellis, and Tarrant) [and] <u>Walter E. Long (Travis), and Timpson (Shelby).</u>	3	14-21 Inch Slot Limit	It is unlawful to retain largemouth bass between 14 and 21 inches in length. No more than <u>1</u> [one] bass [over] 21 inches <u>or greater</u> in length may be retained each day.
Bass: smallmouth.			
Lakes <u>O. H. Ivie (Coleman, Concho, and Runnels), Belton (Bell and Corvell), Cisco (Eastland), Greenbelt (Donley), Oak Creek (Coke), Stillhouse Hollow (Bell), White River (Crosby), Whitney (Bosque, Hill and Johnson), and Devils River (Val Verde) from State Highway 163 bridge crossing near Juno downstream to Dolan Falls.</u>	3	18	

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Meredith (Hutchinson, Moore, and Potter).	3	12-15 Inch Slot Limit	It is unlawful to retain smallmouth bass between 12 and 15 inches in length.
Bass: striped, its hybrids, and subspecies.			
Lake Toledo Bend (Newton, Sabine and Shelby).	5 (in aggregate)	No Limit	No more than 2 <u>striped bass</u> [over] 30 inches <u>or greater</u> in length may be retained each day.
Lake Texoma (Cooke and Grayson).	15 (in aggregate)	No Limit	No more than 1 <u>striped bass</u> [over] 20 inches <u>or greater</u> in length may be retained each day. Striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released.

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass, white.			
Lakes Conroe (Montgomery and Walker), Livingston (Polk, San Jacinto, Trinity and Walker), Limestone (Leon, Limestone, and Robertson), Palestine and its tributaries (Anderson, Cherokee, Henderson and Smith) including the Neches River (Smith, Henderson, and Van Zandt), Kickapoo Creek (Henderson), and Flat Creek (Henderson), and Somerville and its tributaries (Burleson, Lee, and Washington) including Yegua Creek (Burleson and Washington), East Yegua Creek (Burleson, Lee, and Milam), and Middle Yegua Creek (Lee), The West Fork San Jacinto River (Walker), Trinity River below lock and dam near Highway 7 (Leon, Houston, Trinity and Walker), and Navasota River between Lakes Limestone and Mexia (Limestone).	25	12	
Catfish: blue.			
Lakes E. V. Spence (Coke) and Fort Phantom Hill (Taylor)	5	18	
Catfish: channel and blue catfish, their hybrids, and subspecies.			
Lakes Canyon (Comal), Choke Canyon (Live Oak and McMullen), Conroe (Montgomery and Walker), Cooper (Delta and Hopkins), Fairfield (Freestone), Lewisville (Denton), Meredith (Hutchinson, Moore and Potter), O. H. Ivie (Coleman, Concho, and Runnels), Palestine (Cherokee, Anderson, Henderson and Smith), and Whitney (Hill, Bosque and Johnson).	15 (in aggregate)	14	

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Bastrop (Bastrop), Bright (Williamson), Burke-Crenshaw (Harris), and in reservoirs lying totally within the boundaries of a state park.	5 (in aggregate)	14	
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in aggregate)	9	The holder of a commercial fish- ing license may not retain channel or blue catfish less than 4 inches in length.
Designated urban lakes (see §65.3 of this title relating to Definitions for listing of designated urban lakes).	3 (in aggregate)	12	
Lake Bastrop (Bastrop), Bright (Williamson), Burke-Crenshaw (Harris), and in reservoirs lying totally within the boundaries of a state park.	5 (in aggregate)	14	
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in aggregate)	9	The holder of a commercial fish- ing license may not retain channel or blue catfish less than 14 inches in length.
Designated urban lakes (see §65.3 of this title relating to Definitions for listing of designated urban lakes).	3 (in aggregate)	12	
Crappie: black and white crappie, their hybrids and subspecies.			
Lake Toledo Bend (Newton, Sabine, and Shelby).	50 (in aggregate)	No Limit	

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Fork (Wood, Rains, and Hopkins) and Lake O'The Pines (Camp, Harrison, Marion, Morris, and Upshur).	25 (in aggregate)	10	From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained.
Choke Canyon (Live Oak and McMullen).	15	10	
Drum, red.			
Lakes Braunig and Calaveras (Bexar), Colorado City (Mitchell), Fairfield (Freestone), Nasworthy (Tom Green), and Tradinghouse Creek (McLennan).	3	20	No maximum size limit.
Shad: gizzard and threadfin shad.			
The Trinity River below Lake Livingston between Polk and San Jacinto Counties.	500 (in aggregate)	No Limit	Possession Limit 1,000 in aggregate.
Sunfish: Bluegill, redear, green, warmouth, and longear sunfish, their hybrids and subspecies.			
Purtis Creek State Park Lake (Henderson and Van Zandt).	25 (in aggregate)	7	

(ii) (No change)

(5) Bag, possession, and length limits for Cooper Lake in Delta and Hopkins Counties apply to all waters within the Corps of Engineers Lands on Cooper Lake, upstream from State Highway 19/154 and downstream from FM 71]

(c) Freshwater devices, means and methods

- (1) (No change)
- (2) It is unlawful for any person to take, attempt to take, or possess fish caught by any device, means, or method other than as authorized in these rules

(A) (No change)

(B) Trotline Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken by trotline. It is unlawful for any person to use a trotline

- (i) (vi) (No change)
- (vii) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Fayette power project cooling pond in Fayette County, Pinkston Reservoir in Shelby County, Lake Burke-Crenshaw in Harris County, Archer City in Archer County, Bryan in Brazos County, Petrolia City (New) and Petrolia City (Old) in Clay County, [and] Bright Lake in Williamson County, [in] reservoirs or sections of rivers lying totally within boundaries of a state park, or [in] designated urban lakes

(C) Jugline Non game fish, channel catfish, blue catfish and flathead catfish may be taken with a jugline. It is unlawful for any person to use a jugline.

- (i)-(iii) (No change)
- (iv) in Lake Bastrop in Bastrop County, Lake Burke-Crenshaw in Harris County, Bright Lake in Williamson County, Archer City in Archer County, Bryan in Brazos County, Petrolia City (New) and Petrolia City (Old) in Clay County, reservoirs lying totally within boundaries of a state park, and [in] designated urban lakes

(D) Throwline. Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a throwline. It is unlawful for any person to use a

throwline in Lake Bastrop in Bastrop County, Lake Burke-Crenshaw in Harris County, Bright Lake in Williamson County, Archer City in Archer County, Bryan in Brazos County, Petrolia City (New) and Petrolia City (Old) in Clay County, reservoirs lying totally within boundaries of a state park, and [in] designated urban lakes.

(E)-(O) (No change.)

(d) Saltwater devices, means, and methods

(1) (No change.)

(2) Only the following means and methods may be used for taking fish:

(A) Devices

(i)-(ii) (No change.)

(iii) Non-game fish taken incidental to legal shrimping operations may be retained, except that red drum and spotted seatrout may not be retained as provided under Texas Parks and Wildlife Code, §77 0191. The term "legal shrimping operations" is defined as the use of a legal trawl in places, at times, and in manners as authorized by the department. A person taking shrimp with a trawl may not retain a catch of finfish exceeding 50 percent of the total trawl catch by weight of aquatic products including shrimp on a shrimping vessel. A person using an individual bait shrimp trawl for recreational purposes may retain non-game fish in any amount for bait, except those species regulated by bag or size limits.

(iv) (No change.)

(B) (No change.)

(C) Trotlines.

(i)-(vii) (No change.)

(viii) No trotline or trotline components, including lines and hooks, but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday through 1 p.m. on Sunday of each week, except that attended sail lines are excluded from the restrictions imposed by this clause. Under the authority of the Texas Parks and Wildlife Code, §66.206(b), in the event small craft advisories [warnings] or higher marine weather advisories issued by the National Weather Service are in place at 8:00 a.m. on Friday, trotlines may remain in the water until 6:00 p.m. on Friday. If small craft advisories [warnings] are in place at 1:00 p.m. on Friday, trotlines may remain in the water until Saturday. When small craft advisories [warnings] are lifted by 8:00 a.m. on Saturday, trotlines must be removed by 1:00 p.m. on Saturday. When small craft advisories [warnings] are lifted by

1:00 p.m. on Saturday, trotlines must be removed by 6:00 p.m. on Saturday. When small craft advisories [warnings] or higher marine weather advisories are still in place at 1:00 p.m. on Saturday, trotlines may remain in the water through 1:00 p.m. on Sunday. It is a violation to tend, bait, or harvest fish or any other aquatic life from trotlines during the period that trotline removal requirements are suspended under this provision for adverse weather conditions. For purposes of enforcement, the geographic area customarily covered by marine weather advisories will be delineated by department policy.

(ix)-(xiv) (No change.)

(D) (No change.)

(e) (No change.)

§65.78. *Crabs.*

(a) Bag, Possession and Size limits.

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

(3) It is unlawful for any person to:

(A)-(D) (No change.)

(E) buy or sell a female crab that has its abdominal apron detached [as prescribed in Parks and Wildlife Code, §78.102]

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

(d) Devices, Manners, and Methods.

(1) (No change.)

(2) Only the following means and methods may be used for taking crabs:

(A) (No change.)

(B) Crab trap. It is unlawful for any person to:

(i) fish for commercial purposes with more than 200 [300] crab traps at one time;

(ii) fish for non-commercial purposes with more than three crab traps at one time;

(iii)[(ii)] fish a crab trap in the fresh waters of this state;

(iv)[(ii)] fish a crab trap that exceeds 18 cubic feet in volume and is not equipped with at least two escape vents (minimum 2-3/8 inches inside diameter) in each crab-retaining chamber, and located on the lower edge of the outside trap walls;

(v)[(iv)] fish a crab trap for commercial purposes that is not marked

with a white floating buoy not less than six inches in height, six inches in length, and six inches in width [or with a white plastic bottle of not less than one gallon size] attached to the crab trap;

(vi)[(v)] fish a crab trap for non-commercial purposes without a white, floating buoy not less than six inches in height, six inches in length, and six inches in width [or with a white plastic bottle of not less than one gallon size] with the buoy [or bottle] having a two-inch wide center stripe of contrasting color to the buoy attached to the crab trap;

(vii)[(vi)] fish a crab trap in public waters without a valid gear tag that has a date that is more than 30 days old attached to the buoy [or plastic bottle];

(viii)[(vii)] fish a crab trap within 200 feet of a marked navigable channel in Aransas County; and in the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine Mile Point, past the town of Rockport to a point at the east end of Talley Island including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula or possess, use or place more than three crab traps in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County;

(ix)[(viii)] remove crab traps from the water or remove crabs from crab traps during the period from 30 minutes after sunset to 30 minutes before sunrise; [.]

(x) place a crab trap or portion thereof closer than 100 feet from any other crab trap, except when traps are secured to a pier or dock;

(xi) fish a crab trap, in public waters, that is marked with a buoy made of a plastic bottle(s) of any color or size;

(xii) use or place more than three crab traps in public waters of the San Bernard River north of a line marked by the boat ramp at Bernard Acres.

(C)-(D) (No change.)

65.91. *Penalty for Violation.* The penalties for violation of this subchapter are prescribed by the [Texas] Parks and Wildlife Code.

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 February 1, 1994

TRD-9436135

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Proposed date of adoption: September 1, 1994

For further information, please call 1 (800) 792-1112, Ext. 4433 or (512) 389-4433

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• 31 TAC §65.80

(Editor's note: The text of the following §65.80 proposed for repeal will not be published. The §65.80 may be examined in the offices of the Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Parks and Wildlife Department proposes to repeal §65.80, regarding freshwater mussels. The section is no longer needed because a more recent version of this regulation was adopted by the Parks and Wildlife Commission on August 26, 1993. Harvesting of freshwater mussels is now regulated by 31 TAC §57.156 and §57.158.

Robin Riechers, staff economist, 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 repealing the section. There will be no cost of compliance associated with the repeal of the section for small businesses.

Mr. Riechers also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing this rule will be the simplified regulation of the harvest of freshwater mussels. There will be no cost of compliance to the regulated community associated with the repeal of the rule.

Comments may be submitted to Dr. Earl Chilton, Ph.D., Fisheries and Wildlife Division, Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments will be accepted for 30 days after publication in the *Texas Register*. This repeal is proposed under the Texas Parks and Wildlife Code, Chapter 78, which provides the Parks and Wildlife Department with the authority to adopt rules to manage and regulate the harvest of freshwater mussels.

§65.80 *Freshwater Mussels*

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 February 15, 1994

TRD-9436193

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Proposed date of adoption: September 1, 1994

For further information, please call (512) 389-4419

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Subchapter H. Public Hunting
Lands Hunting and Fishing
Proclamation

• 31 TAC §§65.190-65.194, 65.198

The Texas Parks and Wildlife Department proposes amendments to §§65.190-65.194 and 65.198, concerning Public Hunting Lands Hunting and Fishing Proclamation. The amendments are proposed to add new areas, delete areas no longer in the program, add new definitions and revise existing definitions, enhance public use provisions, provide for more effective enforcement of regulations, and better assure the proper management of wildlife resources. Major provisions of the proposed amendments include a revision of requirements to wear hunter orange, limited reinstatement of trapping for furbearing animals and predatory animals, limited reinstatement of the use of horses and other riding stock, establishing regulations governing hunting and fishing on Caddo Lake State Park and Wildlife Management Area, additional flexibility in designation of hunt dates on Cooper Lake Wildlife Management Area and White Oak Creek Lake Wildlife Management Area, establishing a regulatory mechanism to expedite bringing additional public hunting lands on-line under short-term lease agreement, and providing a waiver of special permit fees for persons under 17 years of age.

The proposed amendments have as their factual basis scientific studies and investigations which track trends in wildlife resource populations and assess user impacts upon those populations and related habitats. The studies and information that support the proposed amendments are incorporated by reference and are available for public inspection. The amendments as proposed are designed to prevent depletion or waste and promote public user opportunity.

Robin Riechers, staff economist, has determined that the first five-year period the proposed amendments are in effect there will be minimal fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Riechers also has determined that for each year of the first five years the proposed amendments are in effect the public benefits anticipated as a result of enforcing the proposed amendments will be to provide for additional public user opportunities on public hunting lands, promote proper management of wildlife resources, and enhance administration of the public hunting lands program.

There will be no effect on small businesses. It is anticipated there will be minimal fiscal implications to persons who are required to comply with the proposed amendments.

The department has filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure Act (Government Code,

§2001.022), as this agency has determined that the proposed amendments will have minimal impact on local economies.

Comments on the proposed amendments may be submitted to H. G. Kothmann, Public Hunts Coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4770 or 1-(800) 792-1112, Ext. 4770.

The amendments are proposed under the Parks and Wildlife Code, Chapter 81, Subchapter E, which provides the Parks and Wildlife Commission with authority to regulate seasons, numbers, means, methods, and conditions for taking wildlife resources on wildlife management areas, with respect to designated state parks, the Commission is acting under the authority of the Parks and Wildlife Code, Chapter 12, Subchapter A, which provides that a tract of land purchased primarily for a purpose authorized by the code may be used for any authorized function of the Department if the Commission determines that multiple use is the best utilization of the land's resources, and Chapter 62, Subchapter D, which provides authority, as sound biological management practices warrant, to prescribe seasons, number, size, kind, and sex and the means and method of taking any wildlife.

§65.190 *Application*

(a) This subchapter applies to the entering, hunting, and taking of wildlife resources and other activities under Commission regulations established for land designated by the Department by boundary markers as public hunting lands [areas]. Public hunting lands [areas] are acquired by lease, management agreements, and purchase. Records of such acquisition are on file at the Department's central repository. The Executive Director is authorized by the Parks and Wildlife Commission to execute lease and management agreements for public hunting lands.

(b) On U.S. Forest Service Lands (Units 901, 904, 905) and Units 902 and 903 in Jasper, Sabine, and San Augustine counties, designated as public hunting lands, persons other than hunters are exempt from these rules.

(c) On U.S. Army Corps of Engineer Lands (Cooper, Dam B, Granger, Pat Mayse, Ray Roberts, Somerville, White Oak Creek) designated as public hunting lands, persons other than hunters are exempt from requirements for an access permit.

(d) The provisions of this subchapter apply to all of the wildlife resources in the following areas, except as restricted herein and contingent upon execution of required agreements for leased lands:

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

(5) Caddo Lake State Park and Wildlife Management Area in Marion and Harrison counties;

(6)[(5)] Candy Abshier Wildlife Management Area in Chambers County;

(7) [(6)] Cedar Creek Islands Wildlife Management Area:

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

(8)[(7)] Chaparral Wildlife Management Area in Dimmit and LaSalle counties;

(9)[(8)] Cooper Wildlife Management Area in Delta and Hopkins counties;

(10)[(9)] Dam B Unit (includes Angelina-Neches Scientific Area) in Jasper and Tyler counties;

(11)[(10)] designated units of the Las Palomas Wildlife Management Area:

(A)-(S) (No change.)

(12)[(11)] designated units of the Playa Lakes Wildlife Management Area:

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

(13) designated units of public hunting lands under short-term lease;

(14)[(12)] designated units of the State Park System of Texas approved by the Commission as having met the following criteria:

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

(15)[(13)] Elephant Mountain Wildlife Management Area in Brewster County;

(16)[(14)] Gene Howe Wildlife Management Area in Hemphill County;

(17)[(15)] Granger Wildlife Management Unit in Williamson County;

(18)[(16)] Guadalupe Delta Wildlife Management Area in Calhoun County;

(19)[(17)] Gus Engeling Wildlife Management Area in Anderson County;

(20)[(18)] James E. Daughtrey Wildlife Management Area in Live Oak and McMullen counties;

(21)[(19)] J. D. Murphree Wildlife Management Area in Jefferson County;

(22)[(20)] Keechi Creek Wildlife Management Area in Leon County;

(23)[(21)] Kerr Wildlife Management Area in Kerr County;

(24)[(22)] lands within a Desert Bighorn Sheep Cooperative Unit for the hunting of desert bighorn sheep only;

(25)[(23)] Lower Neches Wildlife Management Area in Orange County;

(26)[(24)] Mad Island Wildlife Management Area in Matagorda County;

(27)[(25)] Matador Wildlife Management Area in Cottle County;

(28)[(26)] Matagorda Island Wildlife Management Area in Calhoun County;

(29)[(27)] M. O. Neasloney Wildlife Management Area in Gonzales County;

(30)[(28)] Old Tunnel Wildlife Management Area in Kendall County;

(31)[(29)] Pat Mayse Wildlife Management Unit in Lamar County;

(32)[(30)] Peach Point Wildlife Management Area in Brazoria County;

(33)[(31)] Richland Creek Wildlife Management Area in Freestone and Navarro counties;

(34)[(32)] Sheldon Wildlife Management Area in Harris County;

(35)[(33)] Sierra Diablo Wildlife Management Area in Culberson and Hudspeth counties;

(36)[(34)] Somerville Wildlife Management Area in Burleson and Lee counties;

(37)[(35)] Walter Buck Wildlife Management Area in Kimble County;

(38)[(36)] White Oak Creek Wildlife Management Area in Bowie, Cass, Morris and Titus counties;

(39)[(37)] numbered units of public hunting lands.

(A) -(D) (No change.)

[(E) Unit 108 in Angelina County;]

(E) [(F) Unit 109 in Hardin County;

[(G) Unit 112 in Hardin County;]

(F) [(H) Unit 113 in Rusk and Nacogdoches counties;

(G) [(I) Unit 114 in Trinity County;

(H) [(J) Unit 115 in Trinity

County;

(I) [(K) Unit 116 in Houston County;

(J) [(L) Unit 117 in Houston County;

(K) [(M) Unit 119 in Cherokee County;

(L) [(N) Unit 120 in Anderson and Cherokee counties;

(M) [(O) Unit 121 in Houston County;

(N) [(P) Unit 122 in Newton County;

(O) [(Q) Unit 125 in Jasper County;

(P) [(R) Unit 129 in Jasper and Orange counties;

(Q) [(S) Unit 130 in Tyler County;

(R) [(T) Unit 133 in Jasper County;

[(U) Unit 134 in Tyler County;]

(S) [(V) Unit 135 in Anderson County;

(T) [(W) Unit 136 in San Augustine and Sabine counties;

(U) [(X) Unit 137 in San Augustine and Sabine counties;

(V) [(Y) Unit 142 in San Augustine County;

(W) [(Z) Unit 143 in Newton County;

(X) [(AA) Unit 144 in Newton County;

(Y) [(BB) Unit 145 in Liberty County;

(Z) [(CC) Unit 146 in Angelina County;

(AA)(DD) Unit 147 in Nacogdoches County;

(BB)(EE) Unit 150 in Panola County,

(CC)(FF) Unit 151 in Panola County,

(DD)(GG) Unit 152 in Sabine County,

(EE)(HH) Unit 154 in San Augustine County;

(FF)(II) Unit 155 in Sabine County,

(GG)(JJ) Unit 156 in Shelby County,

(HH)(KK) Unit 157 in Shelby County,

(II)(LL) Unit 158 in Hardin County,

(JJ)(MM) Unit 159 in Sabine County,

(KK)(NN) Unit 160 in Jasper and Newton counties,

(OO) Unit 203 in Hardin County,]

(LL)(PP) Unit 204 in Hardin County,

(MM)(QQ) Unit 210 in Newton County,

(NN)(RR) Unit 211 in Newton and Jasper counties,

(OO)(SS) Unit 213 in Newton and Jasper counties,

(PP)(TT) Unit 217 in Montgomery and Liberty counties,

(QQ)(UU) Unit 218 in Hardin County,

(VV) Unit 222 in Newton County,]

(RR)(WW) Unit 223 in Jasper County,

(SS)(XX) Unit 224 in Shelby County,

(TT)(YY) Unit 301 in Newton County;

(UU)(ZZ) Unit 501 (Lake Ray Roberts Wildlife Management Area) in Cooke, Denton, and Grayson counties,

(VV)(AAA) Unit 607 in Robertson County,

(BBB) Unit 608 (Wall Tract) in Dallam County,]

(WW)(CCC) Unit 615 (North Toledo Bend Wildlife Management Area) in Shelby County,

(XX)(DDD) Unit 616 in Orange County,

(YY)(EEE) Unit 617 (Cleavinger Tract) in Castro County,

(ZZ)(FFF) Unit 630 in Panola and Shelby counties,

(AAA) Unit 712 (Blue Elbow Swamp Wildlife Management Area) in Orange County;

(BBB)(GGG) Unit 801 in Shelby County,

(CCC)(HHH) Unit 803 in Bowie County,

(DDD)(III) Unit 901 (Caddo Wildlife Management Area) in Fannin County,

(EEE)(JJJ) Unit 902 (Moore Plantation Wildlife Management Area) in Sabine and Jasper counties,

(FFF)(KKK) Unit 903 (Bannister Wildlife Management Area) in San Augustine County,

(GGG)(LLL) Unit 904 (Alabama Creek Wildlife Management Area) in Trinity County, and

(HHH)(MMM) Unit 905 (Sam Houston National Forest) in Montgomery, San Jacinto, and Walker counties.

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

All-terrain vehicle (ATV)—A motor vehicle which does not meet traffic code requirements for operation on a public roadway with respect to licensing, inspection and insurance requirements. [Any motor vehicle having a saddle, three or four tires, designed for off-highway use, and not designed for farming or lawn care.]

Blind—A stand, tower, platform or any structure constructed by the assembly of natural or manufactured materials in such a manner as to promote concealment of or to enhance visibility by a person.

Muzzleloader, muzzleloading firearm—Any firearm that is loaded only through the muzzle using black powder or Pyrodex and separate projectile(s) and is ignited by a flint or percussion mechanism [Muzzleloader—A firearm capable of having propellant and projectiles loaded only through the muzzle of the barrel]

Predatory animals—Coyotes and [feral house cats,] bobcats[, and mountain lions]

Spike buck—A deer having a hardened antler protruding through the surface of the skin with neither antler having a fork or branching point.

§65.192. General Rules and Regulations

(a) The following rules and regulations apply to all public hunting lands unless an exception is provided in the open seasons and special regulations section for a specific area

(1)-(2) (No change)

(3) It is an offense to establish a camp and leave it unattended for a period of longer than 24 hours.

(4)(3) It is an offense to not confine motor vehicle use to designated roads, except parking is permitted on the shoulder of or immediately adjacent to designated roads and as provided for a disabled person or for a person directly assisting a disabled person.

(5) [(4)] It is unlawful to hunt, take, or kill, or attempt to hunt, take, or kill any wildlife resource from a motor vehicle, motor-driven land conveyance, or from any aircraft or airborne device, or possess a loaded firearm in or on the vehicle, except as provided for a disabled person.

(6)(5) It is an offense for an individual other than a disabled person or a person directly assisting a disabled person to operate an all-terrain vehicle (ATV) on public hunting lands, except on Unit [Units 901, 902, 903, 904, and] 905, where a person may operate an ATV [only] on

designated ATV trails and designated ATV areas.

(7) [(6)] Disabled persons may hunt from a stationary motor vehicle or motor-driven land conveyance provided the hunting by a disabled person is not conducted on a designated road.

(8) [(7)] The disturbance of plants, rocks, artifacts, or other objects or their removal from public hunting lands is prohibited, except as authorized by the department.

(9) [(8)] It is unlawful for any person to not obey [posted] regulations posted at the area or listed in the **Public Hunting Lands Map Booklet**, fail to comply with instructions on permits or area leaflets, or refuse to follow directives given by departmental personnel in the discharge of official duties as established by Texas Parks and Wildlife Code, §§81.401-81.404.

(10) [(9)] Failure to properly dispose of refuse, litter, trash, or garbage is prohibited

(11) [(10)] It is an offense for a person to be under the influence of alcohol or consume an alcoholic beverage while engaged in hunting activities, or to publicly consume or display an alcoholic beverage while on public hunting lands

(12) [(11)] It is an offense if a person within the hunt area when hunting with firearms is permitted fails to visibly wear a minimum of 400 square inches of daylight fluorescent orange material with orange headwear and 144 square inches appearing on both the chest and back when hunting is permitted on public hunting lands, except that persons hunting only the following species are exempt from this requirement

[(A)] deer, javelina, or feral hog during the archery only seasons.]

(A) [(B)] turkey;

(B) [(C)] migratory birds, except as provided in paragraph (13) [(12)] of this subsection.

(C) [(D)] furbearing animals or predatory animals [coyotes or furbearers] at night;

(D) [(E)] alligators; or

(E) [(F)] desert bighorn sheep.

(13) [(12)] It is an offense if a person who is hunting mourning dove fails to comply with minimum requirements for

visible fluorescent orange material on days when concurrent hunts are held for mourning dove and quail or mourning dove and chachalaca.

(14) [(13)] It is a violation to conduct business concessions such as selling, buying, renting, leasing, or peddling goods, merchandise, or services to the public unless specifically authorized in writing by the Executive Director.

(15) [(14)] It is unlawful to enter public hunting lands with a firearm, bow and arrow, or any other weapon, or to possess a firearm, bow and arrow, or any other weapon on public hunting lands, except persons authorized by the Parks and Wildlife Department to hunt on the areas, or commissioned law enforcement officers and/or department employees in performance of their duties.

(16) [(15)] It is a violation to possess dogs in camp that are not confined or leashed

(17) [(16)] It is an offense for a person under 17 years of age (minor) to fail to be under the immediate supervision of a duly permitted and authorized supervising adult when hunting on public hunting lands. For a minor who has received hunter education certification, the requirement for immediate supervision is relaxed to the extent that while the minor is engaged in hunting activities, the authorized supervising adult is required to only be present on the public hunting area.

(18) [(17)] It is unlawful for any person or persons to harass, molest, or otherwise interfere with anyone lawfully engaged in hunting or fishing activities on public hunting lands. This subsection does not apply to peace officers of this state, law enforcement officers of the United States, or employees of the department while in the actual discharge of official duties.

[(18)] The use of traps, snares, and deadfalls is an offense, except handheld snares with integral locking mechanism may be used for taking alligator, crab traps may be used for taking crabs, and designated exotic mammals may be taken by means as specified on the special permit.]

(19) Trapping.

(A) The use of deadfalls or lethal chemicals for taking wildlife resources is prohibited.

(B) The use of traps and snares is an offense except:

(i) hand-held snares with integral locking mechanism may be used for taking alligator;

(ii) crab traps may be used for taking crabs;

(iii) when specified on a special permit as a legal means of taking designated exotic mammals; and

(iv) when designated as a legal means of taking furbearing animals or predatory animals.

(C) The use of traps and snares for taking furbearing animals or predatory animals is an offense, except:

(i) on units of public hunting lands where furbearing animals or predatory animals are designated as a legal species in the **Public Hunting Lands Map Booklet**;

(ii) on units of public hunting lands where trapping is designated in the **Public Hunting Lands Map Booklet** as a legal means and method of taking furbearing animals or predatory animals;

(iii) during the period from December 1-January 31;

(iv) when placement of the set trap or snare is no closer than 50 yards from the nearest designated road and no closer than 400 yards from the nearest designated campsite or public hunting lands boundary;

(v) when each trap or snare is visibly and legibly marked with the number of the trapper's current Annual Public Hunting Permit; and

(vi) when each trap or snare is examined and captured animals are removed at intervals of no greater than every 36 hours.

(20) [(19)] The use of recorded or electric calling devices is prohibited for taking wildlife resources other than furbearing animals or predatory animals.

(21) [(20)] It is an offense to bait wildlife on public hunting lands, except as provided for trapping furbearing animals or predatory animals, taking alligator by special permit, or when performed at the direction of the Department as a management tool.

(22) [(21)] It is unlawful to use or possess a horse, mule, burro or any type of riding stock or pack animal on public hunting lands during any open season for hunting or at any other time, except [on Units 901, 902, 903, 904, and 905 or] as provided for specific areas in the **Public Hunting Lands Map Booklet** or in accordance with scheduled events under the Texas Conservation Passport.

(23) [(22)] Firearms.

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

(D) It is unlawful to use a firearm that utilizes rimfire ammunition of any caliber or a muzzleloader of less [smaller] than .45 [inch]-caliber in taking or shooting deer, exotic mammals other than feral hog, [javelina,] pronghorn antelope, [predatory animals,] or desert bighorn sheep [alligators]

(E)-(K) (No change.)

(24)[(23)] Archery

(A)-(D) (No change.)

(25)[(24)] Hunting with Dogs

(A)-(D) (No change.)

(26)[(25)] Falconry

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

(27)[(26)] Checking Game, Entering and Exiting Public Hunting Lands

(A)-(H) (No change.)

(28)[(27)] Tagging of Game

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

(29)[(28)] Construction of Blinds

(A) It is an offense to construct permanent blinds, stands, towers, or platforms except as provided to maintain existing permanent blinds on Caddo Lake State Park and Wildlife Management Area.

(B)-(E) (No change.)

(b) (No change.)

§65 193 *Open Seasons, Bag and Possession Limits, and Means and Methods, General Rules.*

(a)-(f) (No change.)

(g) The Executive Director may adjust hunt dates and bag limits within the framework established by the Commission to promote the proper management of wildlife resources.

(h) The Executive Director may designate units of public hunting lands acquired under short-term lease agreement, for application of Commission approved regulations governing hunting, fishing, and other public use.

(i)[(g)] The Executive Director may designate an area or a portion of an area as

a limited-use zone in which hunting and the use of firearms and archery equipment is either prohibited, restricted to specified means and methods, or limited to certain periods of time

(j)[(h)] The Executive Director may establish additional restrictions on camping consistent with the type of public use activity authorized and the environmental protection of the area

(k)[(i)] The Executive Director may permit recreational activities on public hunting lands which are compatible with sound resource management practices and public health and safety.

(l)[(j)] Open seasons, shooting hours, means and methods, and bag and possession limits for taking deer, javelina, pronghorn antelope, desert bighorn sheep, squirrel, turkey, pheasant, and quail and fishing when listed as a legal species or activity are as provided for that county by the Statewide Hunting and Fishing Proclamation, except as otherwise specified for a specific area

(m)[(k)] Open season, shooting hours, and means and methods for taking exotic mammals when listed as a legal species are as provided for taking deer within that county by the Statewide Hunting and Fishing Proclamation, except as otherwise specified for a specific area. Either sex of exotic mammals may be taken and there is no bag or possession limit, except as otherwise established for designated exotic mammals

(n)[(l)] Open seasons, shooting hours, means, methods, special requirements, and bag and possession limits for taking mourning dove, white-winged dove, rail, gallinule, and teal duck during the Early Teal Season when listed as a legal species are as provided for that locale by the Early Season Migratory Game Bird Proclamation, except as further restricted for a specific area

(o)[(m)] Open seasons, shooting hours, means, methods, special requirements, and bag and possession limits for taking waterfowl (outside of the Early Teal Season), sandhill crane, woodcock, and snipe when listed as a legal species are as provided for that locale by the Late Season Migratory Game Bird Proclamation, except as further restricted for a specific area

(p)[(n)] Open seasons, means and methods, and bag and possession limits for taking furbearing animals when listed as a legal species are as provided by the Statewide Furbearing Animal and Trapping Proclamation, except as otherwise specified for a specific area

(q)[(o)] Open seasons, shooting hours, and means and methods for taking predatory animals when listed as additional

legal species on special or regular hunting permits correspond to the open season, shooting hours, and means and methods provided for taking the featured hunt species. Either sex of predatory animal may be taken and there is no bag or possession limit.

(r)[(p)] Open seasons, general rules, license requirements, means and methods, hide tag requirements, and bag limits for taking alligator when listed as a legal species are as provided by the Alligator Proclamation, except as further restricted for a specific area.

(s)[(q)] Open Seasons, Bag and Possession Limits, Means and Methods, and Special Regulations for Legal Species and Legal Activities on Specific Areas.

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

(4) Black Gap Wildlife Management Area

(A)-(E) (No change.)

(F) Fishing and river related public use. Impoundments are closed to fishing. Fishing in and public access to [is permitted in] the Rio Grande River is permitted year-round, except on days when hunts are being conducted by special permit, annual public hunting permit required, except public users [fishermen] who enter and exit the area by boat are not required to possess an annual public hunting permit. Public users [fishermen] are required to use Maravillas Canyon and Horse Canyon roads only while going to and from the Rio Grande River. From the point where the Maravillas Canyon Road enters the Rio Grande Valley downstream to the area boundary, a river-related public user [fisherman] who does not possess an annual public hunting permit commits an offense if the public user [fisherman] does not stay within the area between the road and the river or within 300 yards of the river from the aforementioned point upstream to the area boundary.

(G) (No change.)

(5) Caddo Lake State Park and Wildlife Management Area.

(A) Seasons and bag limits for taking wildlife resources are as provided for Marion and Harrison counties.

(B) Special Regulations:

(i) The requirement of an Annual Public Hunting Permit or a Limited Public-Use Permit is waived.

(ii) Existing permanent duck blinds which were in place on Octo-

ber 16, 1992, may be repaired and maintained; however it is a violation to construct a new permanent duck blind or to repair or maintain a permanent duck blind which was initially constructed after October 16, 1992.

(iii) It is an offense to establish a temporary duck blind less than 300 yards from an existing duck blind.

(iv) It is an offense to discharge a firearm within that portion of the area designated by signs as a Limited-Use Zone.

(6)[(5)] Candy Abshier Wildlife Management Area-Special Regulations:

(A)-(I) (No change)

(7)[(6)] Cedar Creek Islands Wildlife Management Area (Big Island, Bird Island, and Tellair Island Units)-Special Regulations

(A)-(D) (No change)

(8)[(7)] Chaparral Wildlife Management Area

(A)-(H) (No change)

(9)[(8)] Cooper Wildlife Management Area

(A) Deer

(i) Archery on designated days, one deer (either sex during the archery-only deer season established for Delta and Hopkins counties and buck-only otherwise [one deer (either sex)], by annual public hunting permit

(ii) (No change)

(B) (No change)

(C) Squirrel-on designated days [closed on days designated for hunts by special permit], by annual public hunting permit

(D) Quail-on designated days [closed on days designated for hunts by special permit], by annual public hunting permit

(E) Mourning Dove-on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit

(F) Waterfowl-on designated days [Tuesdays, Thursdays, and Saturdays] during the waterfowl seasons

established for Delta and Hopkins counties; shooting hours end at noon; by annual public hunting permit.

(G) Woodcock-on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit

(H) (No change.)

(I) Rabbits and Hares-on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit.

(J)-(K) (No change.)

(10)[(9)] Dam B Wildlife Management Area

(A)-(P) (No change)

(11) [(10)] Designated Units of the Las Palomas Wildlife Management Area

(A)-(E) (No change.)

(12) Designated Units of Public Hunting Lands Under Short-Term Lease.

(A) Deer:

(i) Archery:

(I) during the period from September 1-January 31; one deer as specified on the permit; by special permit; and

(II) on designated days during the period from September 1-January 31; one deer as specified by permit; by annual hunting permit.

(ii) General:

(I) during the period from October 1-February 15; one deer as specified on the permit; by special permit; and

(II) on designated days during the period from October 1-February 15; one deer as specified on the permit; by annual public hunting permit.

(B) Exotic Animals

(i) Archery:

(I) during the period

from September 1-August 31; no bag or possession limit; by special permit; and

(II) on designated days during the period from September 1-August 31; no bag or possession limit; by annual hunting permit.

(ii) General:

(I) during the period from September 1-August 31; no bag or possession limit; by special permit; and

(II) on designated days during the period from September 1-August 31; no bag or possession limit; by annual public hunting permit.

(C) Javelina

(i) Archery:

(I) during the period from September 1-March 31; one javelina (either sex); by special permit; and

(II) on designated days during the period from September 1-March 31; one javelina (either sex); by annual public hunting permit.

(ii) General:

(I) during the period from September 1-March 31; one javelina (either sex); by special permit; and

(II) on designated days during the period from September 1-March 31; one javelina (either sex); by annual public hunting permit.

(D) Squirrel:

(i) on designated days by regular permit; and

(ii) on designated days by annual public hunting permit.

(E) Turkey-during the months of April and May; one gobbler; by special permit.

(F) Quail:

(i) on designated days by regular permit; and

(ii) on designated days by annual public hunting permit.

(G) Mourning dove:

(i) on designated days by regular permit; and

(ii) on designated days by annual public hunting permit.

(H) White-winged dove:

(i) on designated days by regular permit; and

(ii) on designated days by annual public hunting permit.

(I) Waterfowl:

(i) on designated days by regular permit; shooting hours end at noon; and

(ii) on designated days by annual public hunting permit; shooting hours end at noon.

(J) Sandhill Crane:

(i) on designated days by regular permit; shooting hours end at noon; and

(ii) on designated days by annual public hunting permit; shooting hours end at noon.

(K) Snipe:

(i) on designated days by regular permit; shooting hours end at noon; and

(ii) on designated days by annual public hunting permit; shooting hours end at noon.

(L) Rails:

(i) on designated days by regular permit; shooting hours end at noon; and

(ii) on designated days by annual public hunting permit; shooting hours end at noon.

(M) Gallinule:

(i) on designated days by regular permit; shooting hours end at noon; and

(ii) on designated days by annual public hunting permit; shooting hours end at noon.

(N) Woodcock:

(i) on designated days by regular permit; and

(ii) on designated days by annual public hunting permit.

(O) Fishing-on designated days by annual public hunting permit; restricted to daylight hours.

(P) Special Regulations:

(i) It is an offense if a public user fails to perform on-site registration.

(ii) The use of airboats is an offense.

(iii) It is an offense to use any device other than shotguns with nontoxic shot no larger than size #4 lead shot or bow and arrow for hunting, except that lawful firearms, including shotguns using only slugs, are the only legal firearms for taking deer or exotic mammals during the general season (nontoxic shot requirements for hunting waterfowl remain in effect).

(iv) It is an offense to possess a rifle or handgun of greater size than .22-caliber rimfire while hunting during the season designated for squirrel.

(v) The use or possession of dogs is an offense, except one dog per permit-holding hunter is permitted for hunting migratory game birds, quail, pheasant or squirrel.

(vi) It is an offense to park in other than designated parking areas.

(13)[(11)] Designated Units of the Playa Lakes Wildlife Management Area

(A)-(H) (No change)

(14)[(12)] Designated Units of the State Park System.

(A)-(J) (No change.)

(K) King and Clapper Rails-on dates and shooting hours which correspond to those designated for waterfowl hunts; by regular permit.

(L) Sora and Virginia Rails-on dates and shooting hours which correspond to those designated for waterfowl hunts; by regular permit.

(M) Gallinule-on dates and shooting hours which correspond to those designated for waterfowl hunts; by regular permit.

(N) Snipe-on dates and shooting hours which correspond to those designated for waterfowl hunts; by regular permit.

(O)[(K)] Alligator-one alligator as specified on the permit; means and

methods as specified on the permit or attachments; by special permit.

(P) [(L)] Special Regulations:

(i) The use of airboats is an offense, except that airboats [air propelled boats] having a motor of no greater than ten horsepower may be used on Sea Rim State Park.

(ii) (No change.)

(15)[(13)] Elephant Mountain Wildlife Management Area.

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

(16) [(14)] Gene Howe Wildlife Management Area.

(A)-(H) (No change.)

(17)[(15)] Granger Wildlife Management Area.

(A) Exotic mammal: Archery-during the period from October 1-May 31; no bag or possession limit; by annual public hunting permit.

(B)[(A)] Squirrel-by annual public hunting permit

(C)[(B)] Quail-by annual public hunting permit.

(D)[(C)] Mourning Doves-by annual public hunting permit

(E)[(D)] Waterfowl-by annual public hunting permit.

(F)[(E)] Woodcock-by annual public hunting permit.

(G)[(F)] Gallinules-by annual public hunting permit.

(H)[(G)] Snipe-by annual public hunting permit

(I)[(H)] Rabbits and Hares-no closed season; no bag or possession limits; by annual public hunting permit.

(J)[(I)] Furbearing Animals-during daylight hours only from September 1-March 31; by annual public hunting permit.

(K)[(J)] Coyotes-during day-

light hours only from September 1-March 31; no bag or possession limit; by annual public hunting permit

(L)(K) Fishing-no permit required.

(M)(L) Special Regulations.

(i)-(iii) (No change.)

(18)(16) Guadalupe Delta Wildlife Management Area.

(A)-(F) (No change.)

(19)(17) Gus Engeling Wildlife Management Area

(A)-(D) (No change.)

(E) Waterfowl-on designated days, shooting hours end at noon, by annual public hunting [regular] permit

(F) Woodcock-on dates and shooting hours which correspond with those designated for waterfowl hunts, by annual public hunting [regular] permit

(G) Gallinules-on dates and shooting hours which correspond to those designated for waterfowl hunts, by annual public hunting [regular] permit

(H) Snipe-on dates and shooting hours which correspond to those designated for waterfowl hunts; by annual public hunting [regular] permit.

(I)-(K) (No change.)

(20)(18) James Daughtrey Wildlife Management Area

(A)-(L) (No change.)

(M) Special Regulations-during times when hunting by special permit is being conducted on the area, it is an offense if a person without a valid special hunting permit ventures inland farther than a distance of 100 yards from the shoreline of Choke Canyon Reservoir.

(21)(19) J. D. Murpree Wildlife Management Area.

(A)-(H) (No change.)

(22)(20) Keechi Creek Wildlife Management Area.

(A)-(K) (No change.)

(23)(21) Kerr Wildlife Management Area.

(A)-(H) (No change.)

(24)(22) Lands Within a Desert Bighorn Sheep Cooperative Unit.

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

(25)(23) Lower Neches Wildlife Management Area

(A)-(E) (No change.)

(F) Fishing-no permit required

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

(vi) In the portion (1,437 acres) of The Old River Unit leased from Gulf States Utilities, west of Hwy 87, it is an offense to fish except during the period from Monday following the close of waterfowl season through October 31, both days inclusive, from 30 minutes before sunrise to 30 minutes after sunset, but when required by the Department for the proper management of waterfowl resources, portions of the Area may be closed to fishing for temporary periods of time.

(vii)(vi) In the remainder of the Old River Unit, it is an offense to fish except during the period from March 1-August 31, both days inclusive, from 30 minutes before sunrise to 30 minutes after sunset, but when required by the Department for the proper management of waterfowl resources, portions of the area may be closed to fishing for temporary periods of time.

(G)-(H) (No change.)

(26)(24) Mad Island Wildlife Management Area.

(A)-(F) (No change.)

(27)(25) Matador Wildlife Management Area.

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

(28)(26) Matagorda Island Wildlife Management Area.

(A) (No change.)

(B) Exotic Mammals.

(i) Concurrent Seasons-to correspond with hunt dates, shooting hours, and means and methods established for deer hunts; no bag or possession limit; by special permit.

(ii) General-during the period from September 1-August 31; no bag or possession limit; by special permit.

(C)-(I) (No change.)

(29)(27) M. O. Neasloney Wildlife Management Area.

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

(30)(28) Old Tunnel Wildlife Management Area-Special Regulations:

(A)-(E) (No change.)

(31)(29) Pat Mayse Wildlife Management Area.

(A)-(N) (No change.)

(32)(30) Peach Point Wildlife Management Area.

(A)-(F) (No change.)

(33)(31) Richland Creek Wildlife Management Area.

(A)-(K) (No change.)

(L) Special Regulations-It is an offense to possess a rifle or handgun of greater size than .22-caliber rimfire while hunting during the season designated for squirrel.

(L) Special Regulations:

(i) It is an offense to possess any device other than a shotgun or bow and arrow for hunting on that portion of the area located north of U.S. Highway 287.

(ii) It is an offense to possess a rifle or handgun of greater size than .22-caliber rimfire while hunting during the season designated for squirrel.]

(34)(32) Sheldon Wildlife Management Area. [Fishing-no permit required.]

(A) Alligator—one alligator as specified on the permit; means and methods as specified on the permit or attachments; by special permit.

(B) Fishing—No permit required.

(i) [(A)] It is an offense to fish except during the period from 5:00 a.m. to 9:30 p.m. each day

(ii) [(B)] It is an offense to use handlines and trotlines.

(iii) [(C)] It is an offense to wade fish and use boats during the period November 1-February 28, both days inclusive

(iv) [(D)] It is an offense to use boat motors over ten horsepower.

(35) [(33)] Sierra Diablo Wildlife Management Area

(A) -(E) (No change)

(36) [(34)] Somerville Wildlife Management Area

(A)-(L) (No change)

(37) [(35)] Walter Buck Wildlife Management Area.

(A)-(D) (No change)

(E) Fishing—no open season.

(38) [(36)] White Oak Creek Wildlife Management Area.

(A) Deer

(i) Archery—one deer (either sex); on designated days; by annual public hunting permit

(ii) (No change.)

(B) (No change.)

(C) Squirrel—on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit.

(D) Quail—on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit

(E) Mourning Dove—on designated days [closed on days designated for hunts by special permit], by annual public hunting permit

(F) Waterfowl—on designated days [Mondays, Wednesdays, and Sundays] during the waterfowl seasons established for Bowie, Cass, Morris, and Titus counties; shooting hours end at noon; by annual public hunting permit.

(G) Woodcock—on designated days [closed on days designated for hunts by special permit]; by annual public hunting permit.

(H) (No change)

(I) Rabbits and Hares—on designated days [closed on days designated for hunts by special permit], no bag or possession limits, by annual public hunting permit.

(J)-(K) (No change.)

(39) [(37)] Units 102, 103, 104, 106, 136, 137, 142, 152, 154, 155, 159, 902 (Moore Plantation Wildlife Management Area) and 903 (Bannister Wildlife Management Area).

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

(40) [(38)] Units [108.] 109, [112.] 113, 114, 115, 116, 117, 119, 120, 121, 122, 125, 129, 130, 133, [134.] 143, 144, 145, 146, 147, 150, 151, 156, 157, 158, 160, [203.] 204, 210, 211, 213, 217, 218, [222.] 223, 301, 615 (North Toledo Bend Wildlife Management Area), 616, 712 (Blue Elbow Swamp Wildlife Management Area), 630, 801, 803, 904 (Alabama Creek Wildlife Management Area), and 905 (Sam Houston National Forest)

(A)-(H) (No change.)

(I) Special Regulations—

(i) On Units 615, 904 and 905 [615 and 904], during seasons other than the Early Teal Season, it is an offense to hunt waterfowl at any time except on Wednesday, Saturday, and Sunday and only during legal shooting hours of 30 minutes before sunrise until noon each day during the regular season.

(ii) (No change.)

(41) [(39)] Units 135, 224, 607, and 901 (Caddo Wildlife Management Area)

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

(42) [(40)] Unit 501 (Lake Ray Roberts Wildlife Management Area)

(A)-(F) (No change.)

[(41)] Unit 608 (Wall Tract).

[(A)] Pheasant—by annual public hunting permit.

[(B)] Waterfowl—by annual public hunting permit.

[(C)] Rabbits and Hares—concurrent with shooting hours and seasons for taking pheasant or waterfowl; no bag or possession limit; by annual public hunting permit.]

(43) [(42)] Unit 617 (Cleavinger Tract).

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

§65.194. Permit Required and Fees.

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

(c) Annual Public Hunting Permit and Limited Public Use Permit.

(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, it is an offense for a person 17 years of age or older to enter or hunt on public hunting lands requiring an Annual Public Hunting Permit without having in his or her possession an Annual Public Hunting Permit or fail to display the permit, upon request, to a Department employee or other official authorized to enforce regulations on public hunting lands.

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

(d)-(i) (No change.)

(j) The fees for special and regular permits, except as otherwise established by the Commission, are:

(1)-(19) (No change.)

(k) (No change.)

(l) Any applicable special permit fees will be waived for minor age participants under the supervision of a duly permitted authorized supervising adult.

(m) [(l)] Any applicable regular permit fees will be waived for:

(1) persons possessing an annual public hunting permit; and

(2) for minor age participants under the supervision of a duly permitted authorized supervising adult.

(n) [(m)] A permit is issued to a specific person, and neither the permit nor the rights granted thereunder are transferable to another person.

§65.198. Penalties. The penalties for vio-

lation of this subchapter are prescribed by Texas Parks and Wildlife Code, §81.007. With respect to violations in designated state parks, the penalties are prescribed by [Texas] Parks and Wildlife Code, §62.069.

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 February 11, 1994

TRD-9436137

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Proposed date of adoption: September 1, 1994

For further information, please call 1-(800) 792-1112, Ext. 4433 or (512) 389-4433

◆ ◆ ◆
Subchapter V. Wildlife Management Association Area
Hunting Lease License

• 31 TAC §§65.801-65.807

The Texas Parks and Wildlife Department proposes new §§65.801-65.807, concerning Wildlife Management Association Area Hunting Lease License. The proposed new rules are a result of legislation passed in the 73rd Texas Legislature which provides for Hunting Lease Licenses for landowners within Wildlife Management Associations in Texas Parks and Wildlife Department (TPWD) Code, Chapter 43, Subchapter D, Hunting Lease Licenses, in §43.0432, §43.044, and Chapter 81, Subchapter D, Wildlife Management Association Areas, in §§81.301, 81.302, and 81.303. Section 81.303 authorizes the Commission to adopt rules necessary to implement this Subchapter.

Department staff, including biologists and game wardens, have been working with several Wildlife Management Associations throughout the state to test guidelines, proposed rules, and data collection requirements. Comments and suggestions from these groups and testimony from public hearings will be considered prior to the final proposed regulations for Commission adoption.

Robin Riechers, staff economist, has determined that the first five-year period the proposed new rules are in effect there should be no fiscal implications for local governments as a result of enforcing or administering the rules. In addition as the result of these new rules there should be minor fiscal impacts to the Department in the form of lost revenue as a result of reduced license fees to association members, the magnitude of these losses are immeasurable at this time, to participants who incur additional costs as a result of compliance with these rules.

Mr. Riechers, also has determined that for each year of the first five years the proposed new rules are in effect the public benefit anticipated as a result of enforcing the rules will be improved wildlife habitat management on private lands through the use of wildlife man-

agement associations. There will be minor fiscal implications to persons or small businesses who are required to comply with the proposed new rules.

The department has filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure Act (Government Code, §2001.022).

Comments on the proposed new rules may be submitted to Kirby Brown, Program Director, Private Lands Enhancement and Public Hunting, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4395 or 1-(800) 792-1112, Ext. 4395.

The new rules are proposed under the Texas Parks and Wildlife Code, Chapter 43, Subchapter D, Hunting Lease Licenses, and Chapter 81, Subchapter D, Wildlife Management Association Areas, which provides the Parks and Wildlife Commission with authority to adopt rules necessary to implement this subchapter.

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

Association Administrator—An individual designated in the application to act on behalf of all licensed members of the association.

License—A Wildlife Management Association Area Hunting Lease License. (See §43.0432, Parks and Wildlife Code).

Wildlife Management Association Area Boundary—A road, highway, stream, electric transmission line, pipeline, or any other prominent landmark used to delineate an enclosed area.

Wildlife Management Association Plan—A plan approved by a Department biologist for the Wildlife Management Association Area.

§65.802. License Required. A Wildlife Management Association Area Hunting Lease License is required to be obtained by each landowner that leases for hunting purposes a tract of land which is part of a licensed Wildlife Management Association Area as defined in Parks and Wildlife Code, §43.0432(a). Each separate, noncontiguous tract of land, including tracts under the ownership of one individual within the Wildlife Management Association Area, is required to be licensed. Tracts of land more than 1/2 mile outside of the Wildlife Management Association area boundary shall not be included in this license. Tracts of land within 1/2 mile of the Wildlife Management Association area boundary, but noncontiguous to other association lands, may, with adequate justification and approval by local departmental biologists, be licensed and included within the Wildlife Management Association Area Plan.

§65.803. License Fee. The license fee for individual tracts of land required to be licensed under these rules shall be as prescribed under Parks and Wildlife Code, Chapter 43, §43.044(c).

§65.804. License Issuance. The department may issue a license to an applicant if the following requirements have been satisfied:

(1) an application supplied by the department for a license has been completed and filed with the department,

(2) the department finds that observing wildlife and collecting information within the Wildlife Management Association Area will serve the purpose of wildlife management in this state,

(3) a department approved Wildlife Habitat and Harvest Annual Recommendation has been completed and filed with the department that follows the department's guidelines as described by §65.26(1) of this title (the Statewide Hunting and Fishing Proclamation), and

(4) all application, license, and review fees have been paid to the department.

§65.805. Annual Records and Reports.

(a) An annual summary report and Hunting Lease Record Book shall be maintained by each landowner on a form prescribed by the department.

(b) Each hunter, regardless of ownership, interest, or kinship to the license holder, shall enter his or her name and harvest information in the Hunting Lease Record Book (Parks and Wildlife Code, §43.0485).

(c) Each license holder shall forward the completed record book to the Wildlife Management Association Administrator no later than June 15 of each license year.

(d) The Association Administrator shall forward the completed annual record books and the required summary to the department no later than August 31 of each year (Parks and Wildlife Code, §43.0485).

§65.806. Tagging of Deer. All deer taken on lands licensed as a Wildlife Management Association Area Hunting Lease must be tagged with a valid, properly filled out tag from the hunting license of the individual that killed the deer.

§65.807. Penalties. The penalties for violation of this subchapter are prescribed by Parks and Wildlife Code, §43.055.

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 February 11, 1994.

TRD-9436134 Paul M Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Earliest possible date of adoption March 21, 1994

For further information, please call 1-(800) 792-1112, Ext 4433 or (512) 389-4433

Chapter 69. Resource Protection

Wildlife Rehabilitation Permits • 31 TAC §69.45

The Texas Parks and Wildlife Department proposes an amendment to §69.45(h), concerning Wildlife Rehabilitation Permits Language in §69.45(h) is incorrect, negating the intent of the subsection Sections 69.41, 69.43, 69.47, 69.49, 69.51, 69.53, 69.55, and 69.57 of this proclamation remain unchanged

Robin Riechers, staff economist, has determined that correction of this subsection will have no fiscal impacts on state and local government

Mr Riechers 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 to provide a clarification of permitting requirements for those individuals who hold a wildlife rehabilitation permit while concurrently holding other permits or licenses to propagate, for the purpose of sale, other protected finfish or aquatic invertebrates

In light of the absence of economic impact, no economic assessment of this rule clarification was requested from the Texas Employment Commission

Comments on the proposed proclamation for Scientific Permits for Wildlife Rehabilitation may be submitted to RaeNell Silcox, Legal Services Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 444-0160

The amendment is proposed under Parks and Wildlife Code, Chapter 43, Subchapter C, §43.027, which delegates authority to the Texas Parks and Wildlife Commission to make regulations governing the taking and possession of wildlife indigenous to the state for rehabilitation purposes

§69.45 Applications and Permits

(a)-(g) (No change)

(h) Permits may not be for the same species as permits issued to holders of other licenses or permits authorizing the propagation for [or] sale of any protected wildlife other than finfish or aquatic invertebrates

(i)-(l) (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 February 11, 1994

TRD-9436133 Paul M Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Earliest possible date of adoption: March 21, 1994

For further information, please call: 1-(800) 792-1112, Ext. 4700 or (512) 389-4700

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 17. Vehicle Titles and Registration

The Texas Department of Transportation proposes the repeal of §§17.20-17.23, and 17.26, and new §§17.20-17.23, 17.26, and 17.56-17.58, concerning Motor Vehicle Registration.

Sections 17.20-17.23 are proposed for repeal and contemporaneously re-enacted by being renumbered and proposed in their existing form as new §§17.26, 17.57, 17.23, and 17.58 respectively Section 17.26 is proposed for repeal by being renumbered and proposed in its existing form as new §17.56. New §17.20 and §17.21 describe the Purpose and Scope, and the Definitions of the undesignated head. New §17.22 describes how a motor vehicle is registered by an owner, the information required on an application from and accompanying documentation, vehicle registration insignia and placement and renewal information.

In order for the department to efficiently and effectively register motor vehicles, maintain records, and collect the applicable fees, the department finds it necessary to repeal certain existing sections and propose adoption of new sections by reorganizing the structure and content of its existing registration rules and procedures

Jerry L. Dike, director of Vehicle Titles and Registration Division, has determined that for the first five-year period the repealed and new sections are in effect there will be no additional fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr Dike has certified that there will be no additional significant impact on local economies or overall employment as a result of enforcing or administering the proposed sections.

Mr Dike 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 a more effective and uniform approach in the administration of motor vehicle registrants. There will be no additional 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 Jerry L. Dike, Director of Vehicle Titles and Registration, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of comments will be 5:00 p.m. on March 28, 1994.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amended section. The public hearing will be held at 9:00 a.m. on Thursday, March 3, 1994, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Motor Vehicle Registration

• 43 TAC §§17.20-17.23, 17.26

(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 Transportation or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Texas Civil Statutes, Article 6666, which provide 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 6675a-1, et seq, which authorize the department to promulgate rules

necessary to carry out the provisions of laws governing the issuance of vehicle registration.

§17.20 Public Access to Vehicle Registration Records

§17.21 Equipment and Vehicles Within Road Construction Projects

§17.22 Temporary or Additional Weight Permits

§17.23 Water Well Drilling Vehicles

§17.26. Registration by Licensed Dealers.

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 February 14, 1994

TRD-9436144

Diane L Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption March 21, 1994

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



The new sections are proposed under Texas Civil Statutes, Article 6666, which provide 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 6675a-1, et seq, which authorize the department to promulgate rules necessary to carry out the provisions of laws governing the issuance of vehicle registration.

§17.20 Purpose and Scope Texas Civil Statutes, Article 6675a-1, et seq, charge the department with the responsibility of registering vehicles operated upon the public streets and highways of this state, maintaining vehicle registration records, and collecting and reporting of statutory registration fees. In order for the department to efficiently and effectively perform these duties and to ensure proper application by motor vehicle registrants in accordance with statutory provisions, the sections under this undesignated head prescribe the policies and procedures for the application and issuance of vehicle registration

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

Carrying capacity-The maximum

safe load that a commercial vehicle may carry, in tons, as determined by the manufacturer.

Commercial vehicle-Any vehicle (other than a motorcycle or passenger car) designed or used primarily for the transportation of property, including any passenger car which has been reconstructed so as to be used, and which is being used, primarily for delivery purposes, with the exception of passenger cars used in the delivery of the United States mail

Conventional vehicle-A regular truck or regular trailer eligible only for regular registration, which are primarily designed to transport divisible loads, regardless of the vehicle's present use (vehicles which have been altered or reconstructed, or upon which machinery has been mounted or attached, permanently or otherwise, retain their conventional status).

Department-The Texas Department of Transportation

Director-The director of the Vehicle Titles and Registration Division, Texas Department of Transportation

Escrow account-A deposit of a specific amount of money held by the department for security.

Evidence of financial responsibility-The original document or photocopy of any one of the following items.

(A) a liability insurance policy or liability self-insurance or pool coverage document issued in at least the minimum amount required by law,

(B) a personal automobile insurance policy used as evidence of financial responsibility, written for at least the term required by the Insurance Code, Article 506,

(C) a standard proof of liability form issued by a liability insurer,

(D) an insurance binder that confirms that the owner is in compliance with the law;

(E) a certificate issued by the Texas Department of Public Safety that shows the vehicle is covered by self-insurance,

(F) a certificate issued by the State Treasurer that shows that the owner has money or securities in an amount not less than \$55,000 on deposit with the State Treasurer,

(G) a certificate issued by the Texas Department of Public Safety that shows that the vehicle has a bond, in the

form and amount required by law, on file with that department, such bond shall include at least two individual sureties each owning real estate within this state;

(H) a certificate issued by the county judge in the county where the owner resides showing that the owner has cash or a cashier's check in an amount not less than \$55,000 on deposit with the county judge.

Gross weight-The sum of the empty weight of a commercial vehicle (or vehicles, if operated in combination), combined with its maximum carrying capacity, rounded up to the next 100 pounds

Highway construction project-That section of the highway between the warning signs giving notice of a construction area.

Make-The trade name of the vehicle manufacturer

Official-A representative of a taxing entity who is authorized to secure vehicle registration information for the purposes of taxation.

Political subdivision-A county, municipality, local board, or other body of this state having authority to provide a public service.

Registration period-A 12-month period beginning on the first day of a calendar month and expiring on the last day of the last calendar month in that 12-month period.

Service agreement-A contractual agreement which allows individuals or businesses to access the department's vehicle registration records

Special district-A political subdivision of the state established to provide a single public service within a specific geographical area.

Unconventional vehicle-A vehicle built entirely as machinery from the ground up, that is permanently designed to perform a specific function, and is not designed to transport property.

Vehicle-Every device in, or by which, any person or property is or may be transported or drawn upon a public highway, except devices used exclusively upon stationary rails or tracks.

Vehicle identification number-A number assigned by the manufacturer of a motor vehicle or the department that describes the motor vehicle for purposes of identification

Vehicle inspection sticker-A sticker issued by the Texas Department of Public Safety signifying that a vehicle has passed all applicable safety and emissions tests

Vehicle registration insignia-A license plate, symbol, tab or other device issued by the department evidencing that all applicable fees have been paid for the current registration period which allows the vehicle to be operated upon the public highways.

Vehicle registration record—Information contained in the department's files which reflects, but is not limited to, the make, vehicle identification number, year model, body style, license number, and the name of the registered owner.

§17.22. Motor Vehicle Registration.

(a) Registration. Unless otherwise exempted by law or this chapter, a vehicle to be used upon the public highways of this state must be registered in accordance with Texas Civil Statutes, Article 6675a-1, et seq. and the provisions of this section.

(b) Initial application for vehicle registration.

(1) An applicant for initial vehicle registration must file an application on a form prescribed by the department. The form shall at a minimum require:

(A) the signature of the owner;

(B) the motor vehicle description which includes, but is not limited to, the motor vehicle's year, make, model, vehicle identification number, body style, manufacturer's rated carrying capacity in tons for commercial motor vehicles, and empty weight;

(C) the license plate number;

(D) the odometer reading, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

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

(F) the name, mailing address, and date of any liens.

(2) The application must be accompanied by the following documents:

(A) evidence of vehicle ownership as specified in Texas Civil Statutes, Article 6687-1, §30,

(B) registration fees as may be prescribed by law;

(C) any local fees or other fees as may be prescribed by law and collected in conjunction with registering a vehicle;

(D) evidence of financial re-

sponsibility as required by Texas Civil Statutes, Article 6675a-2a, unless otherwise exempted by law;

(E) a valid vehicle emissions certificate or evidence of residency as specified §17.80(c) of this title (relating to Vehicle Emissions Verification System), and

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

(3) Place of registration. An initial application for registration shall be filed with the tax assessor-collector of the county in which the owner resides; provided, however,

(A) registration involving the transfer of vehicle ownership by a motor vehicle dealer shall be governed by §17.74(c) of this title (relating to Records of Sales and Inventory), and

(B) an application for registration as a prerequisite to filing an application for certificate of title may be filed with the county tax assessor-collector in the county in which the motor vehicle is purchased or encumbered

(c) Vehicle registration insignia

(1) Upon receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue vehicle registration insignia to be displayed on the vehicle for which the registration was issued for the current registration period

(A) If the vehicle has a windshield, the symbol, tab or other device prescribed by and issued by the department must be attached to the inside lower left corner of the vehicle's front windshield directly above the vehicle inspection sticker in a manner that will not obstruct the vision of the driver

(B) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the rear license plate

(2) Unless otherwise prescribed by law, each vehicle registered under this undesignated head must display two license plates, one at the front and one at the rear of the vehicle.

(3) The provisions of paragraph (1) of this subsection do not apply to vehicles registered with annual license plates issued by the department

(d) Vehicle registration renewal

(1) A vehicle owner shall apply

to the tax assessor-collector of the county in which the owner resides for registration renewal prior to the expiration of the vehicle's registration.

(2) The department will mail a License Plate Renewal Notice, indicating the proper registration fee and the month and year the registration expires to each vehicle owner approximately six to eight weeks prior to the expiration of the vehicle's registration.

(3) The License Plate Renewal Notice must be returned by the vehicle owner to the appropriate county tax assessor-collector or his deputy, either in person or by mail, and shall be accompanied by the following documents and fees:

(A) registration renewal fees as may be prescribed by law,

(B) any local fees or other fees as may be prescribed by law and collected in conjunction with registration renewal,

(C) evidence of financial responsibility as required by Texas Civil Statutes, Article 6675a-2a, unless otherwise exempted by law, and

(D) a valid vehicle emissions certificate or evidence of residency as specified in §17.80(c) of this title (relating to Vehicle Emissions Verification System)

(4) If a renewal notice is lost, destroyed, or not received by the vehicle owner, the vehicle may be registered if the owner presents personal identification acceptable to the tax assessor-collector. Failure to receive the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

(5) Renewal of expired vehicle registrations

(A) In accordance with Texas Civil Statutes, 6675a-3e, §7, a vehicle with expired registrations may not be operated upon the highways of the state after the fifth day after the date a vehicle registration expires

(B) A 20% delinquency penalty is due any time a vehicle is operated upon the public streets or highways without the required registration

(C) If an owner renews the registration of a vehicle more than one month after the previous registration has expired and the vehicle has not been operated upon the public streets or highways,

the vehicle owner will be required to execute a Non-use Affidavit stating such, and the registration fee will be prorated for the balance of the registration year.

(D) If an owner renews the registration of a vehicle more than one month after the previous registration has expired and cannot execute the Non-use Affidavit because the vehicle has been operated, the full annual fee shall be collected plus a 20% delinquency penalty as provided by Texas Civil Statutes, Article 6675a-3a

(6) License plate reissuance and recall program

(A) The county tax assessor-collectors are authorized to issue new multi-year license plates at no additional charge upon request by the owner at the time of registration renewal, provided the current plates are over five years old

(B) The county tax assessor-collectors shall issue new multi-year license plates at no additional charge at the time of registration renewal provided the current plates are over eight years old

(e) Out-of-state vehicles A vehicle brought to Texas from out-of-state must be registered within 30 days of the date which the owner establishes residence or secures gainful employment. Accompanying a completed application, an applicant shall provide

(1) an application for certificate of title as required by the Certificate of Title Act, Texas Civil Statutes, Article 6687-1, if the vehicle to be registered has not been previously titled in this state, and

(2) an identification certificate required by the Uniform Act Regulating Traffic on Highways, Texas Civil Statutes, Article 6701d, and Texas Civil Statutes, Article 6687-1, §30(a)

(f) Enforcement of traffic warrant The department or a county tax assessor-collector may, pursuant to the provisions of a contract entered into under Texas Civil Statutes, Article 6687c, refuse to register a vehicle owned by a person for whom a warrant of arrest is outstanding for failure to appear or pay a fine on a complaint involving a violation of a traffic law

§17.23. *Temporary or Additional Weight Permits* Temporary agricultural permits or additional weight permits may not be issued to farm licensed trailers or semi-trailers

§17.26 *Public Access to Vehicle Registration Records*

(a) Purpose The department maintains files of motor vehicle registration information recording the name and address of the registered owner. In order to comply with Senate Bill 161, 70th Legislature, 1987, the department has established the conditions under which registration information is accessible to the public.

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

(1) Department—The Texas Department of Transportation

(2) Escrow account—A deposit of a specific amount of money held by the department for security.

(3) Official—A representative of a taxing entity who is authorized to secure vehicle registration information for the purposes of taxation

(4) Political subdivision—Every county, municipality, local board, or other body of this state having authority to provide a public service.

(5) Service agreement—A contractual agreement which allows individuals or businesses to access the department's vehicle registration records

(6) Special district—A political subdivision of the state established to provide a single public service within a specific geographical area.

(7) Vehicle registration record—Information contained in the department's files which reflects, but is not limited to, the make, vehicle identification number, year model, body style, license number, and the name of the registered owner

(c) Telephone inquiries for vehicle registration information

(1) The department will furnish vehicle registration information by vehicle identification number

(2) The department will not furnish vehicle registration information by license number, unless requested

(A) by a peace officer acting in an official capacity, or

(B) by an official of the state, city, town, county, special district, or other political subdivision, utilizing the obtained information for tax purposes

(d) Written inquiries for vehicle registration information The department will release vehicle registration information by license number upon receipt of a written request. Each request shall be accompanied by payment of the applicable fee in the

form of cash, cashier's check, or money order, and shall include the following:

(1) the name and address of requestor,

(2) the Texas license number;

(3) a statement that the use of the information is for a lawful and legitimate purpose, and

(4) the applicable fee.

(e) Service agreement.

(1) Information contained in the vehicle registration records may be provided by the department under the terms of a written service agreement with an individual or business

(2) The written service agreement must contain the following.

(A) an adjustable escrow account,

(B) a monthly base charge per vehicle inquiry,

(C) the termination of delinquent account,

(D) the notification of sale or termination of the contracting individual or business,

(E) a service agreement for each electronic access terminal;

(F) the contractor signature and employer identification number, and

(G) a statement that the use of registration information obtained by virtue of a service agreement is conditional upon being used only for the purposes defined in said agreement

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 February 14, 1994

TRD-9436143

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption March 21, 1994

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



Registration and Title System

• 43 TAC §§17.56-17.58

The new sections are proposed under Texas Civil Statutes, Article 6666, 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-a-1, et seq, which authorizes the department to promulgate rules necessary to carry out the provisions of laws governing the issuance of vehicle registration

§17.56. Registration by Licensed Dealers It is not necessary for a dealer to register a new or used vehicle in his name before he may assign it to a subsequent purchaser, however, if a dealer desires to register any vehicle, other than a used vehicle covered by a Texas title, he must first file an application for Texas title. Only in the case of used Texas titled vehicles may a dealer secure registration without filing an application for Texas title.

§17.57 Equipment and Vehicles Within Road Construction Projects Road construction equipment (machinery type vehicles) operating laden or unladen within the limits of a project are not required to display the \$5.30 machinery license plate, regardless of the intermingling of regular vehicular traffic, however, conventional commercial vehicles operating within the limits of a project shall be required to be registered with regular commercial plates whenever traffic is allowed to intermingle. A highway construction project is that section of the highway between the warning signs giving notice of a construction area.

§17.58 Water Well Drilling Vehicles Every truck or trailer, whether conventional or unconventional, which has mounted thereon machinery used exclusively for drilling water wells may qualify for a \$5.30 machinery plate

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 February 14, 1994

TRD-9436200 Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption March 21, 1994

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



Dealers and Manufacturers Vehicle License Plates

• 43 TAC §17.71

The Texas Department of Transportation proposes an amendment to §17.71, concerning Notice and Appeal. The amendment is necessary to clarify the notice to a motor vehicle dealer of a proposed assessment and/or proposed cancellation. The word proposed is being deleted before the words assessment and cancellation, thereby preventing any misunderstanding that the action may be informal and causing the dealers to be untimely in their responses or requests for conferences.

House Bill 941, 73rd Legislature, 1993, amended the Texas Motor Vehicle Commission Code, Texas Civil Statutes, Article 4413(36), to authorize the Texas Motor Vehicle Board of the department and the Motor Vehicle Division to conduct hearings in contested cases brought pursuant to Texas Civil Statutes, Article 6686, and provided that the procedures applicable to such hearings, and a disposition of a final order of such hearings, are those applicable to a hearing conducted as provided by Texas Civil Statutes, Article 4413(36), §6.07(e)(2). In order to comply with House Bill 941, §17.71 is further amended to provide that administrative hearings concerning civil penalties and cancellations of dealer licenses shall be held pursuant to the Texas Motor Vehicle Commission Code, and in accordance with rules adopted under 16 TAC §§101.5-101.14 and §§101.41-101.64.

Jerry L. Dike, director, Vehicle Titles and Registration Division, has determined that for the first five-year period the section is in effect there will be fiscal implications to the state as a result of enforcing or administering the section. The anticipated economic cost to the state is approximately \$60,000 each year for the first five years the section is in effect. This amount includes all personnel-related expenses and travel expenses for one hearing examiner as well as field investigation and testimony from field examiners. It is estimated that revenues resulting from probable assessments in these cases will be approximately \$85,600 for the first year and \$42,800 for each year thereafter. There is no anticipated fiscal implications to local governments.

Mr. Dike has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section.

Mr. Dike 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 to provide a uniform approach and expedient mechanism in the prosecution of enforcement actions as to new and used car dealers. There will be no significant effect on small businesses. There is no anticipated significant economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jerry L. Dike, Director of Vehicle Titles and Registration, Texas Department of Transportation, 125 East 11th Street, Austin, Texas

78701-2483. The deadline for receipt of comments will be 5:00 p.m. on March 28, 1994.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amended section. The public hearing will be held at 9:00 a.m. on Tuesday, March 1, 1994, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

The amendment is proposed under Texas Civil Statutes, Article 6666, which provide 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 by Texas Civil Statutes, Article 4413(36), to authorize the Texas Motor Vehicle Board of the department and the Motor Vehicle Division to conduct hearings in contested cases brought pursuant to §6.07(e)(2) of this statute.

§17.71 Notice and Appeal

(a) Notice of [proposed] assessment or [proposed] cancellation. Upon a determination that a person should be assessed a civil penalty, or that a dealer's license (general distinguishing number) should be canceled, the director shall mail a notice of [proposed] assessment or a notice of [proposed] cancellation, as the case may be, by certified mail to the last known address of that person, notifying that person of the facts of the apparent violation, the amount of the assessment, or date of cancellation [proposed for informal resolution of the violation].

lation], and of the person's right to request an informal conference to review those circumstances and the opportunity for [proposed] informal resolution

(b) Informal conference A request for an informal conference under this section must be made in writing to the director within 15 days of the date of a notice issued under subsection (a) of this section. If timely requested, the conference shall be scheduled and conducted by the regional supervisor at the regional office. In the

event matters are informally resolved in the person's favor, the director shall send that person written notification that the notice of [proposed] assessment or cancellation is withdrawn. Failure to resolve matters in the informal conference, however, shall cause the department to initiate a formal enforcement action in an administrative hearing as provided in subsection (c) of this section.

(c) Administrative hearing If, pursuant to subsections (a) or (b) of this section, matters are [a proposal to assess a civil penalty or to cancel a dealer's license is] not informally resolved, the department may initiate a formal administrative hearing pursuant to the Motor Vehicle Commission Code, Texas Civil Statutes, Article 4413(36), §3.03(b) and conducted in ac-

cordance with the procedural rules found in 16 TAC §§101.5-101.14 and §§101.41-101.64 (relating to contested cases before the Texas Motor Vehicle Board) [§§1.21-1.63 of this title (relating to Contested Case Procedure)], to determine the amount of the civil penalty to be assessed, if any, from not less than \$50 up to \$1,000 for each alleged violation of the provisions of §17.70 of this title (relating to Sanctions), and to determine whether the dealer's license should be canceled. For purposes of assessing civil penalties under this subsection, each act in violation of those provisions is a separate violation.

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 February 11, 1994

TRD-9436048

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption March 21, 1994

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

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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 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Li- censes

General Provisions

- 16 TAC §305.35

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed amendment to §305.35, which appeared in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7085). The effective date of this withdrawal is February 10, 1994.

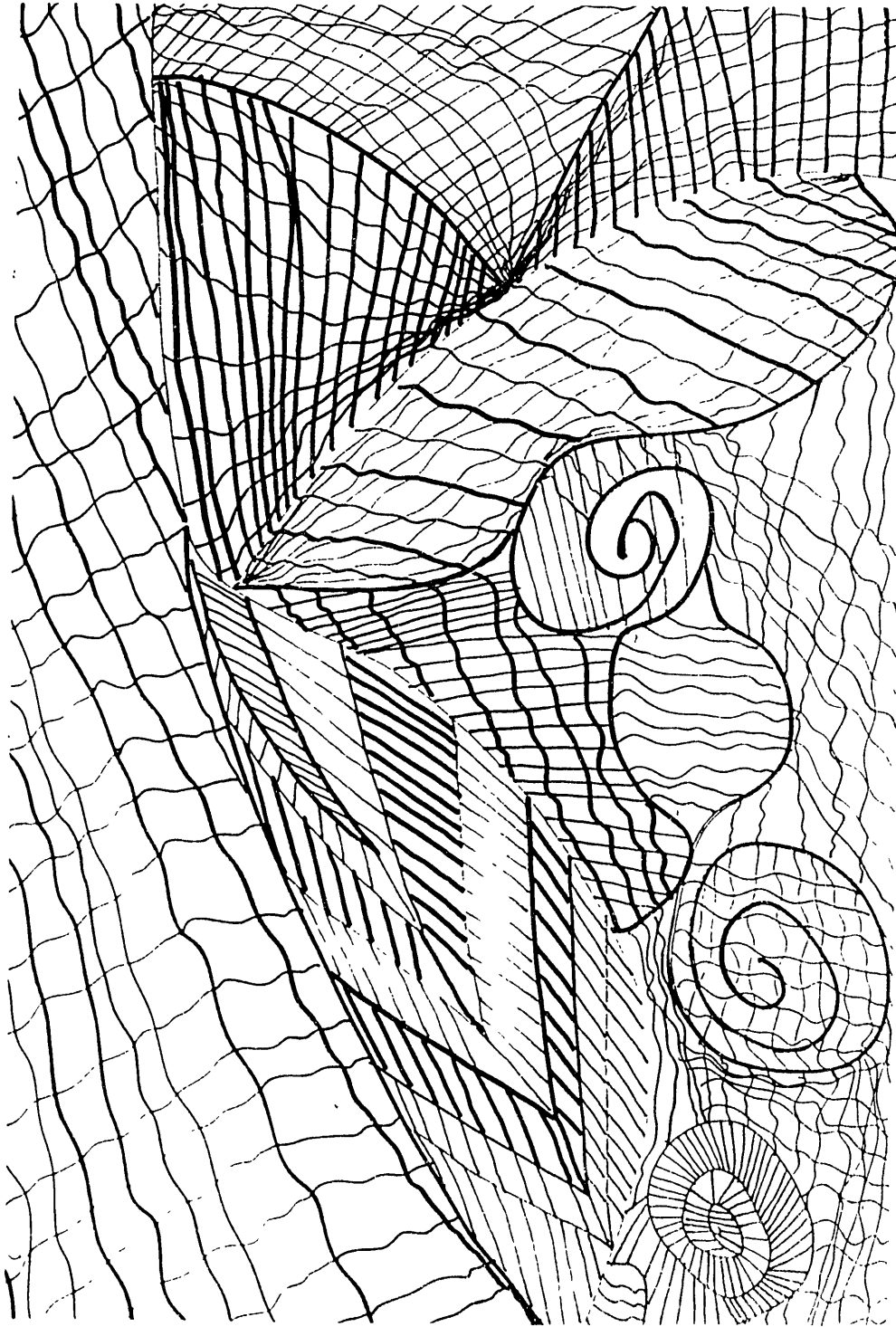
Issued in Austin, Texas, on February 10, 1994

TRD-9435979 Paula Cochran Carter
 General Counsel
 Texas Racing Commission

Effective date February 10, 1994

For further information, please call (512)
794-8461





Name: Jose Cervantes
Grade: 9
School: Lopez High School, Brownsville 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 7. BANKING AND SECURITIES

Part II. Texas Department of Banking

Chapter 26. Perpetual Care Cemeteries

• 7 TAC §26.1

The Texas Department of Banking (the Department) adopts new Chapter 26 entitled "Perpetual Care Cemeteries" containing new 7 TAC §26.1, with several changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9250). The new section establishes fees applicable to regulated perpetual care cemetery corporations pursuant to Chapter 712 of the Health and Safety Code, as amended effective September 1, 1993 (the Act). The changes made are viewed as nonsubstantive for the purpose of eliminating a duplicate provision, clarifying the definition of "Examination," adding a definition of "Fund," and adding a new subsection (d) providing for a discretionary waiver or reduction of fees in the event of hardship. Former proposed subsection (d) is renumbered as subsection (e).

The fees imposed by §26.1 are mandated by statute. Two of the three fees are required to be set annually by the Commissioner. The third fee is set forth in the statute, and is included in the rule for convenience.

Section 712.042(a) of the Health and Safety Code provides that, on filing a statement of funds as required by law, a corporation shall pay a reasonable and necessary fee to the Commissioner, in an amount set annually by the Commissioner to defray the cost of administering the statute. Section 26.1(b)(2) of the regulation sets a reasonable and necessary fee to accompany this filing. However, the \$500 fee can in some instances involving small trust funds exceed the earnings of the fund, and §26.1(d) has been added to provide an opportunity for reduction of the fee upon a showing of substantial hardship.

The Health and Safety Code, 712.044(b), provides that a corporation must pay a reasonable and necessary fee to the Commissioner for its examination, the amount of which is to be set annually by the Commissioner to defray the cost of administering the statute. The amount of this fee is set by

§26.1(c). New §26.1(d) similarly provides an opportunity for reduction of this fee upon a showing of substantial hardship.

Filing fees set forth in §26.1(b) are nonrefundable and due at the time the related documentary filing is made except in certain instances when an application for reduced fee is submitted. Examination fees are nonrefundable, collectable in quarterly or fewer installments as directed by the Commissioner, due at the time of billing, and assessed against each corporation at a rate of not more than \$0.0012 per dollar of the book value of the total perpetual care cemetery trust assets of the corporation, subject to possible reduction in the event of substantial hardship, provided, however, that the annual examination fee will not exceed \$5,000 or be less than \$25. The Department will levy this fee in such periodically adjusted amounts as reasonably appear necessary to defray the costs of examination and the administration of the Act.

A hearing was held to accept public comments on February 8, 1994. One commenter argued that the Commissioner is too narrowly focused on collecting funds sufficient to operate the Department, and is ignoring the Legislature's intent that examination fees collected should be based on actual examination time spent in the corporation's offices. Further, the commenter was critical of the definition of "examination" for two reasons. First, the definition refers to the process of evaluating the financial condition of the corporation while the statute limits the examination to books and records relating to the corporation's trust fund. All commenters at the public hearing uniformly concurred in this argument. Second, the commenter argues that an examination can only occur in the corporation's offices.

Finally, all commenters argued that the fees as proposed are too harsh for the smallest businesses in the industry, and proposed a tiered structure of fees based on the size of the affected business. All commenters also agreed that any assessment-based fee should be based on required contributions to the trust fund rather than the absolute size of the trust fund in order to continue to encourage voluntary, excess contributions.

The Texas Cemeteries Association, Restland Memorial Park, and Mount Olivet Cemetery Association commented against the new section.

The Department disagrees with the first argument. The Department firmly believes that an

assessment-based examination fee was contemplated by the Legislature. The Act specifically requires the examination fee to be set in an amount sufficient to defray the cost of administering the law. Assessment-based examination fees allow the Department to control its income stream to better match the very cost the Legislature has required to be considered, in that assessments may be deferred if costs unexpectedly decrease or if revenues exceed expectations. Examination fees based strictly on time and expenses cannot be so adjusted, and nothing in the statute explicitly or implicitly refers to the time and expense involved in individual examinations. The burden of regulatory cost is thus fairly shared by all regulated entities based on the size of the regulated fund.

However, while the Department believes the adopted fee structure is statutorily supportable, the arguments regarding adverse impact on the smallest businesses and the corresponding need for a tiered fee structure based on required trust fund contributions are reasonable. The Department has therefore added new §26.1(d) as an interim measure to provide for a waiver or reduction of fees upon a showing of substantial hardship, and will actively seek to develop proposed amendments to §26.1 to convert to a tiered fee structure based at least in part on required trust fund contributions. A definition of the term "Fund" has been added as §26.1(a)(7) to facilitate drafting the additional subsection.

The Department agrees with the commenters that examinations are for the purpose of evaluating the books and records related to the trust fund of the corporation, and is modifying the definition of examination to clearly state the purpose of the process.

Finally, the Department disagrees that an examination can only occur at the offices of the corporation. An examination is a process that can involve analysis at Department headquarters as well as field investigations. Nevertheless, the Department assures the commenter that every regulated corporation can expect at least one annual visit to the corporation's office by examiners.

The new section is adopted pursuant to the Health and Safety Code, §712.042(a) and §712.044(b), which empowers the Department to set fees in sufficient amount to defray the cost of administering Chapter 712 of the Health and Safety Code, and §712.0031 of the Health and Safety Code, which sets a fee incorporated into this regulation for the convenience of the user.

§261 Fees and Assessments

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

(1) Act-Chapter 712, Health and Safety Code, as amended

(2) Commissioner-The Banking Commissioner of Texas

(3) Corporation-A corporation subject to the Act that is organized under Chapter 712 of the Act, or any corresponding statute in effect before September 1, 1993, to operate one or more perpetual care cemeteries in Texas

(4) Department-The Texas Department of Banking

(5) Examination-The process of evaluating the books and records of a Corporation relating to its Fund, either by field examination or internal Department review in lieu of or in addition to field examination

(6) Fiscal year-The 12-month period from September 1st to August 31st of the next succeeding calendar year

(7) Fund-The perpetual care cemetery trust fund maintained by one or more Corporations pursuant to the Act

(b) Filing Fees The filing fees set forth in this subsection are either specifically set out in the Act or have been set in accordance with the Act to reasonably approximate the agency's cost of administering the Act with respect to each particular filing

(1) Notice Fee Pursuant to the Act, §712.0031, each Corporation required to file notice of intent to operate a perpetual care cemetery with the Department shall submit with such notice a fee of \$500

(2) Annual Statement Fee A Corporation shall pay an annual \$500 fee in connection with the filing of the annual statement of funds required under the Act

(3) Time of payment Except as otherwise provided in this section, all fees are nonrefundable and due at the time the related documentary filing is made Failure to timely pay fees or costs under this section shall be grounds for enforcement action by the Department under the Act

(c) Examination Fees. The Department shall assess and collect nonrefundable examination fees in accordance with this subsection Except as otherwise provided in this section, any assessed fee or an installment payment as part of a fee is due at the time of billing The Department shall annually assess each Corporation an examination

fee, not to exceed \$5,000 in a fiscal year, at a rate of not more than \$0.0012 per dollar of the book value of the total assets in the Fund. The Department may levy this fee in quarterly or fewer installments in such periodically adjusted amounts as reasonably appear necessary to defray the costs of examination and the administration of the Act If the examination fee as computed in this subsection is less than \$25, a minimum examination fee of \$25 shall be levied and collected

(d) Reduction of Fees Upon a showing of substantial hardship by an affected Corporation, the Commissioner may in the exercise of discretion reduce or waive the annual fee imposed by subsection (b)(2) of this section or any examination fee installment imposed by subsection (c) of this section An application for reduced fee shall be made in writing no later than 15 days after the due date for such fee, specifically describing the anticipated financial hardship, and any approved reduction or waiver of fees shall not be deemed to be a continuing reduction or waiver with respect to future fees In the event a Corporation with less than \$25,000 in assets in its Fund applies for a reduced fee on or before the due date for such fee, the application for reduction may be submitted in lieu of the fee, provided that the Corporation submits the fee determined by the Commissioner to be due within 15 days after receipt of the Commissioner's determination Any other Corporation that applies for a reduced fee shall pay the fee when due subject to possible reduction and rebate of the fee.

(e) Severability If any fee in this section or the manner of its calculation is determined to be unlawful or in excess of the authority of the Department to adopt and impose, the remainder of this section shall be unaffected, and other fees specified herein shall continue to be due and collected

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 February 14, 1994

TRD-9436139 Everette D. Jobe
General Counsel
Texas Department of
Banking

Effective date March 7, 1994

Proposal publication date December 14, 1993

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



TITLE 16. ECONOMIC REGULATION
Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Wagering

Subchapter C. Racetrack Licenses

Application Procedure

• 16 TAC §305.82

The Texas Racing Commission adopts an amendment to §305.82, concerning application process, without changes to the proposed text as published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7085)

The amendment is adopted to increase the efficiency and effectiveness of the commission's racetrack licensing program

The amendment deletes the requirement that the commission establish a period for accepting racetrack applications at least once a year

No comments were received regarding adoption of the amendment

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and the Texas Government Code, §2001.004, which requires the commission to adopt rules of practice and procedure

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 February 10, 1994

TRD-9435978 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date March 4, 1994

Proposal publication date October 15, 1994

For further information, please call (512) 794-8461

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Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.25

The Texas Racing Commission adopts an amendment to §309.25, concerning external communication, without changes to the proposed text as published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7085)

The amendment is adopted to ensure the commission's rules for racetrack operations are consistent with other racing jurisdictions.

The amendment removes the prohibition against having operational telephones during live racing.

The Department of Public Safety filed written comment regarding the proposal. The Department believes increased availability of telephones on racetrack grounds will increase the likelihood of illegal gambling at the racetracks. The Commission disagrees with the comment because it believes the telephones be monitored sufficiently to deter illegal gambling. Further, making telephones unavailable at pari-mutuel racetracks will put this state at a disadvantage in its efforts to draw quality race animals and trainers to the new Class 1 racetracks. Therefore, the Commission believes the risks of illegal gambling by telephone are outweighed by the benefits of increased competitiveness.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks.

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 February 10, 1994.

TRD-9435977 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 4, 1994

Proposal publication date: October 15, 1993

For further information, please call (512) 794-8461

Chapter 313. Officials and Rules of Horse Racing

Subchapter D. Running of the Race Jockeys

• 16 TAC §313.405

The Texas Racing Commission adopts an amendment to §313.405, concerning whips and other equipment, without changes to the proposed text as published in the December 7, 1993, issue of the *Texas Register* (18 TexReg 9040).

The amendment is adopted to ensure that pari-mutuel racing will be safer for jockeys.

The amendment requires a jockey or apprentice jockey to wear a safety vest while riding a horse in a race.

No comments were received regarding the proposal.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which au-

thorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of racetracks. The proposed rule implements Texas Civil Statutes, Article 179e.

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 February 10, 1994.

TRD-9435976 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 4, 1994

Proposal publication date: October 15, 1993

For further information, please call (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter A. Regulation and Totalisator Operations Regulation of Wagering

• 16 TAC §321.66

The Texas Racing Commission adopts an amendment to §321.66, concerning minimum wager, without changes to the proposed text as published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7088).

The amendment is adopted to ensure that patrons will be better able to understand pari-mutuel wagering, such as the calculation of odds and the distribution of pools.

The amendment reduces the minimum amount of a pari-mutuel wager on all pools from \$2.00 to \$1.00.

No comments were received regarding the proposal.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01, which authorizes the commission to adopt rules regulating pari-mutuel wagering.

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 February 10, 1994.

TRD-9435975 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 4, 1994

Proposal publication date: October 15, 1993

For further information, please call (512) 794-8461

Subchapter B. Distribution of Pari-mutuel Pools

• 16 TAC §321.110

The Texas Racing Commission adopts an amendment to §321.110, concerning trifecta, with changes to the proposed text as published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7089).

The amendment is adopted to expand the availability of trifecta wagering, thereby encouraging pari-mutuel wagering generally.

The amendment permits coupled entries and mutuel fields to participate in a race with trifecta wagering provided the race is a stakes race with a purse of at least \$100,000 and there are at least seven wagering interests. The change from the proposed text restricts the section's applicability to horse races.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, and §11.01, which authorizes the commission to adopt rules regulating pari-mutuel wagering.

§321.110. Trifecta

(a)-(b) (No change)

(c) A coupled entry or mutuel field may not start in a horse race with trifecta wagering unless the race is a stakes race with a purse of at least \$100,000 and there are seven or more wagering interests.

(d)-(m) (No change)

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

Issued in Austin, Texas, on February 10, 1994.

TRD-9435974 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 4, 1994

Proposal publication date: October 15, 1993

For further information, please call (512) 794-8461

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 289. Radiation Control

Texas Regulations for the Control of Radiation

- 25 TAC §§289.111, 289.113, 289.116, 289.122, 289.126

The Texas Department of Health (Agency) adopts §289.111, 289.113, 289.116, 289.122, and 289.126 with changes to the proposed text as published in the November 9, 1993, issue of the *Texas Register* (18 TexReg 8120) and with changes to the material the section adopts by reference

Section 289.111 adopts by reference Part 11 of the Texas Regulations for Control of Radiation (TRCR) titled, "General Provisions" Section 289.113 adopts by reference Part 21 of the Texas Regulations for Control of Radiation (TRCR) titled, "Standards for Protection Against Radiation" Section 289.116 adopts by reference Part 32 of the Texas Regulations for Control of Radiation (TRCR) titled, "Use of Radiation Machines in the Healing Arts and Veterinary Medicine" Section 289.122 adopts by reference Part 42 of the Texas Regulations for Control of Radiation (TRCR) titled, "Registration of Radiation Machine Use and Service" Section 289.126 adopts by reference Part 12 of the Texas Regulations for Control of Radiation (TRCR) titled "Fees for Certificates of Registration, Radioactive Material(s), Emergency Planning and Implementation, and Other Regulatory Services" Following are the changes that were made to the each part of the TRCR, and comments and agency responses to those comments

TRCR, Part 11 was amended to provide for inspection and inspection intervals for mammography systems, deletion of the term "controlled area," and revision of other definitions which referenced the deleted definition The definition of "controlled area" was deleted The definition of "member of the public" was changed to add "except an individual who is performing assigned duties for a licensee or registrant involving exposure to sources of radiation" after "any individual" and "in a controlled or unrestricted area" However, an individual dose" was deleted The definition of "public dose" was changed to add "from licensed or registered operations" after "sources of radiation" The wording "either within a licensee's or registrant's controlled area or in unrestricted areas" was deleted A definition of "transport index" was added In §115(d)(5), "violations of a health-related or potentially health-related nature" was deleted and "violations of Severity Levels I, II, or III, as defined in §139" was added In §115(d)(6), the first paragraph was deleted and the following inserted "Any Severity Level I and/or II violation, as described in §139, found by the Agency, constitutes ground for posting a failure of the mammography system to satisfy Agency standards

Notification of such failure shall be posted " In §115(d)(6)(i), "and" was changed to "or" In §115(d)(6)(ii), "if the system is an individual" was changed to "if the violation is personnel-related, and " In §115(d)(7)(i), the language was deleted and the following inserted "The Agency may require registrants to notify patients whose health or safety may have been or may be adversely affected by failure of a mammography system to meet the Act or these rules" In §115(d)(7)(iii), the language was modified to add the date a patient is notified In §115(e), the reference was changed to §42.24(c)

The following comments were received concerning the proposed amendment to TRCR, Part 11

COMMENT Three commenters expressed concern over several sections of the proposed rule The commenters indicate mammography facilities throughout Texas and the country are being asked to achieve ACR accreditation, HCFA certification for Medicare, and now certification by the State and soon certification relative to the MQSA will be required The commenters indicate it is excessive to have so many different kinds of certifications and one certification should be adequate to maintain the quality needed The commenters suggest provision should be made in this proposal for exempting ACR-accredited facilities, consistent with MQSA standards One of the commenters also indicates that implementation of the proposed rules will threaten to curtail the availability of this important service to our patient population and enforcement at the level envisioned by this proposal will drive even quality mammographers out of this critical specialty

RESPONSE House Bill 63 requires that standards shall be no less stringent than the standards applicable under MQSA Additionally, it requires certification for all mammography systems in the state and annual inspections under MQSA The implementation of House Bill 63 is assigned to the Texas Department of Health, Bureau of Radiation Control because of its authority to regulate sources of radiation under the Texas Radiation Control Act The Legislature has likewise required state agencies to recover 100% of the costs of regulation in Texas When MQSA is implemented, it is assumed that there will be one certification and one inspection process that will take the place of all other state and federal certifications and inspections MQSA will not totally exempt ACR-accredited facilities from these processes The Agency made no change to the rule as a result of the comment

COMMENT Three commenters indicate that the date of the public hearing conflicts with the Radiological Society of North America's (RSNA) annual meeting and wants the hearing postponed until after December 5, 1993

RESPONSE The Agency acknowledges the date of the public hearing conflicts with the RSNA annual meeting The Agency is bound to implement the requirements of House Bill 63 in accordance with timeframes set by the Legislature Notification of the public hearing was published in the *Texas Register* on November 9, 1993 By the time the comment

was received, there was not sufficient time to change the date and publish notification of it The Agency accepts written comments for those unable to attend the public hearing and considers all comments equally The Agency made no change to the rule as a result of the comment

COMMENT One commenter suggests rewriting the definition for "Controlled Area" to say "means an area, outside of a restricted area but inside the site boundary to which access and/may be limited by the site owner" (See §11.2)

RESPONSE The definition is being deleted Therefore, the Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates there are some discrepancies between House Bill 63 and the resulting regulations §401.425(b), House Bill 63 states "A mammography system issued a certification under this part (ACR alternative certification) is exempt from the certification standards established under §401.424 and the inspection requirements established by or under §401.430" The commenter indicates the proposed regulations as written do not indicate that alternative certification by the ACR will exempt them from the inspection requirements All of the substantive changes are authorized under these two sections Similarly, if ACR accredited institutions are exempt from these requirements, for what are the required fees used? Neither inspections nor extensive application reviews should be required (See §11.5 and §42.24)

RESPONSE In addition to §401.425(b) of House Bill 63, §401.425(c) reads "If the board finds that application of this section would make the requirements of this chapter less stringent than the standards applicable under the MQSA, the board may not issue a certification under this section" MQSA will require certification and an annual inspection Therefore, the Agency made no change to the rule as a result of the comment

COMMENT One commenter urges the consideration of a "phase-in" period for the implementation of the regulations so that professionals, organizations, and institutions may appropriately come into compliance with the regulations without an undue burden and without a break in service or loss of access to quality mammography by patients in Texas (See §11.5 and §42.24)

RESPONSE Section 401.431 of House Bill 63 makes no allowances for phase-in, but requires that the rules be effective July 1, 1994 The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that mammogram appointments are made months in advance and inspections need to be scheduled so that patients are not inconvenienced (See §11.5)

RESPONSE The Agency will work with a facility so that patients are not inconvenienced The Agency made no change to the rule as a result of the comment

COMMENT One commenter questions if there is a way to combine the number of

required inspections from the different agencies Texas Bureau of Radiation Control, federal agencies, and the ACR? (See §11 5)

RESPONSE As a result of carrying out the requirements of House Bill 63, the state is obligated to certify all mammography systems in the state by July 1, 1994, inspect them 60 days after the certification is issued, and annually thereafter. The Agency assumes that implementation of MQSA will eliminate the need for multiple inspections and require one annually. Because MQSA is to go into effect October 1, 1994, the state must conform to the requirements of House Bill 63 until that time. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter suggests that the information in §11 5(d) on mammography should go in TRCR, Part 32. (See §11 5(d))

RESPONSE Information on all inspections is contained in TRCR, Part 11. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter has several comments on §11 5(d). "There are a number of elements in this section which are confusing, vague, and perhaps inconsistent. In the first place, it should be stated explicitly that two certificates are required for a mammography system, namely one of registration and a second of inspection, where the former is issued before the latter. It should also be noted explicitly that the scope of the definition of a "system" includes people, i.e. a medical radiological technologists and an interpreting physician, as well as mammography-related equipment. This point is important with respect to clarification of system failures." (See §11 5(d))

RESPONSE House Bill 63, §401 422 requires issuance of a certification. Section 401 430 requires an inspection 60 days after the certification and annually thereafter as well as the issuance of a "certificate of inspection." The definition of "mammography system" is contained in §401 421. The indication of "system failure" includes equipment as well as personnel, i.e. that personnel are appropriately qualified. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter asks several questions. Question 1: What constitutes system failure? Section 11 5(d) states that a "satisfactory" inspection is one in which no "health-related" violations are identified. Examples of "health-related" violations should be provided, and any ties to the "system" requirements listed in §11 5(d)(7)(i) should be made clear. What about the reference in §11 5(d)(6) to system "failure" to satisfy Agency requirements? Is such a failure equivalent to a health-related violation which would preclude issuance of a certificate of inspection? (See §11 5(d)(6) and (7).) Question 2: What is the consequence of system failure? It's clear that consequences are for posting a notice and patient notification. What's not addressed explicitly: if there is system failure, will a certificate of inspection be issued? If a certificate of inspection is issued despite system failure, can a mammography system

continue operation? Does a certificate of inspection have operational relevance? (See §11 5(d)(6) and (7).) Question 3: What is a patient going to do with information of a technical nature—11 5(d) (7)(i)(a)-(d), which warrants notification of "failure?" What's a patient supposed to do as a follow-up to such a notice? (See §11 5(d)(7).)

RESPONSE The Agency changed the language in §11 5(d)(6) and (7) to clarify the intent of the rule and carry out the intent of House Bill 63, §401 430. The new language references Severity Levels in TRCR, Part 13 9.

COMMENT Two commenters indicate it is their understanding that clinical examinations may not be performed until the equipment passes inspection and that it would be 60-90 days before it could be used. (See §11 5(d))

RESPONSE House Bill 63, §401 422 requires that a mammography system must be issued a certification prior to being used. There is no requirement to wait until the equipment passes inspection. The Agency made no change to the rule as a result of the comment.

COMMENT Twenty-nine commenters offered comments on §11 5(d)(6) and (7). The majority indicated it is of a punitive nature and that posting a "notice of failure" and notifying patients will only serve to unnecessarily alarm patients and increase the liability of facilities, resulting in litigation. This would ultimately result in increased costs to patients. Several commenters indicated this would discourage good people from setting up mammography facilities because it would create situations that would be administratively impossible. Several commenters indicated the need for establishing levels for a system's "failure," and indicated if the violation were severe enough, i.e. affecting public health and safety, the facility should be issued a "Cease and Desist" notice and should be shut down. They also indicated that "paperwork violations" should be cited but that a facility should be given a specific amount of time to correct the violations. Several commenters gave examples of severity levels of violations and a time frame to respond. Two commenters also indicated state inspectors were not qualified to perform the inspections. (See §11 5(d)(6) and (7).)

RESPONSE The Agency agrees with the majority of commenters and has changed the language to clarify the intent of the rule. Posting requirements now reference Severity Levels of violations in TRCR, §13 9. The requirements for posting and notification of patients are contained in House Bill 63 and as such, are law. The implementation of MQSA will provide for intensive training of mammography inspectors.

COMMENT One commenter indicates that this proposed rule requires notification to patients if the physician(s) or technologist(s) are not qualified and suggests that this should also include physicists who are not qualified. (See §11 5(d)(7).)

RESPONSE This section has been deleted. Therefore, the Agency made no change to the rule as a result of the comment.

COMMENT One commenter questions this puzzling reference. (See §11 5(e)).

RESPONSE The Agency acknowledges that the reference should be to §42 24(c) and has made the change.

TRCR, Part 21 was amended to clarify sections of the rule which referenced the deleted and revised definitions in TRCR, Part 11. In §21 302, the word "area" was reinserted after the second "unrestricted." In §21 501(b), first paragraph, the words "at intervals not to exceed 12 months for the radiation measured" was deleted and language clarifying specific calibration requirements was added. In §21 501(f), language was added to clarify the personnel monitoring requirements for minimal threat devices. In §21 801, the words "or registrant" and "or registered" were added to clarify the intent of the rule. In §21 1001(a)(1), references to Parts 43 and 45 were deleted as authority for those portions of the rule has been transferred to the Texas Natural Resource Conservation Commission. In §21 1001(b)(4), the words "licensed pursuant to Part 45 of these rules" has been deleted. In §21 1006(e), language has been added to clarify the inspection requirements for shipments of waste. In §21 1009, "and Part 45 of these rules" has been deleted. In §12 11(b)(3), some of the reference numbers were deleted to better clarify the intent of the rule. In §12 21(a)(1), language was added to indicate the use for production of radioactive materials. In §12 21(a)(46) on uranium recovery fees was deleted and the rest of the items renumbered accordingly.

The following comments were received concerning the proposed amendment to TRCR, Part 21.

COMMENT One commenter indicates that this section allows a dose of 100 millirems per year while §21 302(b)(2)(ii) allows a dose of 50 millirem per year and questions "why not 100 millirem for both?" (See §21 301(a)(1)).

RESPONSE TRCR, §21 302(b)(2) allows a licensee to consider internal and external exposure to members of the public. However, when considering them separately, 100% occupancy must be assigned and the 100 millirem limit must be divided equally. Therefore, 50 millirem per year is the limit for external exposure to a member of the public when demonstrating compliance with §21 302(b)(2). The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates the word "areas" was included in the deleted language and should not have been. (See §21 302(a)).

RESPONSE The Agency agrees and has made the correction.

COMMENT Three commenters indicate that §21 501(b)(2) requires calibration of instruments used for quantitative measurement of radiation to be calibrated at intervals not to exceed 12 months unless a more restrictive time interval is specified in another part of the rules. The commenters indicate this conflicts with §32 20(h), which requires a two year interval for calibration of instruments. One commenter suggests that this section proba-

bly was intended to apply only to instrumentation used under a license agreement in nuclear medicine and indicates that ionization chambers used to monitor radiation outputs of machines need be calibrated only once every two years as recommended by the American Association of Physicists in Medicine (See §21.501(b)(2)).

RESPONSE. TRCR, §32.20(h) requires that instruments be calibrated at intervals not to exceed 24 months with a calibration traceable to a National Institute of Science and Technology Standard and during the calendar year in which radiation detection instruments are not calibrated, an intercomparison to an instrument calibrated within the previous 12 months shall be performed. The Agency made no change to the rule as a result of the comments.

COMMENT One commenter indicated for registrants with multiple categories of equipment, the exemption from personnel monitoring does not appear to sufficiently indicate the exemption of operators of this equipment if the registrant's category includes other than those listed in Appendix 11-D (See §21.501(f)).

RESPONSE The Agency agrees and has added clarifying language to the section.

COMMENT One commenter suggests rewriting the last line to read "The transport index (at 1 meter from the package) shall not exceed 10 milliroentgens per hour" (See §21.906(d)(2)(i)).

RESPONSE The Agency acknowledges the comment and has added a definition for "transport index" to §112.

COMMENT One commenter indicates that Part 21 allows continuing use of the special units curie, rad, rem, and roentgen and asks if this means the SI units need not be used by licensees and registrants?

RESPONSE The Agency acknowledges that licensees and registrants do not have to use the SI units.

COMMENT One commenter indicates the word authorized has been added and the citation of the regulation deleted. The commenter questions: From whom does this "authorization" come? the NRC, TNRC, TWC, TBRC, TLLRWDA, whom? Most often "the Agency" will authorize providers of services and disposal is a service. The commenter recommends either stating the authorizing agency or rewording the paragraph to read "disposal at a land disposal facility authorized by this agency." (See §21.2002(b)(4)).

RESPONSE The Agency no longer has the authority to authorize disposal. The Legislature has transferred this authority to the Texas Natural Resource Conservation Commission. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter wants clarification if this notification includes shipments from the generator to the broker and asks if the shipment schedule will be held up if the shipment is not inspected by the Agency after the proper 72-hour notice? The commenter also requests a description of the acceptable

methods of notification for this purpose and the person to contact. (See §21.1006(e)).

RESPONSE. The Texas Low-Level Radioactive Waste Disposal Authority Act, §402.221(b) requires an inspection prior to transport to a permanent disposal site. There is no requirement for an inspection for shipments from the generator to the broker. The Agency will make every reasonable effort to inspect within the 72 hours prior to the scheduled shipment. Because Texas has no licensed land disposal facility at this time, procedures for such inspections are pending. The Agency made no change to the rule as a result of the comment.

TRCR, Part 32 was amended to provide for expansion of quality control items for mammography, additional definitions for mammography, and clarifying language to more accurately reflect the intent of the rule. In §32.11, Table I, a correction was made to the Dental Intraoral section. In §32.17(a)(3), language was added and deleted to clarify requirements on quality assurance. In §32.17(a)(3)(v) and the footnote, the word "recommended" was added after ACR and before "phantom." Language was also added in the paragraph to clarify the requirements for records of phantom evaluation. In §32.17(a)(3)(vii), (viii), and (xiv), reference numbers were changed to reflect changes in the rule. In §32.17(a)(4)(ii) language was added to allow for the use of viewing devices to block extraneous light. In §32.17(a)(4)(iii), subsection (b) was deleted. In §32.17(a)(5), language from House Bill 63 on retention of clinical images was inserted to more accurately reflect the intent of the rule. In §32.17(a)(6), language was added to allow batch processing of mammography clinical images within a ten-hour interval with certain parameters. In §32.17(a)(7), language was added to provide for quality assurance on xerography mammography units. In §32.17(b)(1), "and/or performing stereotactic biopsies" was added. In §32.17(b)(1)(ii), "or have documented equivalent formal training and experience" was added after "be certified by the American Board of Radiology, or the American Osteopathic Board of Radiology." In §32.17(b)(2)(i), (ii), and (iii), language was added from House Bill 63 to ensure that medical radiologic technologists are operators of mammography equipment. In §32.17(b)(3), the language was clarified to indicate that the physicist must be licensed in "diagnostic radiological physics." In §32.17(c)(1), the word "supervising" was added before physician and "ongoing or at the frequency stated and are" was deleted. In §32.17(c)(1)(i), the word "motivation" was deleted. In §32.17(c)(1)(ii) the words "opportunities for" were deleted. In §32.17(c)(1)(vii), the entire section was deleted. In §32.17(c)(2), the words "no more than 31 days" were added after monthly for clarification. In §32.17(c)(iv), the words "mammographic" was added before the word "phantom." In §32.17(c)(vii), language was added to clarify the standard for analysis of fixer retention. In §32.17(c)(2)(viii), clarifying language was added to allow for the use of "devices used to block extraneous light." In §32.17(c)(2)(ix) and (xi), references were changed to reflect changes in the rule. In §32.17(c)(3), language

was deleted requiring the medical physicist to evaluate continuing education requirements. In §32.17(c)(3)(ii), the word "collimator" was deleted and the words "beam-limiting device" inserted. In §32.17(c)(3)(vi), the reference was changed to reflect changes in the rule. In §32.17(d)(1), the words "or projection" were added after the word "views." In §32.17(d)(2), clarifying language was used to more accurately reflect the intent of the rule. In §32.17(d)(3), language was added to ensure followup for patients needing repeat exams. In §32.20(h), language on tests for mammography was deleted as this is now under a separate section. In §32.44, footnote, the reference was changed to reflect the change in the rule. In §32.44(a)(4), language in clause (ii) was deleted and new language added to clarify the parameters for collimation. In §32.44(a)(7), the words "kVp used in clinical conditions" was substituted for "clinically used kVps." In §32.44(a)(8), the regulation was deleted as it is not required by ACR and some machines are not able to meet these parameters. In §32.44(a), paragraphs (9)-(14) were renumbered to reflect the deletion of §32.44(a)(8). In §32.44(a)(9), clause (iii) was added to provide for exemptions to this regulation for Rhodium filters and anodes. In §32.44(b), correction was made from milligrey to milligray. The definition of "contact hour" was changed to include "and/or" participation in instructor-directed activities. The definition of "continuing education" was changed to include "or participation in" self-study programs. A definition of "formal training" was added. In definition of "special purpose x-ray system," the words "mammographic units" were deleted as these are now addressed in a separate section. The definition of "mAs" was changed to reflect that this is "mA." A definition of mobile services was added. The definition of mammographic screening was modified to indicate only the use of x-radiation is allowed and changed the word "persons" to "women." Definitions of "mammographic phantom," "mammography," "mammographic system," and "technical aspects of mammography" were added. In Appendix 32-C, the heading "Mammography Positioning" was modified to include actual positioning of patients or models.

The following comments were received concerning the proposed amendment to TRCR, Part 32.

COMMENT One commenter indicates that the recent publication of the Texas Register, Volume 18, Number 84 includes an impact statement that facilities with current ACR accreditation will have no start-up costs. Scott and White, an ACR accredited facility, will be required to invest a large amount of resources in order to comply. The increase in personnel required to insure compliance with the letter of the regulations is an obvious cost. Though not considered a start-up cost, the potential cost impact associated with the increased risk to liability has been completely ignored. This liability risk will probably drive many suppliers out of the market. Those who remain will be forced to charge higher rates for the same examination quality. Those institutions already ACR accredited will also be hurt by the additional bureaucratic levels. Less emphasis should be placed on the in-

spection/notification requirements and those institutions already accredited by the ACR should be fully exempted, as stated in the bill. Quality cannot be regulated, though excessive regulations can result in reduced quality.

RESPONSE The Agency acknowledges the commenter's remarks. However, House Bill 63 mandates requirements for mammographic systems. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates the cost of certification is an operating expense that cannot be avoided but the stringent rules proposed by the State will create an enormous hardship on mammography facilities as well as the Texas Department of Health. The commenter encourages passage of a rule acknowledging certification through the ACR as the only requirement by the Texas Department of Health. (See §§12.22, 32.17, 32.44, and 42.24)

RESPONSE As a result of carrying out the requirements of House Bill 63, the state is obligated to certify all mammography systems in the state by July 1, 1994, and inspect non-ACR certified units 60 days after the certification is issued and all units annually thereafter. Likewise the Legislature requires state agencies to recover 100% of their costs in certain regulatory programs. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter suggests that the first sentence should also include testing after repair or relocation of the system. (See §32.17(a)(3))

RESPONSE The Agency does require a licensed medical physicist report when units have been moved from one place to another or after a major repair. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter agrees with the provisions that under certain conditions, operations should cease until corrective actions have been performed. (See §32.17(a)(3))

RESPONSE The Agency acknowledges the comment and made no change to the rule as a result of it.

COMMENT One commenter indicated the wording in the second sentence was redundant, i.e., if you don't perform mammograms there are not images to process and you should not make images until they can be processed. The commenter also indicated that the requirements basically address film/screen standards and none for xerography. The commenter offered suggestions for the sections to be included. (See §32.17(a)(3))

RESPONSE The Agency acknowledged the comment on the wording but made no change to the rule as a result of the comment. The Agency agrees with the commenter on the xerography requirements and has added language in §32.17(a)(7).

COMMENT One commenter suggests that the text be changed in these sections to read that the measurements be performed "annually" instead of "at intervals not to exceed 12

months." The commenter indicates the word "annually" has been previously interpreted by the Agency to mean once each calendar year. The commenter also indicates that in TRCR, §11.5(d)(2) the text states that an inspection of mammography facilities is to be performed "at least once annually." The commenter indicates that because of heavy workloads, often a facility is not available when a physicist wants to perform studies and the regulations should be sufficiently flexible to prevent interference with the function of the related equipment. The commenter also cites the PM procedures required on other heavily worked diagnostic x-ray machines (in hospitals) are required "annually." (See §32.17(a)(3)(ix)-(xvi))

RESPONSE The Agency acknowledges the commenter's concern about facilities with heavy workloads and makes every reasonable effort to accommodate unusual circumstances. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter asked how the calibration of the densitometer is to be handled? Who inspects this? A service company, manufacturer? (See §32.17(a)(3)(i))

RESPONSE The densitometer may be calibrated by the registrant using the calibration strip supplied by the manufacturer or it may be sent to the manufacturer or facility that does the calibration. The Agency made no change to the rule as a result of the comment.

COMMENT Two commenters indicate the regulation for checking the developer temperature daily is excessive and not necessary. One of the commenters indicates that if the quality control indicates the speed, contrast and base plus fog are within compliance, then the developer temperature must be appropriate. Both commenters indicate the only time developer temperature needs to be checked is when any of the quality control parameters are out of compliance. (See §32.17(a)(3)(i))

RESPONSE The Agency acknowledges the comments. Development temperature is an integral part of quality processing and made no change to the rule as a result of the comment.

COMMENT One commenter indicates the optical density limits used by each institution are usually based arbitrarily on the random status of the processor when monitoring is started. The commenter further states by placing such firm limits of +/-0.15 you prevent the radiologist and physicist from discerning a measurement that is 0.14 OD below the "set baseline" from one that is 0.16 OD below. The commenter indicates that in order for firm limits to be effective they must be based on statistical inference based specifically on particular units otherwise they are just arbitrary limits. The commenter suggests the radiologist and physicist need to retain authority on site whether a particular processing condition produces satisfactory images or not. (See §32.17(a)(3)(i)(a))

RESPONSE The limits of +/-0.15 OD are those recommended by the ACR as a level where corrective action needs to be taken. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that specifying the size, number, and composition of the objects contained in the phantom would make it necessary to change the rule if the current state of the art in phantom construction and composition changes. The commenter suggests by just stating that the phantom be ACR or Agency approved would avoid this problem. The commenter further states that the brackets appear to be a typographical error. The other interpretation is that the information inside the brackets should have been printed in bold text indicating that the text was to be deleted in the final rule, in which case something else is missing from the text. The commenter suggests that the definition of phantom, referred to by an asterisk, should be located in Subpart D, Definitions, under "mammographic phantom." (See §32.17(a)(3)(iv))

RESPONSE The Agency acknowledges the comment and feels it is important to be specific about the phantom. The implementation of MQSA may change this requirement and if so, it will be addressed at that time. The Agency made no change to the rule as a result of the comment. The Agency removed the brackets for clarification and acknowledges the comment about definitions but feels the phantom specifications are more appropriately located in §32.17.

COMMENT One commenter suggests there should be a standard for this requirement, referenced to the appropriate regulatory paragraph and incorporating the standards recommended by the ACR. (See §32.17(a)(3)(ix))

RESPONSE For lack of a definitive federal standard or guidance, the Agency will accept the physicist's results on this section. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that specifying a maximum repeat rate may be counterproductive and could be harmful. The commenter indicates it is probably more likely to assure that films that should not have been read will be read than that film quality will improve. (See §32.17(a)(4))

RESPONSE The Agency feels it is important to establish a repeat rate and this is standard throughout the industry. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that there is no standard in the TRCR for this requirement and feels each facility could set their own standards. The commenter suggests the ACR recommendation be adopted. (See §32.17(a)(4)(ii))

RESPONSE The Agency has made changes to the language to also allow the use of devices to block extraneous light. Recommendations regarding the use of such devices will be addressed in a regulatory guide.

COMMENT Two commenters agree that extraneous light should be masked from the viewer's eyes while reading, however, they indicate the rule is impractical because frequently not only is one viewing mammography but also sonography or other exams on the same viewbox. The commenters suggest a simple means to accomplish this objective.

is to use a handheld viewer, or tunnel, that eliminates extraneous light (Literature describing such an alternative was submitted) (See §32 17(a)(4)(ii))

RESPONSE The Agency has made changes to the language to also allow the use of devices to block extraneous light

COMMENT One commenter suggests this regulation should be removed because it is a frivolous and unnecessary requirement. The commenter indicates if the darkroom fog test shows that the lighting in the darkroom is completely adequate, then the safelights used under those conditions must be adequate also and it would be more appropriate to require that the darkroom test be done under normal safe light conditions. The commenter disagrees with requiring safe lights recommended by the manufacturer and cautions that the manufacturer only recommends certain things, but there are equivalent usages to adequately meet the intent of the recommendations. The commenter states these are only recommendations and there are conditions of darkroom that would make other configurations and uses perfectly adequate while not meeting the letter of the manufacturer's recommendation. (See §32 17(a)(4)(iii)(b))

RESPONSE The Agency agrees and has removed this requirement

COMMENT Five commenters submitted comments and questions on §32 17(a)(5). The questions include "Films forwarded to another medical institution shall be retained until the fifth anniversary of the films," and asks how can one institution be responsible for maintaining its films at another institution? What are the rules a patient must follow to request that films are forwarded to another institution and must the request be written and signed? Once films are forwarded to another institution, who is responsible for them, the sending or the receiving institution and for how long? Does the patient's request to transfer the films also transfer legal responsibility for maintenance of the medical record (in this case, the films)? Does a new five-year clock start? Two commenters indicate the regulation as written does not take into account the cost of film storage. Screening facilities must be kept to a minimum of space, equipment, and personnel if a reasonable cost is to be achieved. The alternative of releasing the films to the patient with a written explanation of the importance of retaining them as part of her permanent file should be included. It should also be made clear that films forwarded to another institution become the responsibility of that institution to either return or store until the fifth anniversary of the films. Several commenters agree with the requirement to keep films for five years, however, two commenters indicate the wording in the first sentence creates some legal problem. The commenters indicate that a requirement to "make available to a patient all original mammograms" sets a precedent which should be vigorously opposed. If the intent of "make available to the patient, this will have a significant effect upon the evidentiary value of the original films to either party. Under the present standard of practice in healthcare, copies of documents, laboratory results, EKGs, fetal monitoring strips, as well

as radiology films, are furnished to the patients with a "reasonable charge." The originals are always maintained by the healthcare provider and we will vigorously oppose any change to that procedure. (See §32 17(a)(5))

RESPONSE It would be up to individual facilities to formulate procedures for film requests. The Agency acknowledges the comment on the alternative of releasing the films to a patient versus storage. The language in the law states "maintains and makes available to a patient." A facility would need to investigate this alternative with their legal representative. The Agency also acknowledges the commenters' legal concerns on the ability to maintain original medical records (films). House Bill 63 is specific on this issue. The Agency has changed the wording and used the language from §401 424 (4)(E) of House Bill 63 with modification to clarify the intent of the law.

COMMENT Fifteen commenters submitted comments on §32 17(a)(6) indicating this rule would eliminate batch processing and subsequently eliminate needed mammography services in the rural areas of the state. One commenter listed criticisms and advantages.

CRITICISMS

(1) The main concern is that if some malfunction occurs several patients (up to 25) may be exposed before the malfunction is detected.

(2) A concern that patients are exposed to a slightly increased dose to provide adequate film density to offset latent image fading that results from delayed processing.

ADVANTAGES

(1) Mobile mammographic images receive the same high quality processing that in-house images receive.

(2) There is no change in the processing environment in terms of dust or moisture as there would be with a van based processor, darkroom, or x-ray system.

(3) There is no change in the processor environment in terms of dust or moisture as there would be with a van based processor, darkroom, or x-ray system.

(4) The chemicals used are not exposed to extremes in temperatures as are those in a mobile processing system and therefore should offer more stable chemistry. Mobile facilities that process in the van may also hold films and batch process when there is fluctuation in processor temperature. During cold weather, it may take several hours for the processor to achieve the correct temperature and morning films may be held until that time. Several commenters offered data from institutions in the United States and Europe who successfully utilize batch processing.

Several commenters offered suggestions on quality assurance procedures they follow when utilizing batch processing including labeling each film with technical factors in the event of repeats. Several commenters indicated the disadvantages of on-board processing. Many of the commenters offered time intervals in which to allow batch processing after the exam. These ranged from ten to 24 hours. (See §32 17(a)(6))

RESPONSE The Agency agrees and has changed the regulation to allow batch processing within a ten-hour interval with certain parameters.

COMMENT One commenter indicates that the specific requirements of these subsections may be at variance with corresponding requirements of an FDA interim final rule on quality standards for the MQSA of 1992. The commenter further indicates the rule is to be issued imminently. (See §32.17(b)(ii) -(iv))

RESPONSE The interim rules for MQSA addressing this requirement have not yet been published. The Agency will make revisions to the regulations to comply with MQSA as necessary. The Agency made no change to the rule as a result of the comment.

COMMENT Two commenters suggest the qualifications for radiologist should not be limited to board certification as this would eliminate some qualified individuals who have been practicing successfully for many years. One suggests including the language "or board eligible" and the other strongly suggests adopting physician qualification standards utilized by the ACR. (See §32 17(b)(1))

RESPONSE The Agency has changed the rule to allow acceptance of documented equivalent formal training and experience.

COMMENT One commenter indicates that currently JCAHO hospitals may employ ARRT technologists without requiring certification under the MRT Act and questions if this section now requires all mammography technologists to now be certified by MRT even though employed in a JCAHO hospital? (See §32 17(b)(2))

RESPONSE House Bill 63, §401 424(3) requires that mammography equipment must be operated by a medical radiologic technologist certified under Chapter 1096, Acts of the 70th Legislature, Regular Session, 1987 (Article 4512m, Vernon's Texas Civil Statutes) who has successfully completed special training in mammography. JCAHO hospitals must employ technologists with this certification for mammography. The Agency added clarifying language to reflect the intent of the law.

COMMENT One commenter suggests that "formal training" be defined, i.e., who is responsible, the supervisor or is a formal course necessary? (See §32 17(b)(2)(i))

RESPONSE The Agency agrees and has included a definition of formal training.

COMMENT Two commenters suggest adding continuing medical education (CME) requirements for licensed medical physicists. One commenter indicates that the Texas Board of Licensure for Professional Medical Physicists has declined to consider requirements for CME but indicates that he believes it is the intent of the Board, at a future date, to require this. The commenter also indicates that ACR has a requirement for 15 hours but it is not an on-going requirement for ACR. (See §32 17(b)(3))

RESPONSE The Agency acknowledges the comments. The interim rules for MQSA addressing this requirement have not yet been published. The Agency will make revisions to

the regulations to comply with MQSA as necessary. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates the quarterly review for QA is somewhat redundant since the RSO is already instructed to routinely review operations. (See §32.17(c)(1)(ii))

RESPONSE The quarterly review follows the guidelines for physician responsibilities under the ACR mammography certification program. This is a separate requirement from an RSO review. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates there should be a standard for this responsibility, referenced to the appropriate regulatory paragraph and incorporating the standards recommended by the ACR. (See §32.17(c)(2)(vi))

RESPONSE ACR has an "equipment observation checklist." Denoting standards for a checklist would be cumbersome. Guidelines for an "equipment observation checklist" will be included in a regulatory guide. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter suggests that the standard for analysis of fixer retention in film should be moved out of this subsection to an appropriate subparagraph in §32.44(a) where equipment standards are defined. (See §32.17(c)(2)(vii))

RESPONSE Analysis of fixer retention is a quality assurance test and is appropriate in the quality assurance section. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates it is not necessary to require a medical physicist to verify continuing education requirements which is an administrative detail. (See §32.17(c)(3))

RESPONSE The Agency agrees and has removed the requirement.

COMMENT One commenter suggests an appropriate regulatory subparagraph be referenced which incorporates the standard recommended by the ACR. (See §32.17(c)(3)(i))

RESPONSE For lack of a definitive federal standard or guidance, the Agency will accept the physicist's results on this section. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter questioned the requirement that the physicist must retain test records for seven years, which is two years longer than the actual patient mammogram. (See §32.17(c)(3))

RESPONSE The facility must retain records of physicist tests and consultations for seven years. This is a provision of House Bill 63, §401.424 and cannot be changed. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that if the physicist will check continuing education on personnel that someone needs to initially check the requirements of personnel pre-

sumably this is done by the State when the application for certification is reviewed. The commenter questions what happens when a new staff member comes on board? (See §32.17(c)(3))

RESPONSE The requirement for the physicist to check continuing education has been eliminated. The requirements of personnel will be checked during the application for certification process. The rules indicate that any change (including personnel) must be submitted to the Agency for review and approval. The Agency made no change to the rule as a result of the comment.

COMMENT Two commenters indicate that this regulation seems to be directed at individuals who wish to operate freestanding mass screening facilities. The commenters indicate that it should be recognized that the majority of screening mammograms are performed in hospitals and clinics that also examine symptomatic patients, and the numbers of screened patients may be relatively small. If all requirements for attaining a registration certificate are met by an institution, they should apply to mammography of all types. As presently written, this regulation implies a separate and distinct approval for screening mammography as opposed to the overall facility approval. (See §32.17(d))

RESPONSE The rules require certification for all facilities with mammography units. The authorization for screening mammography (for asymptomatic women) is separate and has been in place for a number of years. The application contains a section specific to screening authorization. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter had questions about approval for screening authorization, i.e., is this a one-time approval? Just for new facilities? Every year? Every inspection? (See §32.17(d))

RESPONSE Screening authorization is approved initially and thereafter on renewal of the certification. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter suggests that Texas may want to specifically mention Medicare here as the Medicare payment frequencies are going to be the controlling factor in many examinations. (See §32.17(d)(2))

RESPONSE This section is for screening of asymptomatic patients and has nothing to do with reimbursement. The Agency has no authority over Medicare payment frequencies and made no change to the rule as a result of the comment.

COMMENT One commenter questions "or other criteria recognized by the Agency", what is the recognition process and does it involve policy changes with public input? The commenter indicates this is an open-ended rule and could be construed as an attempt to avoid the Administrative Procedures Act. (See §32.17(d)(2))

RESPONSE The Agency agrees and has changed the wording to clarify the intent of the rule.

COMMENT One commenter has two questions on this section: 1) Does this mean the same as the ACR Physicist's Manual where the left plus the right misalignment error must not exceed 2.0% SID. Similarly the anterior plus the chest wall misalignment must not exceed 2.0% SID. Or does this mean now that the sum of the misalignment of all four must not exceed 2.0% of the SID? 2) Some older (but within the last eight years) dedicated mammography systems have what the manufacturers term "field illuminators" not light-localizer and are not adjustable to 2.0% of the SID. How will these units be handled?

RESPONSE All units must meet the collimation requirements for mammography of 21 CFR irrespective of the terminology. The Agency has changed the wording to clarify the intent of the rule.

COMMENT One commenter indicates this requirement is in conflict with 21 CFR §1020.30(h)(3) and §1020.31(a)(4) which allow the manufacturers to set the accuracy specifications for their equipment. (See §32.44(a)(6))

RESPONSE House Bill 63 requires the Agency to be at least as stringent as MQSA. This requirement follows ACR guidelines and is more restrictive than manufacturer's recommendations. The Agency made no change to the rule as a result of the comment.

COMMENT Four commenters are concerned that two standards will exclude tubes with the new rhodium filter and anode which have been shown to reduce radiation exposure to the patient. There is also a concern that some existing tubes may not meet the requirement of §32.44(a)(8). (See §32.44(a)(8) and §32.44(a)(9)(1))

RESPONSE The Agency acknowledges the comments. ACR guidelines do not contain the requirement listed in §32.44(a)(8). Also, it is not the intent to exclude new technology. Therefore, the Agency has deleted the requirement in §32.44(a)(8) and has exempted rhodium filters and anodes from the requirements of §32.44(a)(9). When MQSA interim rules are published, the Agency will review their standards and revise our regulations as necessary.

COMMENT One commenter suggests there appears to be a typographical error since "one centimeter" does not represent an area. (See §32.44(a)(12))

RESPONSE The Agency has inserted wording to clarify the statement.

COMMENT One commenter indicates that specification of the resolution will require revising the regulations if there are changes in the phantom or test objects. The commenter suggests a general specification requiring the minimum specified by the accrediting body might be more convenient. (See §32.44(a)(13))

RESPONSE The Agency acknowledges the comment and feels it is important to be specific about the phantom. The implementation of MQSA may change this requirement which will be addressed at that time. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that the preferred spelling is "milligray" as opposed to "milligrey" (See §32 44(b))

RESPONSE The Agency agrees and has made the changes

COMMENT One commenter questions why the definition of "continuing education" is different from those of the MRT and ARRT? (See §32 100)

RESPONSE The continuing education requirements of TRCR will be applicable to the MRT program ARRT is a national organization The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicated "mAs means milliamperere" should be written to say "mA means milliamperere" (See §32 100)

RESPONSE The Agency agrees and has made the change to more accurately reflect the intent of the rule

COMMENT Four commenters indicate that the definition of "mammography system" does not include the physicist and suggests it be added (See §32 100)

RESPONSE The definition of "mammography system" is from House Bill 63, §401 421 and does not include medical physicist The requirement for an annual evaluation by a physicist is in TRCR, §32 17(c)(3) and House Bill 63, §401 424 (4)(B) The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates the Agency has created an extremely broad definition of "mammography system" and this may exclude stereotactic units and some personnel operating them The commenter suggests the definition needs to be revised to exclude special purpose units (See §32 100)

RESPONSE The definition of "mammography system" is from House Bill 63, §401 421 The Agency acknowledges the concern for unique mammography units and has listed an exemption section in §42 24(f) that may apply under certain circumstances

COMMENT Three commenters suggest including a seventh section for mammography physics in the definition "technical aspects of mammography" (See §32 100)

RESPONSE The commenters did not clarify what the term "mammography physics" entails and the Agency feels the definition of "technical aspects of mammography" is adequately explained The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that "Physics and radiation protection unique to mammography" should be added to this list (See Appendix 32-C)

RESPONSE The Agency believes that adding the term will not clarify nor add to the items listed in the appendix The Agency made no change to the rule as a result of the comment

TRCR, Part 42 provides for registration, renewal, and exemption requirements for mammography systems and expands the criteria for mobile services It changes the registra-

tion time requirements for accelerators, industrial radiography, and providers of equipment

In §42 20(e), language was added to indicate that applications for certification of mammography systems must be made separately In §42 20(g), the reference was changed to reflect the fee schedule for mammography In §42 21(c), the words "in question" were deleted In §42 23(d), the language was deleted and moved to a more appropriate section in Part 21 In §42 24, a section was added on application for certification of mammography systems In §42 25, a section was added on application for registration for mobile services used in healing arts and veterinary medicine In §42 26, language was added to require registration prior to use for industrial radiography A subsection was also added for requirements for providers of equipment In §42 32(a)(1), clarifying language was used in the section on notification of changes In §42 32(a)(3), the word "that" was added in place of "which" In §42 33(c)(4), language was added to clarify the intent of the rule In §42 34, language was added on renewal of certifications for mammography In §42 40(g), language was added prohibiting reciprocity for mammography In Appendix 42-B, clarifying language was added to "A"- "G" for easier readability A subparagraph "H" was added to require quarterly audits by the RSO

The following comments were received concerning the proposed amendment to TRCR, Part 42

COMMENT One commenter suggests that to be consistent with the stated scope and purpose of §42 1(a), the heading of Part 42 ought to be changed to "REGISTRATION OF RADIATION MACHINE USERS AND SERVICES" (See Part 42, Heading)

RESPONSE The Texas Radiation Control Act gives the Agency the authority to register radiation machine use and services It is the machine use and services that are registered, not the users The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that in the second paragraph, the reference to "another recognized organization" is vague (See §42 24(c))

RESPONSE This language is from House Bill 63, §401 425 The Agency made no change to the rule as a result of the comment

COMMENT Four commenters had statements about this section Two commenters indicated that ACR accreditation will be accepted in lieu of a lengthy application but that this would eliminate the initial state inspection only These two commenters indicate there must be a means to eliminate so many different inspections and that these inspections should be done by a qualified expert, such as an ABR Certified Diagnostic Medical Physicist They further indicate that should a facility choose not to participate in ACR certification, then certification by the state should be mandatory All four commenters were concerned about the time frames for certification and the fact that ACR certification may take months, so to become certified under the state with an

ACR certified machine, the facility would have to remain idle One commenter indicates the regulations forces all institutions to use the state's certification process regardless of ACR accreditation (See §42 24(c)).

RESPONSE House Bill 63 requires a certification and inspection process There is no provision for a phase-in period, the bill requires certification prior to use of the system Once MQSA is implemented, there will be one certification and one inspection. House Bill 63 is in effect until MQSA is effective October 1, 1994 MQSA will provide for extensive training of mammography inspectors The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that the second paragraph makes the statement about "less stringent than the standards of the ACR on forms prescribed by the agency" The commenter suggests that transcribing date from either ACR forms or the medical physics report is unnecessary and suggests that the Agency accept a copy of either of these reports (See §42 24(c))

RESPONSE The application process will not necessitate reduplication of all the information submitted to ACR The application form will have a section to indicate ACR accreditation with a provision to provide proof of ACR accreditation The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that this requires a registration for calibration of kV meters and other instruments utilized for TRCR, §32 20(h) tests and questions if one must be registered in order to provide the service for calibration of densitometers needed for the mammography program or will simply being licensed as a medical physicist be adequate? (See §42 27)

RESPONSE Densitometers may be calibrated by the registrant using the calibration strip supplied by the manufacturer There is no requirement that this calibration be performed by a licensed medical physicist or that an individual be registered to calibrate a densitometer The Agency made no change to the rule as a result of the comment

COMMENT One commenter indicates that this requires quarterly, documented reviews by the RSO to ensure that the TRCR conditions of the certificate of registration and the operating, safety, and emergency procedures of the registrant are being observed by the personnel and §21 101(c) requires at least an annual review of the radiation protection program and implementation The commenter indicates that these two requirements appear to be redundant and confusing and suggests modification of both sections to make this clearer (See Appendix 42-B, G)

RESPONSE The requirement in §21 202(c) is an evaluation of the radiation protection program The quarterly audit in Appendix 42-B is a review to ensure that personnel are complying with the rules, operating, safety, and emergency procedures, and the conditions of the certificate of registration This is an internal audit to be performed by the RSO and is separate from that required in Part 21 The Agency made no change to the rule as a result of the comment

COMMENT One commenter questions if a quarterly review is necessary as only a few people handle the machines in his facility and they are observed on a week to week basis. The commenter suggests an annual review is more appropriate. (See Appendix 42-B,G)

RESPONSE The audit is required for all registrants. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates that a quarterly review would place an unnecessary burden on resident RSOs, reducing the current level of effectiveness. The commenter questions that if the intent cannot be made more specifically applicable for the non-resident RSO, will guidance be provided to resident RSOs on acceptable methods for meeting this requirement or will exemptions be granted? The commenter also questions "Is the documented review of these duties" a review of the duties of the RSO or the compliance of the personnel with the rules and procedures of the registrant? The commenter indicates the only mention of "duties" is in reference to the "Specific Duties of the RSO" (See Appendix 42-B, G)

RESPONSE The quarterly audit is a review to ensure that personnel are complying with the rules, operating, safety, and emergency procedures, and the conditions of the certificate of registration. This is an internal audit to be performed by the RSO. The Agency changed the language to clarify the intent of the regulations. There will be no exemptions granted.

TRCR, Part 12 was amended to reflect increases in fee amounts for mammography system certification necessitated by the changes in TRCR, Parts 11, 32, and 42 resulting from the passage of House Bill 63. Fee increases for all healing arts and veterinary medicine machines was deleted to allow the Agency time to further review training and formulate rules for training prior to implementing fees. The amendment also deletes fees for uranium recovery facilities as the authority to regulate those facilities has been transferred to the Texas Natural Resource Conservation Commission and rearranges and further defines categories in the industrial radiography fee section.

In §12 11(b), some of the reference numbers were deleted to better clarify the intent of the rule. In §12 21(a)(1), language was added to indicate the use "for production of radioactive materials." In §12 21(a)(46), uranium recovery fees were deleted and the rest of the items renumbered accordingly. "Section 12 22 Schedule of Fees for Uranium Recovery Facilities" was deleted. Section 12 22 now becomes "Schedule of Fees for Certification of Mammography Systems." Section 12 31(a)-(d) reflects a \$10 decrease for each fee category. Fee categories in §12 31(e)-(g), (i), and (l) were rearranged to more accurately reflect the appropriate category of use. There were no changes in the fees.

The following comments were received concerning the proposed amendment to TRCR, Part 12.

COMMENT Three commenters indicate that items §12 31(i)-(9) should be §12 31(a)-(i)

and §12 31(11) should be §12 31(k) (See §12 11(b)(3))

RESPONSE The Agency agrees and has made changes to the rule to clarify the references.

COMMENT One commenter questions whether the changes in §12 11(b)(3) would affect the fees charged for a Registration Certificate (not referring to mammography), which has previously been covered by the \$4,000 ceiling. However, the changed wording poses the possibility that subsites would not be covered by this ceiling. (See §12 11(b)(3))

RESPONSE The Agency has clarified the wording to ensure that subsites are covered by the \$4,000 ceiling.

COMMENT One commenter indicates that the listing (46) for Uranium Recovery needs to be deleted.

RESPONSE The Agency agrees and has removed the listing.

COMMENT Seven commenters offered comments on this section. Several commenters indicate there are several entities with mammography accreditation requirements as well as those being developed by the FDA and Texas. One commenter indicated that at the time House Bill 63 was under consideration by the legislature, it was indicated that its primary purpose was to provide safe mammography for the women of Texas in the event that the Federal program was not activated or was less stringent in its requirements. The commenter indicates that since all have the same goal and are similar in essentials, it is hoped that equivalency can be negotiated between various agencies and the cost of having to satisfy multiple agency requirements goes beyond the various fees set by each entity. One commenter questions if the triplication of paperwork and fee schedules are necessary? Several commenters indicated that House Bill 63 would exempt ACR accredited facilities. One commenter questioned the increase in fees for ACR facilities in subsequent years? (See §12 22)

RESPONSE As a result of carrying out the requirements of House Bill 63, the state is obligated to certify all mammography systems in the state by July 1, 1994, and inspect them 60 days after the certification is issued for non-ACR certified units and annually thereafter for all units. The initial lower base fee for ACR-accredited units reflects not having the initial 60-day inspection and the annual fee thereafter includes the inspection. Implementation of MQSA will eliminate the need for multiple inspections and certifications and will require certification and an annual inspection. Because MQSA is to go into effect October 1, 1994, the state must conform to the requirements of House Bill 63 until that time. Likewise, the Legislature requires state agencies to recover 100% of their costs in certain regulatory programs. The Agency made no change to the rule as a result of the comment.

COMMENT One commenter indicates flash radiography is listed in both (e) and (h). The commenter also states ion implantation is listed in Appendix 11-D as a "Minimal Threat"

machine. The Semiconductor Industry uses ion implantation in the production of integrated circuits. There is no analytical process used. The commenter recommends it be moved back to the "Minimal Threat" category as there is no difference in fee. (See §12 31(e)-(g), and (h)).

RESPONSE Flash radiography is listed in both sections because of the different use applications that apply, i.e. industrial radiography and analytical (bomb detection). The Agency changed the rule to list ion implantation devices in the "Minimal Threat" category.

COMMENT One commenter indicates that §12 31(i) establishes fees for registration for calibration "of x-ray equipment and nonionizing devices," and that an addition has been noted to change the next line to read "Calibration of survey and measurement instruments." (See §12 31(i))

RESPONSE The Agency made this change to clarify the difference between the two categories of calibration. The Agency made no change to the rule as a result of the comment.

Representatives from Frank Malek and Associates in Montgomery, Richmond Imaging Associates in Houston, Texas State Soil and Water Conservation Board, Texas Natural Resource Conservation Commission, The Wichita Falls Clinic of Wichita Falls, Valley Baptist Medical Center of Harlingen, Center for Devices and Radiological Health of the Food and Drug Administration of Rockville, Maryland, Baylor College of Medicine of Houston, The University of Texas Medical School of Houston, Baylor-Komen Breast Center of Dallas, The University of Texas, M D Anderson Cancer Center of Houston, J Preston Coleman, D D S, Inc and Associates of San Antonio, Scott and White of Temple, Hendrick Medical Center of Abilene, The Women's Clinic of Wichita Falls, Texas Medical Association, Texas Radiological Society, Texas Instruments of Dallas, American Cancer Society of Austin, Wichita General Hospital of Wichita Falls, Hermann Hospital of Houston, Fairfield Memorial Hospital of Fairfield, General Electric Company of Milwaukee, Wisconsin, John F Domatti, Inc, of Simonton, The University of Texas Southwestern Medical Center of Dallas, Zale Lipshy University Hospital at Southwestern Medical Center of Dallas, Clyde Danks, MD of Austin, Capital Area Society of Radiologic Technologists of Austin, and RFJ Associates, Inc of Austin presented comments, questions, and suggestions for changes to the proposed amendment as discussed in the summary of comments.

The amendments are adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with the authority to adopt rules and guidelines relating to the control of radiation, and §12 001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the Agency, and the commissioner of health.

§289 111 General Provisions

(a) The Texas Department of Health adopts by reference Part 11, "General Provisions" of the Department's document titled Texas Regulations for Control of Radiation, as amended in March, 1994

(b) (No change)

§289 113 Standards for Protection Against Radiation

(a) The Texas Department of Health adopts by reference Part 21, "Standards for Protection Against Radiation" of the department's document titled Texas Regulations for Control of Radiation, as amended in March, 1994

(b) (No change)

§289 116 Use of Radiation Machines in the Healing Arts and Veterinary Medicine

(a) The Texas Department of Health adopts by reference Part 32, "Use of Radiation Machines in the Healing Arts and Veterinary Medicine" of the Department's document titled Texas Regulations for Control of Radiation, as amended in March, 1994

(b) (No change)

§289 122 Registration of Radiation Machine Use and Services

(a) The Texas Department of Health adopts by reference Part 42, "Registration of Radiation Machine Use and Services" of the Department's document titled Texas Regulations for Control of Radiation as amended in March, 1994

(b) (No change)

§289 126 Fees for Certificates of Registration, Radioactive Material(s) Emergency Planning and Implementation, and Other Regulatory Services

(a) The Texas Department of Health adopts by reference Part 12, "Fees for Certificates of Registration, Radioactive Material(s), Emergency Planning and Implementation, and Other Regulatory Services" of the Department's document titled Texas Regulations for Control of Radiation, as amended in March, 1994

(b) (No change)

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

Issued in Austin, Texas, on February 11, 1994

TRD-9436085

Susan K Støeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Effective date: March 4, 1994

Proposal publication date: November 9, 1993

For further information, please call: (512) 834-6688

◆ ◆ ◆
Part VIII. Interagency
Council on Early
Childhood Intervention
Chapter 621. Early Childhood
Intervention Program

Early Childhood Intervention
Service Delivery

• 25 TAC §621.23, §621.25

The Interagency Council on Early Childhood Intervention (Council) adopts amendments to §621.23 and §621.25 Section 621.23 is adopted with changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6423) Section 621.25 is adopted without changes and will not be republished

The amendments clarify policies requiring collecting reimbursements for services and participation in the State Medicaid Program. The language was modified to reflect the public comment

Upon further review, the Council noted that §621.23(5)(L)(i) and §621.23(5)(L)(iii) appear to be contradictory. The language in §621.23(5)(L)(i) was amended to clarify that parents must give permission before a third party is billed

No other comments were received and no other changes were made

The amendments are adopted under the Human Resource Code §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays.

The amendments will effect the Health and Safety Code, Chapter 73

§621.23 Service Delivery Requirements Programs that receive Early Childhood Intervention (ECI) funds must have written policies and procedures which are implemented and evaluated in each of the following areas

(1)-(4) (No change)

(5) Individualized family service plan (IFSP) An IFSP must be developed for each eligible child and the child's family

(A)-(K) (No change)

(L) Reimbursement for service.

(i) All programs will be required to establish third-party billing systems, determine client eligibility for all third-party reimbursement sources, and complete and submit reimbursement requests to corresponding third-party sources, in accordance with clause (iii) of this subparagraph. Third parties include, but are not limited to Health Maintenance Organizations (HMO's), private insurance, Medicaid programs (Early Periodic Screening Diagnosis and Treatment Program (EPSDT) and Targeted Case Management) and the Chronically Ill and Disabled Children's Program.

(ii) All ECI required services must be provided at no cost to families, including but not limited to, child find, evaluation and assessment, service coordination, and administration and coordination related to the development, review, and evaluation of IFSP's. The determination of the duration, scope and nature of the services provided will not be based on parental consent to the use of funding resources for which the may be eligible.

(iii) No child may be denied services because of the family's inability to pay, or unwillingness to consent to third party-billing. Informed parental consent is required prior to billing private insurers. Billing third-party insurers must be at no cost to families. All programs will be required to discuss with families the implications of billing private insurance

(iv) Programs will be required to encourage the family to apply for all applicable funding resources for which they are potentially eligible including, but not limited to, Medicaid and the Chronically Ill and Disabled Children's Program. No child may be denied services because of the family's refusal to apply for Medicaid or other funding resources for which they may be eligible.

(v) All programs will be required to apply for Chapter 1 funds.

§621.25 Application Requirements.

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

(d) Applicant share or maintenance of effort

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

(7) All private non-profit ECI programs participating in the Medicaid Targeted Case Management Program must reimburse the state ECI program for the state share of Medicaid reimbursement received.

(8) The program provider shall notify the Council promptly whenever the amount of the contract is expected to ex-

ceed the projected expenditures by more than \$5000 or 5 0% of the contract whichever is smaller The Council may request that the contract be reduced by this amount which exceeds the need

(e) -(f) (No change)

This council 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 February 14, 1994

TRD-9436148 Tammy Tiner, Ph D
Chairperson
Interagency Council on
Early Childhood
Intervention

Effective date March 7, 1994

Proposal publication date September 21, 1993

For further information, please call (512) 502-4900

◆ ◆ ◆
TITLE 28. INSURANCE
Part I. Texas Department
of Insurance

Chapter 7. Corporate and
Financial Regulation

Subchapter A. Examination
and Corporate and Tax

• **28 TAC §7.63**

The Texas Department of Insurance adopts the repeal of § 7 63, concerning the annual statement blanks, instructions, and other forms used by insurers and certain other entities regulated by the Texas Department of Insurance to report their financial condition and business operations and activities for calendar year 1984, without changes to the proposed text published in December 3, 1993, issue of the *Texas Register* (18 TexReg 8856)

The repeal of this section is necessary to eliminate unnecessary provisions and to enable the Texas Department of Insurance simultaneously to adopt new §7 63, which replaces the repealed section with other provisions concerning the filing requirements for annual and quarterly statements and other reporting forms for calendar year 1993 Notification of the new section which replaces this repealed section appears elsewhere in this issue of the *Texas Register*

The repeal of this section will eliminate unnecessary and outdated provisions pertaining to reports of financial condition and business operations and activities for calendar year 1984

No comments were received regarding adoption of the repeal

The repeal is adopted under the Insurance Code, Articles 1 11, 1 10, 3 07, 6 11, 6 12, 8 07, 8 08, 8 21, 8 24, 9 22, 9 47, 10 30,

11 06, 11 19, 14 15, 14 39, 15 15, 15 16, 16 18, 16 24, 17 22, 17 25, 18 12, 19 08, 20 02, 20A 10, 20A 22, 21 43, 21 54, 22 06, 23 02, 23 26, 1 03A, and Texas Government Code, §§2001 004-2001 038 Article 1 11 authorizes the commissioner to change the form of the statement blanks and other reporting forms as shall seem best adapted to elicit a true exhibit of the financial condition and the methods of transacting the business of insurers and/or other regulated entities and requires certain insurers and/or other regulated entities to make filings with the National Association of Insurance Commissioners Article 1 10(9) requires the department to furnish the statement blanks and other reporting forms necessary for companies to comply with the filing requirements Articles 3 07, 6 11, 6 12, 8 07, 8 08, 8 21, 8 24, 9 22, 9 47, 10 30, 11 06, 11 19, 14 15, 14 39, 15 15, 15 16, 16 18, 16 24, 17 22, 17 25, 18 12, 19 08, 20 02, 20A 10, 20A 22, 21 54, 22 06, 23 02, and 23 26 require the filing of financial reports and other information by insurers and other regulated entities, and specify particular rulemaking authority of the commissioner relating to those insurers and other regulated entities Article 21 43 provides the conditions under which foreign insurers are permitted to do business in this state and requires foreign insurers to comply with the provisions of the Insurance Code Article 1 03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department only as authorized by statute for general and uniform application Texas Government Code, §§2001 004-2001 038 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative 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 February 11, 1994

TRD-9436153 Linda K von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date March 7, 1994

Proposal publication date December 3, 1993

For further information, please call (512) 463-6327

◆ ◆ ◆
The Texas Department of Insurance (department) adopts new §7 63, with changes to the proposed text as published in the December 3, 1993, issue of the *Texas Register* (18 TexReg 8857)

The new section concerns annual and quarterly statement blanks, other reporting forms, diskettes and instructions to be used by insurers and certain other entities regulated by the Texas Department of Insurance when reporting their financial condition and business operations and activities, and the requirement to file such completed statement blanks and

other reporting forms, including diskettes These statement blanks, other reporting forms and diskettes are required for reporting in 1994 the financial condition and business operations and activities of insurers and certain other regulated entities conducted during the 1993 and 1994 calendar years The adoption of new §7 63 is simultaneous with the repeal of existing §7 63, concerning the 1984 annual statement filings Notice of the repeal appears elsewhere in this issue of the *Texas Register* The adoption includes a change to subsection (e) by adding language to provide for an exemption from Asset Valuation Reserve (AVR) or Interest Maintenance Reserve (IMR) requirements for fraternal benefit societies which is consistent with the exemption from AVR/IMR for life, accident and health insurers authorized in subsection (c) Changes were made to subsections (c)-(g) to clarify that the requirement that reports be completed in accordance with the current NAIC Annual Statement Instructions includes Management's Discussion and Analysis be filed by April 1, 1994, with the NAIC and the department Changes were made to delete paragraphs (2)(A) of subsections (c)-(f) and paragraph (2) of subsection (g) of the proposed sections that required Management's Discussion and Analysis be filed with the department on or before March 1, 1994 Subsequent paragraphs of subsections (c)-(g) were renumbered as appropriate A change was made to subsection (d) to provide an exemption for domestic insurers writing workers' compensation business only in Texas from establishing the full Schedule P penalty reserve A change was made to paragraph (2)(H) of subsection (f) to adopt by reference Special Instructions to Title Insurers for completing the Policy Count Exhibit

The new section defines terms relevant to the statement blanks and reporting forms, provides the dates by which certain reports are to be filed, adopts by reference the annual and quarterly statement blanks, other reporting forms, and instructions for reporting the financial condition and business operations and activities, and requires insurance companies and certain other regulated entities to file such annual and quarterly statements and other reporting forms with the department and/or the National Association of Insurance Commissioners as directed The department has filed with the Office of the Secretary of State, Texas Register Division, copies of the annual and quarterly statement blanks, other reporting forms, and manuals adopted by reference Other copies are available for inspection in the office of the Financial Analysis Unit of the Texas Department of Insurance, William P Hobby State Office Building, 333 Guadalupe, Building 3, Third Floor, Austin, Texas

Comment Seven commenters pointed out that subsection (c), regarding filing requirements for life, accident and health insurers, provides an exemption for certain domestic insurers from the establishment an Asset Valuation Reserve (AVR) or Interest Maintenance Reserve (IMR) but subsection (e) regarding filing requirements for fraternal benefit societies does not provide for a similar exemption The commenters stated that allowing the exemption from AVR/IMR requirements for fraternal benefit societies will

be consistent with historical practice, and will allow a more even handed treatment of the two types of insuring organizations

Response The department concurs with the commenters and has added language to subsection (e) to exempt certain domestic fraternal benefit societies from the establishment of the AVR/IMR requirement

Comment Two commenters recommended that the filing date requirement for Management's Discussion and Analysis follow the April 1 filing date standard set by the NAIC

Response The department concurs with this recommendation and has changed subsections (c)-(g) to clarify that Management's Discussion and Analysis be filed by April 1, 1994, with the NAIC and the department Changes were made to paragraph (2)(A) of subsections (c)-(f) and paragraph (2) of subsection (g) to delete the requirement that Management's Discussion and Analysis be filed with the department on or before March 1, 1994.

Comment. One commenter suggested that the requirement for title insurance companies to file a Policy Count Exhibit showing the number of insurance policies written and certificates issued and in force December 31, 1993 as set forth in paragraph (H) of subsection (f) be eliminated The commenter pointed out that paragraph (H) as proposed has no relevance in terms of calculating any of a title insurer's liabilities and it would be impossible to complete

Response The department does not concur with the suggestion to eliminate the use of the Policy Count Exhibit but concurs that unique reporting issues exist for title insurers and has adopted by reference Special Instructions to Title Insurers

Comment One commenter stated that the Schedule P excess statutory reserve is based on loss experience from years prior to Texas workers' compensation insurance reform and would force workers' compensation insurers licensed to do business only in the State of Texas to post excess reserves that would be actuarially unsound, unreasonably large, inconsistent with current Texas Department of Insurance rating policy, and unfair when compared to insurers that do business in other states The commenter recommended that subsection (d) as proposed be amended to include the following language

A Texas domestic company not licensed to do business in any other state is not required to post the NAIC Schedule P excess statutory reserve if a majority of such company's premium income is derived from workers' compensation insurance business

Response Although the suggested language provided by the commenter was not utilized, the department has amended proposed subsection (d) to provide an exemption for certain insurers from establishing the entire Schedule P excess statutory reserve over statement reserves

No comments were received against the proposed rule in its entirety, although, certain individuals and/or entities objected to a portion or portions

Against—Texas Builders Insurance Company; Chicago Title Insurance Company, Mosiah Benefit Fund, Slavonic Benevolent Order of the State of Texas; Catholic Family Fraternal of Texas, Catholic Union of Texas—The KJT; Grand Lodge of the Order of the Sons of Hermann in the State of Texas, Agee and Associates, Temple Benefit Fund, Aid Association for Lutherans

The section is adopted under the Insurance Code, Articles 1.11, 1.10, 3.07, 3.20-1, 3.27-2, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 20A.10, 20A.22, 21.43, 21.54, 22.06, 23.02, 23.26, 1.03A; and Texas Government Code, §§2001.004-2001.038. The Insurance Code, Article 1.11 authorizes the commissioner to make changes in the forms of the annual statements required of insurance companies of any kind, as shall seem best adapted to elicit a true exhibit of their condition and methods of transacting business, and requires certain insurers to make filings with the National Association of Insurance Commissioners. Article 1.10(9) requires the department to furnish the statement blanks and other reporting forms necessary for companies to comply with the filing requirements. Articles 3.07, 3.20-1, 3.27-2, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 20A.10, 20A.22, 21.54, 22.06, 23.02, and 23.26 require the filing of financial reports and other information by insurers and other regulated entities, and specify particular rule making authority of the commissioner relating to those insurers and other regulated entities. Article 21.43 provides the conditions under which foreign insurers are permitted to do business in this state and requires foreign insurers to comply with the provisions of the Insurance Code. Article 1.03A authorizes the commissioner to adopt rules for the conduct and execution of the duties and functions of the department only as authorized by statute for general and uniform application Texas Government Code, §§2001.004-2001.038 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency The adopted section affects the filing of the annual statement, other reporting forms, and diskettes to elicit the financial condition of insurers under the Insurance Code, Article 1.11

§7.63 Requirements for Filing the 1993 Annual and 1994 Quarterly Statements, Other Reporting Forms and Diskettes

(a) Scope This section provides insurers and other regulated entities with the filing requirements for the 1993 annual statement, 1994 quarterly statements, other reporting forms, and diskettes necessary to report information concerning the financial condition and business operations and activities of insurers This section applies to all insurers and other regulated entities authorized to do the business of insurance in this

state and includes, but is not limited to, life insurers; accident insurers; life and accident insurers; life and health insurers; accident and health insurers; life, accident and health insurers; mutual life insurers, stipulated premium insurers; group hospital service corporations; fire insurers; fire and marine insurers, general casualty insurers; fire and casualty insurers, mutual insurers other than life, county mutual insurers; Lloyd's plans; reciprocal and inter-insurance exchanges, domestic risk retention groups; domestic joint underwriting associations; title insurers; fraternal benefit societies, local mutual aid associations; statewide mutual assessment companies; mutual burial associations; exempt associations; farm mutual insurers; health maintenance organizations; and non-profit legal services corporations. The commissioner of insurance adopts by reference the 1993 annual and 1994 quarterly statement blanks, instruction manuals, and other reporting forms specified in this section. The annual and quarterly statement blanks and other reporting forms are available from the Texas Department of Insurance, Financial Analysis, Mail Code 303-1A, P.O. Box 149099, Austin, Texas 78714-9099. Insurers and other regulated entities shall properly report to the Texas Department of Insurance and the National Association of Insurance Commissioners (NAIC), using the appropriate annual and quarterly statement blanks, other reporting forms and machine-readable diskettes and following the applicable instructions as outlined in subsections (c)-(l) of this section.

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

(1) Association edition-blanks and forms promulgated by the National Association of Insurance Commissioners.

(2) Commissioner—the commissioner of insurance appointed under the Insurance Code, Article 1.09

(3) Department—the Texas Department of Insurance.

(4) Insurer—a person or business entity legally organized in and authorized by its domiciliary jurisdiction to do the business of insurance

(5) NAIC—the National Association of Insurance Commissioners.

(6) Texas edition-blanks and forms promulgated by the commissioner of insurance.

(c) Filing requirements for life, accident and health insurers. Each life, life and accident, life and health, accident and health, mutual life, or life, accident and health insurance company, stipulated premium insurance company, and group hospital services corporation shall complete and

file the following blanks, forms, and diskettes for the 1993 calendar year and the first three quarters of the 1994 calendar year. Except as otherwise provided by this section, the forms, reports and diskettes identified in paragraphs (1) (A)-(1)(G); (2)(A)-(2)(C); and (3)(A)-(3)(D) of this subsection shall be completed in accordance with the current NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies, and the current NAIC Annual Statement Instructions, Life, Accident and Health, including Management's Discussion and Analysis to be filed by April 1, 1994, with the NAIC and the department. The diskettes identified in paragraphs (3)(C) and (D) shall be completed in accordance with the current NAIC Annual Statement Diskette Filing Specifications-Life/Health. Since Texas domestic companies have historically not been required to establish a Mandatory Securities Valuation Reserve (MSVR), they are not required at the present time to establish an Asset Valuation Reserve (AVR) or Interest Maintenance Reserve (IMR) unless the company is licensed in a state that requires an AVR or IMR, in which case the reserve must be calculated in accordance with the instructions established by the NAIC. Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the department or the NAIC by Texas domestic insurers or on any filing with the department by insurers domiciled outside the State of Texas. In the event of a conflict between the Insurance Code, any currently existing department rule, form or instruction, or any specific requirement of this subsection and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code, the department's promulgated rule, form or instruction, or the specific requirement of this subsection shall take precedence and in all respects control. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code.

(1) Reports to be filed with the department and the NAIC include the following:

(A) Annual Statement (association edition, Form 1, Form 1A, or Form 11), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(B) Annual Statement of the Separate Accounts (association edition, Form 1-S) (required of companies maintaining separate accounts), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or

before March 1, 1994 (stipulated premium insurance companies, April 1, 1994);

(C) Long-Term Care Insurance Exhibit (association edition) (required of companies writing long-term care business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994), in addition to the Long-Term Care Experience Reporting Form included in the annual statement required by paragraph (1)(A) of this subsection,

(D) Schedule DS (association edition) (required of companies that have included equity in the undistributed income of consolidated subsidiaries in its net gain/(loss) from operations), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(E) Interest Sensitive Life Insurance Products Report (association edition) (required of companies writing interest sensitive products), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before April 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(F) Life, Health and Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit (association edition), 8 1/2-inch x 14-inch size, to be filed on or before June 30, 1994, and

(G) Life and Accident and Health Quarterly Statement (association edition) (required of companies filing Form 1), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before May 15, August 15, and November 15, 1994. However, a Texas stipulated premium company, unless specifically requested to do so by the department, is not required to file quarterly statements with the department or the NAIC if it meets all three of the following conditions.

(i) it is authorized to write only life insurance on its Certificate of Authority,

(ii) it collected premiums in the prior calendar year of less than \$1 million, and

(iii) it had a profit from operations in the prior two calendar years

(2) Reports to be filed only with the department

(A) Schedule SIS, Stockholder Information Supplement (association edition) (required of domestic stock companies which have 100 or more stockholders), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994);

(B) Schedule DM (association edition) (shows statement value and fair market value of all bonds and preferred stock owned), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(C) Accident and Health Policy Experience Exhibit, (association edition) (required of companies writing accident and/or health business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before June 30, 1994,

(D) Annual Statement (Texas edition, green) (required of companies writing prepaid legal business in 1993), 2 inch / 2 inch x 14-inch size, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994);

(E) Affidavit in Lieu of Annual Statement (Texas edition, green) (required of companies authorized to write prepaid legal business that did not write such business in 1993), to be filed on or before March 1, 1994,

(F) Texas Overhead Assessment Form (required of Texas domestic companies only), to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(G) Analysis of Surplus, for life, accident and health insurers, to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994);

(H) TX Disclosure Form (reports whether the annual or quarterly statement filing with the department differs from the annual or quarterly statement filing with the NAIC or the insurer's state of domicile and reports any individual treatment of assets, liabilities, operations, or capital and surplus accounts granted by an insurer's state of domicile or any other state insurance regulatory department), to be filed on or before March 1, May 15, August 15, and November 15, 1994 (stipulated premium

companies, April 1, 1994 and, for those stipulated premium companies subject to quarterly reporting in accordance with paragraph (1)(G) of this subsection, May 15, August 15, and November 15, 1994);

(I) Supplemental Investment Income Exhibit (shows percent of net investment income by type of investment, as an attachment to page 10 of the annual statement as required by paragraph (1)(A) of this subsection), to be filed on or before March 1, 1994 (stipulated premium companies, April 1, 1994), and

(J) Policy Count Exhibit (shows number of insurance policies written or certificates issued by the insurer and in force on December 31, 1993), to be filed on or before March 1, 1994 (stipulated premium companies, April 1, 1994)

(3) Reports and diskettes to be filed only with the NAIC

(A) Officers and Directors Information (association edition) (required of companies upon their initial filing with the NAIC and to report any changes in previously filed information), to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994),

(B) Credit Insurance Experience Exhibit (association edition) (required of companies writing credit business), 9-inch x 14-inch size, to be filed on or before May 1, 1994,

(C) Machine-readable diskettes containing computerized annual statement data, (required of companies filing annual statement Form 1), to be filed on or before March 1, 1994 (stipulated premium insurance companies, April 1, 1994), and

(D) Machine-readable diskettes containing computerized quarterly statement data, (required of companies filing annual statement Form 1), to be filed on or before May 15, August 15, and November 15, 1994. However, a Texas stipulated premium company, unless specifically requested to do so by the department, is not required to file diskettes with the NAIC if it meets all three of the following conditions:

(i) it is authorized to write only life insurance on its Certificate of Authority,

(ii) it collected premiums in the prior calendar year of less than \$1 million; and

(iii) it had a profit from operations in the prior two calendar years

(d) Requirements for property and casualty insurers. Each fire, fire and marine, general casualty, fire and casualty, county mutual insurance company, mutual insurance company other than life, Lloyd's plan, reciprocal or inter-insurance exchange, domestic risk retention group, life insurance company that is licensed to write workers' compensation, any farm mutual insurance company that filed on a Form 2 for the 1992 calendar year, and domestic joint underwriting association shall complete and file the following blanks, forms, and diskettes for the 1993 calendar year and the first three quarters of the 1994 calendar year. Except as otherwise provided by this section, the forms, reports, and diskettes identified in paragraphs (1)(A)-(1)(G), (2)(A)-(2)(C), and (3)(A)-(3)(D) of this subsection shall be completed in accordance with the current NAIC Accounting Practices and Procedures Manual for Fire and Casualty Insurance Companies, and the current NAIC Annual Statement Instructions, Property and Casualty including Management's Discussion and Analysis to be filed by April 1, 1994, with the NAIC and the department. No loss reserve discounts, other than as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims for which specific segregated investments have been established, shall be allowed, provided, however, any company that claimed loss reserve discounts, other than as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, as of December 31, 1991, shall be allowed to claim such reserve discounts at the applicable percentage. The applicable percentage for claiming such loss reserve discounts shall be 100% for 1992, 75% for 1993, 50% for 1994, 25% for 1995, 0% for 1996, and subsequent years. In no event shall the dollar amount of discounts, other than as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, claimed as of December 31, 1991, and subject to the applicable percentage, be increased as of December 31, 1992 and thereafter. The commissioner shall have the authority to determine the appropriateness of, and may disapprove, discounts taken as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims. The commissioner shall also have the authority to determine the appropriateness of and may disapprove anticipated salvage and subrogation. Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiary on any filing with the department or the NAIC by Texas domestic insurers or on any filing with the depart-

ment by insurers domiciled outside the State of Texas. Because SB1, acts of the 71st Texas Legislature, effective January 1, 1991, may have had a dramatic effect on the pricing and loss ratios for workers' compensation business written in the State of Texas, some insurers should be exempt from establishing the entire excess of statutory reserves over statement reserves, the "Schedule P" reserve, as would otherwise be required by the NAIC Annual Statement Instructions, Property and Casualty. Specifically, Texas domestic insurers that wrote workers' compensation in Texas, but no state other than Texas, in years 1991, 1992, and 1993 and whose loss experience prior to 1991 would require the establishment of a "Schedule P" reserve using a loss ratio greater than 65% may calculate the reserve based on a loss ratio of 65%. The exemption herein contemplated shall only be for the 1993 annual and 1994 interim financial statements. Reserving in this manner is intended to be consistent with the regulatory desire to attain competitive rates for workers' compensation written in Texas. The diskettes identified in paragraphs (3)(C) and (3)(D) of this subsection shall be completed in accordance with the current NAIC Annual Statement Diskette Filing Specifications-Property/Casualty. In the event of a conflict between the Insurance Code, any currently existing department rule, form or instruction, or any specific requirement of this section and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code, the department's promulgated rule, form or instruction, or the specific requirement of this section shall take precedence and in all respects control. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code.

(1) Reports to be filed with the department and the NAIC

(A) Annual Statement (association edition, Form 2), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994,

(B) Long-Term Care Insurance Exhibit (association edition) (required of companies writing long-term care business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994, in addition to the Long-Term Care Reporting Form required by paragraph (1)(C) of this subsection,

(C) Long-Term Care Experience Reporting Form (association edition) (required of companies writing long-term care business), either the 12-inch x 19-inch

size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994;

(D) Financial Guaranty Insurance Exhibit (association edition) (required of companies writing financial guaranty business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994;

(E) Supplement "A" to Schedule T, Exhibit of Medical Malpractice Premiums Written (association edition) (required of companies writing medical malpractice business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994,

(F) Insurance Expense Exhibit (association edition), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed in duplicate on or before April 1, 1994, and

(G) Fire and Casualty Quarterly Statement (association edition), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before May 15, August 15, and November 15, 1994

(2) Reports to be filed only with the department:

(A) Schedule SIS, Stockholder Information Supplement (association edition) (required of domestic stock companies which have 100 or more stockholders), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994,

(B) Schedule DM (association edition) (shows statement value and fair market value of all bonds and preferred stock owned), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994,

(C) Accident and Health Policy Experience Exhibit (association edition) (required of companies writing accident and/or health business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before June 30, 1994,

(D) Annual Statement (Texas edition, green) (required of companies writing prepaid legal business), 2 inch /2 inch x 14-inch size, to be filed on or before March 1, 1994,

(E) Affidavit in Lieu of Annual Statement (Texas edition, green) (required of companies authorized to write prepaid legal business that did not write such business in 1993), to be filed on or before March 1, 1994;

(F) Texas Overhead Assessment Form (required of Texas domestic companies only), to be filed on or before March 1, 1994,

(G) Analysis of Surplus, for property and casualty insurers (required of all licensed companies, except Texas domestic county mutual companies), to be filed on or before March 1, 1994,

(H) Supplement for County Mutuals (required of Texas domestic county mutual companies, as an attachment to page 16 of the annual statement as required by paragraph (1)(A) of this subsection), to be filed on or before March 1, 1994;

(I) Supplement A for County Mutuals (required of Texas domestic county mutual companies, as an attachment to page 8 of the annual statement as required by paragraph (1)(A) of this subsection), to be filed before March 1, 1994,

(J) TX Disclosure Form (reports whether the annual or quarterly statement filing with the department differs from the annual or quarterly statement filing with the NAIC or the insurer's state of domicile and reports any individual treatment of assets, liabilities, operations, or capital and surplus accounts granted by an insurer's state of domicile or any other state insurance regulatory department) , to be filed on or before March 1, May 15, August 15, and November 15, 1994;

(K) Supplemental Investment Income Exhibit (shows percent of net investment income by type of investment, as an attachment to page 6 of the annual statement as required by paragraph (1)(A) of this subsection), to be filed on or before March 1, 1994, and

(L) Policy Count Exhibit (shows number of insurance policies written or certificates issued and in force on December 31, 1993), to be filed on or before March 1, 1994

(3) Reports and diskettes to be filed only with the NAIC

(A) Officers and Directors Information (association edition) (required

of companies upon their initial filing with the NAIC and to report any changes in previously filed information), to be filed on or before March 1, 1994,

(B) Credit Insurance Experience Exhibit (association edition) (required of companies writing credit accident and/or health business), 9-inch x 14-inch size, to be filed on or before May 1, 1994;

(C) Machine-readable diskettes containing computerized annual statement data, to be filed on or before March 1, 1994; and

(D) Machine-readable diskettes containing computerized quarterly statement data, to be filed on or before May 15, August 15, and November 15, 1994.

(e) Requirements for fraternal benefit societies Each fraternal benefit society shall complete and file the following blanks, forms, and diskettes for the 1993 calendar year and the first three quarters of the 1994 calendar year Except as otherwise provided by this section, the forms, reports, and diskettes identified in paragraphs (1)(A)-(1)(D); (2)(A)-(2)(C), and (3)(A) and (3)(B) of this subsection shall be completed in accordance with the current NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies, and the current NAIC Annual Statement Instructions, Fraternal including Management's Discussion and Analysis to be filed by April 1, 1994, with the NAIC and the department The diskettes identified in paragraph (3)(B) of this subsection shall be completed in accordance with the current NAIC Annual Statement Diskette Filing Specifications-Fraternal Since Texas fraternal benefit societies have historically not been required to establish a Mandatory Securities Valuation Reserve (MSVR), they are not required at the present time to establish an Asset Valuation Reserve (AVR) or Interest Maintenance Reserve (IMR) unless the company is licensed in a state that requires an AVR or IMR, in which case the reserve must be calculated in accordance with the instructions established by the NAIC Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the department or the NAIC by Texas domestic insurers or on any filing with the department by insurers domiciled outside the State of Texas In the event of a conflict between the Insurance Code, any currently existing department rule, form or instruction, or any specific requirement of this subsection and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code or the department's promulgated rule, form or instruction, or the specific requirement of this subsection shall take precedence and in

all respects control It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code.

(1) Reports to be filed with the department and the NAIC

(A) Annual Statement (association edition, Form 4), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994.

(B) Annual Statement of the Separate Accounts (association edition, Form 1-S) (required of companies maintaining separate accounts) either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994;

(C) Long-Term Care Insurance Exhibit (association edition) (required of companies writing long-term care business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994, in addition to the Long-Term Care Experience Reporting Form included in the annual statement required in paragraph (1)(A) of this subsection, and

(D) Interest Sensitive Life Insurance Products Report (association edition) (required of companies writing interest sensitive products), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before April 1, 1994

(2) Reports to be filed only with the department

(A) Schedule DM (association edition) (shows statement value and fair market value of all bonds and preferred stock owned), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994.

(B) Accident and Health Policy Experience Exhibit, (association edition) (required of companies writing accident and/or health business), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before June 30, 1994.

(C) Fraternal Quarterly Statement (association edition), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before May 15, August 15, and November 15, 1994.

(D) Texas Overhead Assessment Form (required of Texas domestic companies only), to be filed on or before March 1, 1994.

(E) Analysis of Surplus, for fraternal benefit societies, to be filed on or before March 1, 1994, and

(F) Fraternal Benefit Societies-Supplement to Valuation Report, to be filed on or before June 30, 1994.

(G) TX Disclosure Form (reports whether the annual or quarterly statement filing with the department differs from the annual or quarterly statement filing with the NAIC or the insurer's state of domicile and reports any individual treatment of assets, liabilities, operations, or capital and surplus accounts granted by an insurer's state of domicile or any other state insurance regulatory department), to be filed on or before March 1, May 15, August 15, and November 15, 1994.

(H) Supplemental Investment Income Exhibit (shows percent of net investment income by type of investment, as an attachment to page 9 of the annual statement as required by paragraph (1) (A) of this subsection), to be filed on or before March 1, 1994, and

(I) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force on December 31, 1993), to be filed on or before March 1, 1994

(3) Reports and diskettes to be filed only with the NAIC

(A) Officers and Directors Information (association edition) (required of companies upon their initial filing with the NAIC and to report any changes in previously filed information), to be filed on or before March 1, 1994, and

(B) Machine-readable diskettes containing computerized annual statement data, to be filed on or before March 1, 1994

(f) Requirements for title insurers Each title insurance company shall complete and file the following blanks and forms for the 1993 calendar year and the first three quarters of the 1994 calendar year Except as otherwise provided by this section, the reports and forms identified in paragraphs (1), (2)(A) and (B), and (3) of this subsection shall be completed in accordance with the Title Insurance Account-

ing Principles Supplement section of the current NAIC Accounting Practices and Procedures Manual for Fire and Casualty Insurance Companies, and the current NAIC Annual Statement Instructions, Title, including Management's Discussion and Analysis to be filed by April 1, 1994 with the NAIC and the department. Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiary on any filing with the department and the NAIC by Texas domestic insurers or on any filing with the department by insurers domiciled outside the State of Texas In the event of a conflict between the Insurance Code, any currently existing department rule, form or instruction, or any specific requirement of this subsection and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code, the department's promulgated rule, form or instruction, or the specific requirement of this subsection shall take precedence and in all respects control It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code

(1) Reports to be filed with the department and the NAIC. Annual Statement (association edition, Form 9), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before March 1, 1994.

(2) Reports to be filed only with the department

(A) Schedule DM (association edition) (shows statement value and fair market value of all bonds and preferred stock owned), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before each March 1, 1994;

(B) Title Quarterly Statement (association edition), either the 12-inch x 19-inch size, 11-inch x 17-inch size, or 9-inch x 14-inch size, to be filed on or before May 15, August 15, and November 15, 1994.

(C) Texas Overhead Assessment Form (required of Texas domestic companies only), to be filed on or before March 1, 1994, and

(D) Analysis of Surplus, for title insurers, to be filed on or before March 1, 1994

(E) TX Disclosure Form (reports whether the annual or quarterly statement filing with the department differs from the annual or quarterly statement filing with the NAIC or the insurer's state of domicile

and reports any individual treatment of assets, liabilities, operations, or capital and surplus accounts granted by an insurer's state of domicile or any other state insurance regulatory department), to be filed on or before March 1, May 15, August 15, and November 15, 1994.

(F) Supplemental Investment Income Exhibit (shows percent of net investment income by type of investment, as an attachment to page 5 of the annual statement as required in paragraph (1) (A) of this subsection), to be filed on or before March 1, 1994, and

(G) Policy Count Exhibit and Special Instructions to Title Insurers (shows number of insurance policies written during the preceding five (5) calendars years), to be filed on or before March 1, 1994

(3) Reports to be filed only with the NAIC Officers and Directors Information (association edition) (required of companies upon their initial filing with the NAIC and to report any changes in previously filed information), to be filed on or before March 1, 1994.

(g) Requirements for health maintenance organizations Each health maintenance organization shall complete and file the following blanks and forms for the 1993 calendar year and the first three quarters of the 1994 calendar year with the department only Except as otherwise provided by this section, the forms or reports identified in paragraphs (1) and (2) of this subsection shall be completed in accordance with the current NAIC Accounting Practices and Procedures Manual for Health Maintenance Organizations, and the current NAIC Annual Statements Instructions, Health Maintenance Organizations, including Management's Discussion and Analysis to be filed by April 1, 1994 with the NAIC and the department Goodwill shall not be allowed as an admitted asset of an insurer or an insurer's insurance subsidiaries on any filing with the department and the NAIC by Texas domestic insurers and any filing with the department by insurers domiciled outside the State of Texas In the event of a conflict between the Insurance Code, any currently existing department rule, form or instruction, or any specific requirement of this subsection and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code, the department's promulgated rule, form or instruction, or the specific requirement of this subsection shall take precedence and in all respects control. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code

(1) Annual Statement (association edition, HMO), 8 1/2-inch x 14-inch size, to be filed on or before March 1, 1994;

(2) HMO Quarterly Statement (association edition), 8 1/2-inch x 14-inch size, to be filed on or before May 15, August 15 and November 15, 1994.

(3) HMO Supplement, 8 1/2-inch x 14-inch size, to be filed on or before March 1, 1994;

(4) Texas Overhead Assessment Form (required of Texas domestic companies only), to be filed on or before March 1, 1994, and

(5) Exhibit Z, 8 1/2-inch x 14-inch size, to be filed on or before May 15, August 15, and November 15, 1994.

(6) TX Disclosure Form (reports whether the annual or quarterly statement filing with the department differs from the annual or quarterly statement filing with the insurer's state of domicile and reports any individual treatment of assets, liabilities, operations, or capital and surplus accounts granted by an insurer's state of domicile or any other state insurance regulatory department), to be filed on or before March 1, May 15, August 15, and November 15, 1994.

(7) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force as of December 31, 1993), to be filed on or before March 1, 1994.

(h) Requirements for farm mutual insurers not subject to the provisions of subsection (d) of this section Each farm mutual insurance company shall file the following completed blanks and forms for the 1993 calendar year with the department only.

(1) Annual Statement (Texas edition, tan), 8 1/2-inch x 14-inch size, to be filed on or before March 1, 1994;

(2) Texas Overhead Assessment Form, to be filed on or before March 1, 1994, and

(3) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force December 31, 1993), to be filed on or before March 1, 1994

(i) Requirements for mutual assessment companies, mutual aid and mutual burial associations, and exempt companies Each statewide mutual assessment company, local mutual aid association, local mutual burial association, and exempt company shall file the following completed blanks and forms for the 1993 calendar year with the department only

(1) Annual Statement (Texas edition, orange), 8 1/2-inch x 14-inch size,

to be filed on or before April 1, 1994, provided, however, exempt companies are not required to complete lines 22, 23, 24, 25, and 26 on page 3, the special instructions at the bottom of page 3, and pages 4, 5, 6, 7, and 19 All other pages are required,

(2) Texas Overhead Assessment Form, to be filed on or before April 1, 1994,

(3) Release of Contribution Form, to be filed on or before April 1, 1994;

(4) 3-1/2% Chamberlain Reserve Table (Reserve Valuation), to be filed on or before April 1, 1994,

(5) Reserve Summary (1956 Chamberlain Table 3-1/2%), to be filed on or before April 1, 1994,

(6) Inventory of Insurance in Force by Age of Issue or Reserving Year, to be filed on or before April 1, 1994;

(7) Summary of Inventory of Insurance In Force by Age and Calculation of Net Premiums, to be filed on or before April 1, 1994; and

(8) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force December 31, 1993), to be filed on or before April 1, 1994

(j) Requirements for nonprofit legal service corporations Each nonprofit legal service corporation shall file the following completed blanks and forms for the 1993 calendar year with the department only:

(1) Annual Statement (Texas edition, green), 8 1/2-inch x 14-inch size, to be filed on or before March 1, 1994, and

(2) Texas Overhead Assessment Form, to be filed on or before March 1, 1994; and

(3) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force December 31, 1993), to be filed on or before March 1, 1994

(k) Requirements for Mexican casualty companies Each Mexican casualty company shall complete and file the following blanks and forms for the 1993 calendar year with the department only. The form identified in paragraph (1) of this subsection shall be completed in accordance with the current NAIC Accounting Practices and Procedures Manual for Fire and Casualty Insurance Companies, and the current NAIC Annual Statement Instructions, Property and Casualty, except as provided by this section. An actuarial opinion is not required. All submissions shall be printed or typed in English and all monetary values shall be clearly designated in U. S. dollars. In the event of a conflict between the Insur-

ance Code, any currently existing department rule, form or instruction, or any specific requirement of this subsection and the NAIC manuals listed in this subsection, then and in that event, the Insurance Code, the department's promulgated rule, form or instruction, or the specific requirement of this subsection shall take precedence and in all respects control. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code

(1) Annual Statement (association edition, Form 2), 12-inch x 19-inch size, provided, however, only pages 1-4, 14, 18, and 97 are required to be completed, to be filed on or before March 1, 1994,

(2) A copy of the balance sheet and the statement of profit and loss from the Mexican financial statement (printed or typed in English), to be filed on or before March 1, 1994,

(3) A copy of the official documents issued by the COMISION NACIONAL DE SEGUROS Y FIANZAS approving the current year's annual statement, to be filed on or before June 30, 1994,

(4) A copy of the current license to operate in the Republic of Mexico, to be filed on or before March 1, 1994, and

(5) Policy Count Exhibit (shows number of insurance policies written and certificates issued and in force December 31, 1993), to be filed on or before March 1, 1994

(l) Other financial reports Nothing in this section prohibits the department from requiring any insurer or other regulated entity from filing other financial reports with the department

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 February 14, 1994

TRD-9436152 Linda K von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date March 7, 1994

Proposal publication date December 3, 1993

For further information, please call (512) 463-6327



Part III. Texas Certified Self-Insurer Guaranty Association

Chapter 181. By-laws

• 28 TAC §181.1

The Texas Certified Self-Insurer Guaranty Association adopts new §181.1, with changes to the proposed text as published in the September 28, 1993, issue of the *Texas Register* (18 TexReg 6622)

This rule is required by the Texas Labor Code, §407 123 which authorizes the board of directors to adopt rules necessary to operate the association

This rule describes the membership of the Association, the duties of the members, and the relationship of the members of the Association to the Board of Directors of the Association The Texas Workers' Compensation Act, Texas Labor Code, §407 122 establishes that four of the six Board of Director positions are not chosen by the Association membership but are appointed pursuant to the statute In addition, this rule will provide direction to the members of the Association regarding collection of fees and assessments which the statute mandates as well as any maintenance fees which the Association members pay The Association is composed of private entities certified as self-insurers The Association has chosen to follow the Administrative Procedure Act procedures in proposing and adopting rules governing the internal operations of the Association and describing the effects of the Association activities on the public

Changes to the text of this rule are found in (a) where the parenthetical word "(members)" was inserted to simplify references to certified self-insurers in the rest of the rule, in (b)(1) the last sentence was changed so it starts with the word "each" to avoid the potential belief that only one of the two association members serving on the board of directors has to be an employee of a member of the association, in (b)(2) the word "concurring" was inserted to make it clear that four directors are required to concur before a motion can be adopted or rejected, in (b)(2) the last two sentences were deleted and new text added to make it clear that a motion to approve an applicant for self-insurance which does not receive four concurring votes will not be treated as approval of the application by the Board, in (b)(3) a new sentence was added to establish who will preside at a meeting if the chair is not available, the new sentence provides that the vice-chair will preside in the absence of the chair, in (b) a new paragraph (7) was added to require a director not to vote on any matter which creates an ethical conflict, in (b) a new paragraph (8) was added to establish that directors are reimbursed for expenses related to serving as a director but not otherwise compensated, in (c) the word "director" was substituted for "board members", in (c)(3) the word "director" was substituted for "member of the board," a phrase was added to describe the action to

be taken if the presidency becomes vacant, and to define when a vacancy occurs; in (d) the phrase "against each member" was added to make it clear that the assessment will be individual, a phrase was added to make it clear that payments will include payments made pursuant to the Texas Workers' Compensation Act, and a sentence was added making it clear that the fund will retain any earned income; in (d)(1) text was deleted that duplicated the definition found in (d); in (d)(2) the word "initial" was deleted because the process applies to more than the initial funds, the word "previous" was deleted because it was less specific than necessary, and a phrase was added to clarify that the five year period extends backwards for five years from the date of assessment, in (d)(3) a phrase was added to make it clear that the fund has to be reimbursed before making the determination that there are excess funds and returning those excess funds to the members, in (d)(4) changes were made to make it clear that the association may sue to collect assessments, in (e) changes were made to use commonly applied terms to describe how interest will be calculated, to describe the association's authority to sue for unpaid assessments and to empower the association to recommend revocation of the certificate of self-insurance for continued failure to pay assessments, in (f)(2) text was added to make it clear that the administrative fee will be assessed against the members, to delete most of the text of the subsection, to add text specifying when the fee can be assessed and to detail the uses the fee can be put to, including paying the salaries of staff, in (h), (1), and (2) text was added to broaden the indemnification and insurance provisions to cover anyone performing services for the association and to make it clear that the indemnification and insurance is in addition to any other right of the person, in (i) text was added to make it clear that rules are adopted contingent upon ratification of the members and what happens if the members fail to ratify, in (i)(1) text was deleted which limited the rule ratification to the first meeting after adoption, in (i)(2) text was added to make it clear that any form of delivery which results in a return receipt will be acceptable, to make it clear that the deemer clause only applies in the absence of a return receipt, and increasing the time for the deemer clause from three to five days, deleting (i)(3) because it is duplicative of text in the body of (i), in (k) text was added to make it clear that the association records are open to members and that the books and records of the association will be subject to an annual audit by an independent auditor, and in (l) text was moved around to make the application of the Open Meetings Act a flexible provision subject to change based on the outcome of a request for an Attorney General opinion

Comments were received from Thiokol Corporation, Weyerhaeuser, Dayton Hudson Corporation, Jacobs Engineering Group Inc., Watkins Motor Lines, Inc., and interested individuals supporting changes to §181.1 Summaries of those comments and the board's responses follow

Quorum should be a majority of the association

The board agrees. The bylaws currently identify a majority of those present in person or by proxy as a quorum.

The rule should require the member to be present to vote at the annual meeting and not allow voting by proxy.

The board disagrees. While members are encouraged to expend funds and time to attend the annual meeting, they will be able to keep abreast of current events without attending an annual meeting and should not be prohibited from exercising their right to help control their association just because they do not attend the meeting.

Rules should be ratified by a majority of a quorum.

The board disagrees. A quorum only occurs at meetings of the association. To require ratification by a quorum would only allow ratification at a meeting of the association and would eliminate the option of allowing a vote by mail process which the board believes will result in a lower overall cost and more participation by the members. The reference in subsection (i)(1) to ratification "at its first meeting after adoption by the board" will be changed to delete the reference to "at its first meeting."

There should be a limit to the number of terms or of consecutive terms that a member of the association can serve on the board of directors.

The board disagrees. Appointment to a position on the board of directors is subject to election. The democratic process provides an adequate means for the membership to control the board appointments. If an elected board member fails to satisfactorily represent the position of the membership, the membership can elect a different member.

There should be a maximum on the amount that can be levied on any one company to establish or replenish the trust fund.

The board disagrees. The Act specifies how assessments are to be levied against association members. The Act does not establish a maximum on the amount that can be assessed against a member. Instead, the amount assessed against a member is made in proportion to the ratio of the member's income benefits paid to the total amount of income benefits paid by all unimpaired members and the amount to be raised through the assessment. The board cannot establish an absolute maximum without contravening the Act. Since the amount assessed against each member is based on that member's income benefit payments, it will reflect the effectiveness of the company's safety and return to work programs, both of which the Act encourages.

The rule should require the association to purchase liability insurance for directors and employees.

The board disagrees. The rule requires the association to indemnify directors or employees for expenses and payment of losses which result from holding the position. The insurance is optional and covers those circumstances for which the association would not directly indemnify.

The books and records of the association should be audited by an independent auditor.

The board agrees. The Act sets up a board of directors which includes four directors who are involved in the regulation of insurance and workers' compensation and are not members of the association. All business of the association is conducted by this board of directors. The presence of non-member directors helps to assure that there is independent review of all actions and expenditures of the association. This independent review reduces the need for the scrutiny and expense of a full-time auditor. However, requiring an annual independent audit will assure that the financial records of the association meet all appropriate record keeping requirements. A new sentence will be added to subsection (k) to specify that the financial records of the association shall be audited annually by an independent auditor.

Subsection (b)(1) should say "any director" instead of "a director" since the phrase "a director" could be taken to mean that only one of the directors representing association members has to be a current employee of a member.

The board agrees that this could be confusing and will change subsection (b) (1) to read "Each director representing members of the association must be a current employee of a member of the association."

Subsection (b)(2) does not make it clear that failing to take action on a motion is not a "response" to the commission.

The board agrees. Commission §114.7 sets out a presumption of approval if the board does not respond to the director of the Division of Self-Insurance Regulation request for input on an application for self-insurance. When the board reaches an impasse on the motion to approve an application, the board should notify the director of the Division of Self-Insurance Regulation that the board has reached a deadlock and that should be treated as a disapproval of the application. The last two sentences of subsection (b)(2) will be deleted and the following added: A motion to recommend an application for certification that fails to receive the concurring vote of four board members constitutes disapproval of the application. Within 40 days of receiving an application for self-insurance, the Board shall advise the Director of the Division of Self-Insurance Regulation of the status of the application. This constitutes a response for purposes of Commission §114.7 of this title (relating to Certification Process) and shall not be deemed approval of the application by the Board.

The rule should be consistent in referring to the members elected by the Association as either "Directors" or "Board members."

The board agrees. For consistency, the rule will refer to "director" rather than "members of the board." Specifically, subsection (c); (1), and (3) will be changed to reflect "director" wherever "members of the board" is used.

The rule should be changed to address what will happen if the vacancy, described in subsection (c)(3), is the president of the association.

The board agrees. Subsection (c)(3) will be changed from ". . .the president shall appoint a committee . . ." to read ". . .the president, or in the event of a vacancy in the office of the president, the vice-president, shall appoint."

In subsection (d)(2), the term "previous" should be clarified so the public will know what period is actually covered.

The board agrees and notes that the word "initial," as used in §181.1(d) (2) should be deleted. By deleting the word "previous" and inserting the phrase "immediately preceding the date of assessment" after "five years," the meaning becomes clear.

The rule should make it clear that the trust fund is repaid before any money is returned to the members who paid an assessment for an impaired employer.

The board agrees. Subsection (d)(3) will be changed to read "When all liabilities of an impaired self-insurer have been paid, and the trust fund has been reimbursed, any excess funds shall be . . ."

In subsection (d)(4) the term "collect" needs to be clear. Does this imply a right to sue or are there other methods of collection?

The board agrees. An additional sentence shall be added which states "The board may use any appropriate means for collection of the assessment up to and including filing suit against the impaired member."

In subsection (i)(2) there are provisions for deeming whether notice was given. Since certified mail has a return receipt, the date of notice should be the date received.

The board agrees in part. The comment does point out a limitation with the current text, since the current text does not provide for the fairly common use of private delivery services. A return receipt can be requested with certified mail and with private delivery services, and subsection (i)(2) will be changed by deleting "certified mail" and adding "the United States Postal Service or private delivery service, return receipt requested" after "delivered by" in the first sentence. The association still needs to establish a presumption date in the event that the delivery is refused. To make it clear that the first proof will be a return receipt and the second level will be the presumption, the text: "In the absence of a return receipt" will be inserted at the beginning of the third sentence.

Subsection (i)(2) should be changed to allow five days and also to specify first class mail.

The board agrees with the additional time but disagrees with use of first class mail. The word "three" will be replaced with "five." In response to other public comment, the method of mail delivery has been adjusted to allow delivery by private delivery services so the reference to first class mail would be inconsistent.

Subsection (a) should include a parenthetical reference to "members" to make it clear that using the word members in the text of the rule refers to certified self-insurers.

The board agrees. Adding the word "members" after the word "self-insurer" and before the phrase "that hold a certificate" makes it

clear that members will only be certified self insurers

Subsection (b)(5) should allow the board to pay salaries based on market conditions and not require the salaries to be "commensurate with the salaries paid by state agencies"

The board disagrees. Setting salaries based on comparable state salaries provides an effective means of assuring that the board does not create unreasonably high or low salary levels

Subsection (c)(3) insert "self-insurer" between the words "three" and "members"

The board disagrees. Changes made to subsection (a) in response to public comments has already made it very clear that only certified self-insurers can be members

Subsection (d) should make it clear that assessments will be made "against each member," that the payments will be based on payments "by each member," and should include a sentence making it clear that the trust fund will retain all income earned by the trust fund

The board agrees in part. The phrase "against each member" will be added to the first line after the word "assessments." A new sentence will be added to the end of the paragraph stating "All earned income of the trust fund is retained by the trust fund." However, the definition of "payments" has to incorporate the concept of payments by the entire group and payments by a carrier on behalf of the member, and it would not be clear if we added the suggested phrase "by each member." In reviewing this comment it was noted that "payment" was defined in the body of section (d) and again in subsection (d)(1) so the definition in subsection (d)(1) was deleted

There should be a provision that allows a minimum assessment to deal with the employer who had really good years and paid no income benefits

The board disagrees. The Act establishes the method for setting the assessment and the Act does not provide for a minimum. Whether addressing the assessment to initially fund the trust fund or the assessment to pay for impaired certified self-insurers, the incentive should always be to improve the safety of the work-place. Avoiding assessments by maintaining exceptional safety programs appears to be a very good incentive

Subsection (h) should include association officers as well as others appointed to provide various services. It should also broaden the indemnification to cover any loss resulting from serving the association. And subsection (h)(2) should be changed to make it clear in plain English that the indemnification provided by this section should be in addition to any other rights

The board agrees. Throughout this subsection, where reference is made to the director, the following phrase will be inserted "director, officer, appointee, committee member, person serving in any appointed or elected capacity, or employee." Where this subsection refers to "and the payment of damages" it will be changed to "or other loss." Finally,

the phrase "cumulative of" in (h)(2) will be changed to "in addition to"

Subsection (e) should be changed to provide for a monthly interest rate and to establish that the interest will be paid on the unpaid balance

The board agrees. The last sentence of subsection (e) will be deleted beginning with "18%" and the deleted text will be replaced with the phrase "1.5% per month on any unpaid balance"

Subsection (f)(2) should be changed to make it clear that the assessment would be against members and to limit the opportunity to assess only to that point at which the fund income is not sufficient to pay for salaries and the administration of the fund and association

The board agrees. The words "against members" will be inserted after "Fee" in the first line. Everything that follows will be deleted and replaced with the following statement "only when trust fund income is insufficient to pay for the costs of administering the trust fund, operations of the association, administering the claims of impaired self-insurers, and salaries of association staff"

Subsection (g) should make the association a co-beneficiary of each self-insurer's security deposit and require audits of the workers' compensation files/records of the self-insurer with recommendations to the commission up to and including recommendations for decertification

The board disagrees. The Act, §407.062 specifically requires the security deposit to name the director of the commission's self-insurance regulation division as payee and does not appear to allow a co-payee. The Act also provides, in §407.081 and §407.082 that the certified self-insurer is required to report the information regarding their workers' compensation files/records to the commission. The proposed change to the rule would duplicate the regulatory role established by the Act for the division of self-insurance regulation, duplication is not cost-effective nor appropriate

Subsection (i) should refer to ratification by the members of the association

The board disagrees. Subsection (i)(1) makes it clear that the ratification requires a majority vote of the members, although subsection (i)(1) will be changed to remove the phrase "at its first meeting" so that ratification could occur by mail in vote or at a meeting other than the first meeting after the board adopts the rules

Subsection (k) should be changed to provide minutes only of business meetings and it should specify that there will be a record of the member's votes on ballot issues. It should also make it clear that any member at any time has the right to audit or review the books and records of the association

The board disagrees with all but the last recommendation. While the association agrees that the records of the association should be open to review of any member and will add a sentence to subsection (k) stating "All records of the association will be open to

review by any member of the association at a time and place convenient to the member and the association staff," the other recommendations place too many limitations on the record keeping requirements of the board. As written, this section sets pretty broad record-keeping requirements and the board believes the requirement should be broader rather than more specific and limited.

Subsection (c)(2) should provide that each member will have voting power proportional to the benefits they pay

The board disagrees. Not only would the system necessary to determine the voting power, prior to any vote, be administratively cumbersome and a burden to the association, it would also have the effect of allowing the employer with less effective safety and return to work programs to have more voting power than the employer with effective safety and return to work programs

In subsection (d) it should require assessment to be based on incurred rather than paid benefits

The board disagrees. The Act, §407.126 requires that the assessment be "based on the total amount of income benefits payments" and the rule has to comply with the statutory authority

The term "income benefits," as used in subsection (d), should be defined

The board disagrees. The Act clearly defines income benefits in §401.011(25). Furthermore, this rule will be changed to include a new subsection (i) (4) stating "All rules of the association incorporate the Texas Workers' Compensation Act as written, and as it may from time to time be amended. To the extent that this rule conflicts with the Act, the Act shall govern."

The quorum requirement in subsection (b)(2) should be modified to require that at least one of the four board members has to be a member of the association

The board disagrees. There are no proxy votes for board members, and the board must take action on applications for a certificate of self-insurance within a specific time or the commission, pursuant to commission §114.7, will presume the board approves the application. Furthermore, there may be times when neither association representative to the board will be able to attend the meetings of the board

The rule should make it clear that the association has input on the issue of who becomes a certified self-insurer

The board disagrees. The Act and commission rules establish that the association has input into the process for approving applications to self-insure through the vote by the board of directors of the association and this rule does not need to restate that mechanism

This rule needs to establish a process so that the employers who obtain the first certificates to self-insure do not contribute more to the fund than the employers certified later

The board disagrees. The fund is established by the Act, §407.126, which requires that the

fund reach a minimum of one million dollars within five years. The Act also requires that the fund be generated from a fee assessed against each member. Since the board cannot predict, with any reasonable accuracy, the number of employers that will seek and obtain certificates of self-insurance, the board, to comply with the Act, has to calculate the fee based on the number of members in the association at the time of assessment. The association cannot wait before making the first assessment because the fund is an integral part of the program which was included in the Act to assure that employees injured on the job, whose employer becomes impaired, would have a certain source for payment of benefits.

The rule should make it clear either that the meetings of the association are subject to the Texas Open Meetings Act or that they are not.

The board disagrees. At this time, the board has chosen to comply with the Open Meetings Act. However, it is not clear if the Open Meetings Act applies to the board and/or association. Currently, there is a similar issue pending before the Texas Attorney General regarding other guaranty associations in Texas and the rule needs to be flexible enough to incorporate that ruling when it is issued. For this reason, the board has revised subsection (l) to make the application of the Open Meetings Act subject to determination that it is applicable.

The new rule is adopted as provided for in the Texas Labor Code, §407.123, which authorizes the Board of Directors to adopt rules necessary to operate the Association.

The only code affected by this rule is the Texas Labor Code, §§407.121-407.133.

§1811 By-Laws of the Texas Certified Self-Insurer Guaranty Association

(a) The membership of the Texas Certified Self-Insurer Guaranty Association (the Association) shall consist of all certified self-insurers (members) that hold a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission (the Commission). Only certified self-insurers may be members of the Association.

(1) Membership shall begin on the date the certificate of authority to self-insure takes effect and each member shall designate a representative to receive notices from the Association.

(2) The members of the Association shall meet annually at a place and time designated by the Board of Directors in November of each year. At the Annual Meeting, the members shall elect Directors and Officers and conduct any other necessary and proper business.

(3) The Association shall have a President and Vice-President and may have other Officers as necessary to conduct the business of the Association.

(4) Special meetings of the Association may be called by the President of the Association on 30 days' notice to the members of the Association.

(5) A majority of the members present either in person or by proxy at any meeting of the Association shall constitute a quorum.

(b) The business of the Association shall be managed by the Board of Directors (the Board).

(1) The Board shall consist of two members of the Association, one member of the Commission representing wage earners, one member of the Commission representing employers, the Executive Director of the Commission, and the Public Insurance Counsel. The Director of the Commission's Division of Self-Insurance Regulation shall serve as a non-voting member. The members of the Board shall hereinafter be referred to as Directors. Each Director representing members of the Association must be a current employee of a member of the Association.

(2) A quorum of the Board is four voting members. No business may be conducted by the Board unless a quorum of its members is present at the meeting. An action by the Board requires the concurring vote of four members. A motion to recommend an application for certification that fails to receive the concurring vote of four board members constitutes disapproval of the application. Within 40 days of receiving an application for self insurance, the Board shall advise the Director of the Division of Self-Insurance Regulation of the status of the application. This constitutes a response for purposes of Commission §1147 (relating to Certification Process) and shall not be deemed approval of the application by the Board.

(3) The Board shall elect a chair and vice-chair annually. The chair and vice-chair must be voting members of the Board of Directors. The Board may also elect other officers. The Chair shall preside at all meetings of the Board. In the absence of the chair, the vice-chair shall preside at the meeting.

(4) The Board shall meet at least once during each calendar quarter. Additional meetings may be held as necessary to conduct the business of the Association. Meetings shall be held at the call of the Chair or upon written request to the Chair by any four members of the Board.

(5) The Board shall have the authority to hire an Executive Director to conduct the day-to-day operations of the Association. The Board may also authorize the hiring of additional staff as necessary. The Executive Director serves at the pleasure of the Board. The employment or re-

moval of an Executive Director requires the affirmative vote of at least four members of the Board. The salaries of the Executive Director and Staff shall be set by the Board and be commensurate with the salaries paid by state agencies.

(6) The Board shall have the authority to contract with others for any services necessary for the operation of the Association, including administration of the Trust Fund and administration of claims of impaired self-insurers.

(7) A director shall abstain from voting on any matter in which he or she has, directly or indirectly, a personal, private or business interest. As used in this rule, personal, private or business interest includes being an officer, director, or affiliate of a person or entity subject to an action by the board, or directly or indirectly having a material financial interest in a matter before the board.

(8) The directors shall serve without compensation. But, the directors shall be reimbursed for any reasonable expenses incurred in carrying out the duties of the board.

(c) At the Annual Meeting the members of the Association shall elect directors to represent the Association and shall elect officers of the Association. The terms for the elected directors will begin on January 1 of each year with the first terms beginning on January 1, 1994. At the first election of directors, one director shall be elected from the members of the Association to serve for a term of one year and one director shall be elected to serve for a term of two years. Hereafter, the Association shall annually elect one director for a term of two years. Directors may serve consecutive terms on the Board.

(1) Prior to the Annual Meeting, the President shall appoint from the membership of the Association a Nominations Committee of at least three members, which shall be responsible for nominating Officers and Directors to be elected by the Association. Nominations may also be made by members of the Association at the Annual Meeting. Any nominee must be a current employee of a member of the Association. The self-insurer directors shall appoint the first nominating committee.

(2) Each member of the Association may cast one vote for each Director or officer to be elected by the Association.

(3) If a vacancy occurs in any office elected by the Association, including a director representing the members of the Association (by death, resignation, or otherwise), the President, or in the event of a vacancy in the office of the president, the vice president, shall appoint a committee of at least three members which shall select a

successor to fill the vacancy for the unexpired term. A vacancy occurs when a term expires, a director resigns, dies, is adjudicated mentally incompetent, or is convicted of a felony. If a director is convicted of a felony, and cannot be removed by statute, the director is prohibited from voting on any matter before the board

(d) The Board shall levy assessments against each member necessary to create and maintain the Texas Certified Self-Insurer Guaranty Trust Fund (the Trust Fund). Assessments shall be levied in amounts that will provide at least \$1 million, but not more than \$2 million, by January 1, 1998. For purposes of assessments, "payments" means all income benefits paid in the preceding reported calendar year pursuant to obligations as a certified self-insurer, or in the case of a first year member of the Association, made by the member's carrier on behalf of the member, pursuant to the Texas Workers' Compensation Act. All earned income of the trust fund is retained by the trust fund

(1) The amount assessed against each individual member shall be based on the ratio of the payments made by the member to the total payments made by or on behalf of all certified self-insurers

(2) If the security deposit of an impaired certified self-insurer (or former self-insurer) is not adequate to cover its self-insured liabilities for workers' compensation benefits, the funds required to pay the additional benefits shall be paid from the Trust Fund and reimbursed to the Trust Fund through assessment. The Board shall assess those currently unimpaired self-insurers and former self-insurers that were members of the Association for any time during the five years immediately preceding the date of assessment (the "members subject to assessment"), in accordance with this section. The Board shall provide for the calculation of the estimated total amount necessary to pay all benefits and to reimburse the Trust Fund (the "estimated total assessment"). The estimated total assessment shall be assessed by the Board. The amount assessed against each of the members subject to assessment shall be based on the ratio of payments by a member to total payments.

(3) When all liabilities of an impaired certified self-insurer (or former self-insurer) have been paid, and the trust fund has been reimbursed, excess funds shall be returned to the members or former members of the Association on the same prorata basis on which they were assessed

(4) The Board of Directors shall have the authority to collect from the impaired certified self-insurer (or former self-insurer) any amount that has been assessed against other self-insurers to pay the liabilities

of the impaired certified self-insurer (or former self-insurer). The board may use any appropriate means for collection of the assessment up to and including filing suit against the impaired member or former member. Continued failure to pay the assessment may result in a recommendation to the commission that the member's certificate of self-insurance be revoked.

(e) The Association shall mail notice of any assessment to the designated representative of each member or former member of the Association. Each member or former member shall pay all assessments not later than 30 days after it is notified of the assessment. Late payments shall accrue interest at the rate of 1 5% per month on any unpaid balance. The board may use any appropriate means for collection of the assessment up to and including filing suit against the member or former member and continued failure to pay the assessment may result in a recommendation to the commission that the member's certificate of self-insurance be revoked

(f) The Board of Directors shall approve a budget for the operating expenses for the succeeding year not later than December 31 of each year

(1) Income earned from the investment of the Trust Fund shall be used for expenses of administration of the Trust Fund in accordance with §113.111(a), Texas Property Code.

(2) The Board may assess an Administrative Fee against members only when trust fund income is insufficient to pay the costs of administering the trust fund, operations of the association, and administering the claims of impaired members or former members

(g) If the Commission declares that a certified self-insurer (or former self-insurer) is impaired and determines that the payment of benefits and claims administration shall be made through the association, the Board shall provide for the administration and payment of claims on behalf of the impaired certified self-insurer (or former self-insurer) in accordance with the Texas Workers' Compensation Act. The Board shall provide for the creation of a separate account for the administration of each impaired certified self-insurer (or former self-insurer) and for the payment from the Trust Fund to the separate account if the Director of Self-Insurance advises the Board that additional funds are needed to supplement the security deposit

(h) The Association shall indemnify, or pay in advance, any present or former Director, officer, appointee, committee member, person serving in any appointed or elected capacity, or employee for expenses, or other loss in connection with any proceeding in which such a person is

made a party because of the position they hold for the association to the full extent of the law

(1) The Association may purchase insurance for any present or former Director, officer, appointee, committee member, person serving in any appointed or elected capacity, or employee of the Association against any liability arising out of the position they hold for the association, whether or not the Association would have the power to indemnify him or her against liability

(2) The protection and indemnification provided in this Article shall be in addition to any other right to which a Director, officer, appointee, committee member, person serving in any appointed or elected capacity, or employee may be entitled

(i) The Board shall adopt and amend rules, including these by-laws, in accordance with the Administrative Procedure Act, Government Code, Chapter 2001. After proposing, publishing, and receiving comments on rules, the Board shall meet and vote on a final version. Adoption of rules must be made contingent on approval by the Commission and ratification by the association. The rules so adopted shall be sent to the Commission. Upon approval by the Commission, and ratification by the Association, the rules shall be filed with the Texas Register and shall become effective in accord with the provisions of the Administrative Procedures Act. Failure to obtain ratification by the members will result in the board reconsidering the rule and voting on a revised version

(1) Rules shall be ratified by a majority vote of the members of the Association after adoption by the Board. The President may choose to conduct the ratification vote by mail-in ballot. Notice of rule-making actions by the Board must be given in the manner provided by this rule

(2) Any notice required or allowed by this rule shall be in writing and delivered by the United States Postal Service or private delivery service, return receipt requested. In the case of notice to a member of the Association, notice shall be made to the designated representative of the member. In the absence of a return receipt, notice shall be deemed to be given five days after deposit with the United States Postal Service or private delivery service, postage prepaid. Failure of a member to actually receive a notice shall not invalidate any action that may have been taken by the Association or the Board

(j) The fiscal year of the Association shall be January 1 through December 31 of each year

(k) The Board shall keep books and records of accounts, minutes of meet-

ings of Directors, and a record of members. All records of the association will be open to review by any member at a time and place convenient to the member and association staff. The financial records of the association shall be audited annually by an independent auditor.

(l) All meetings of the Association and the Board of Directors shall be conducted in accordance with the most current edition of Roberts Rules of Order, except

when in conflict with the Texas Workers' Compensation Act, these Rules, and any other applicable statute including the Texas Open Meetings 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 February 11, 1994

TRD-9436092

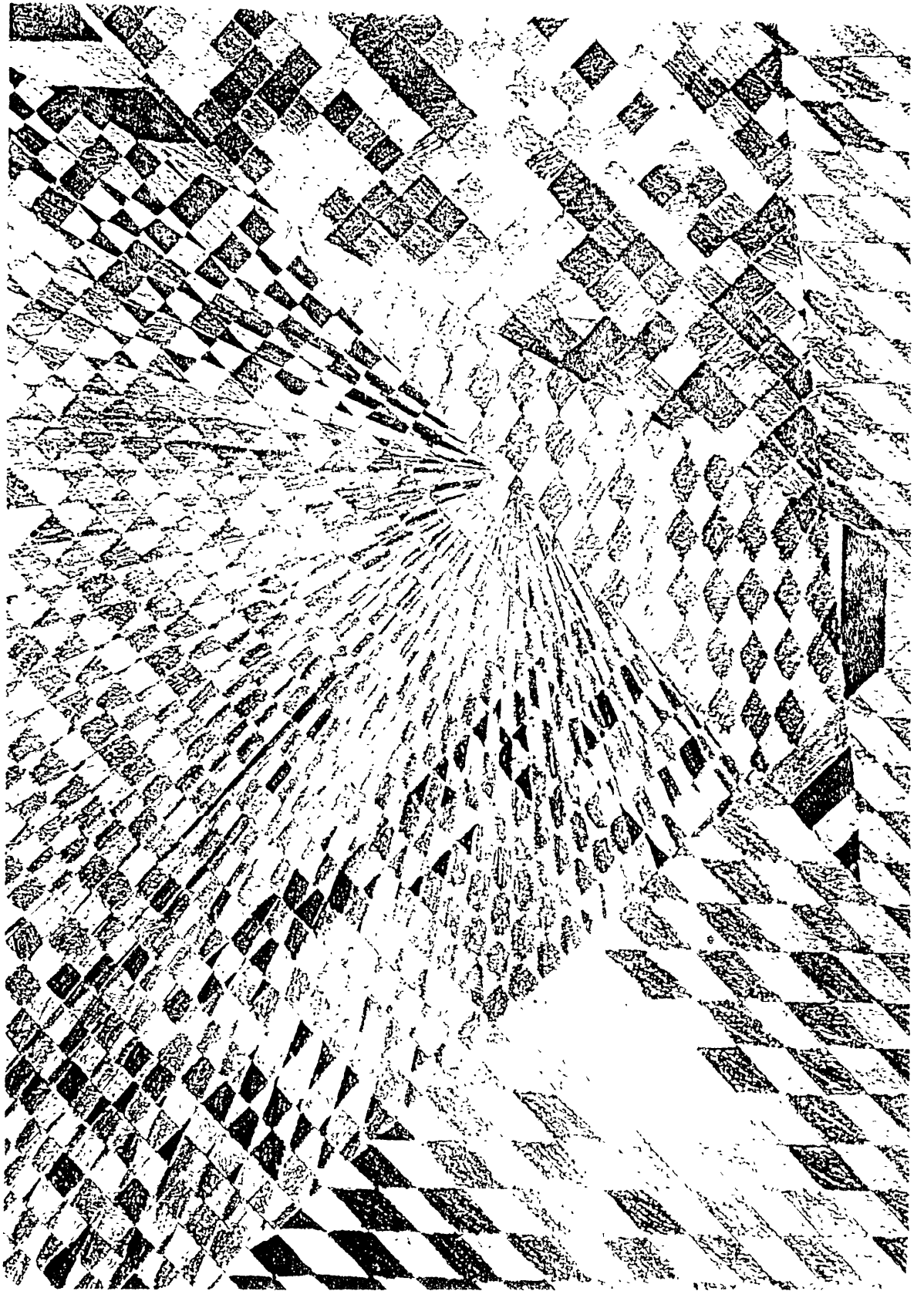
Judy Roach
Executive Director
Texas Certified Self-Insurer
Guaranty Association

Effective date: March 4, 1994

Proposal publication date: September 28, 1993

For further information, please call. (512) 322-2514

◆ ◆ ◆



Name Lisa Gonzalez
Grade 9
School Lopez High School, Brownsville ISD

OPEN MEETINGS

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

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

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

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

Advisory Board of Athletic Trainers

Friday, February 18, 1994, 9:00 a.m.

Room N-218, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Administrative Services Committee will discuss and possibly act on: application materials of Scott Barthloma; review other applications received; and setting of the next meeting date.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: February 9, 1994, 10:06 a.m.

TRD-9435959

Friday, February 18, 1994, 10:00 a.m.

Room N-218, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Rules Committee will discuss and possibly act on: proposed amendments to 25 Texas Administrative Code, Chapter 313; and the setting of the next meeting date.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615. For ADA assistance, call Richard

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

Filed: February 9, 1994, 10:06 a.m.

TRD-9435958

Texas Department of Agriculture

Thursday, February 24, 1994, 3:00 p.m.

Holiday Inn, North of Highway 82 and the Loop

Paris

According to the complete agenda, the Texas Soybean Producers Board will meet for: review and approval: minutes and financial report; discussion: research reports and requests, other business; discussion and action: research funding and allocations, new business-election of officers; reports: USB report, ASA report, referendum report; and adjourn.

Contact: Trent Roberts, P.O. Box 650290, Dallas, Texas 75265-0290, (800) 247-8691.

Filed: February 14, 1994, 3:10 p.m.

TRD-9436178

Friday, February 25, 12:30 p.m.

Comfort Inn, 410 East Commerce Brownwood

According to the agenda summary, the Texas Sheep and Goat Commodity Board will discuss: opening remarks; review and

approval: minutes, fiscal affairs; reports of officers; discussion and action: new business-telephone messages, other contacts, unfinished business-proposal review, Animal Damage Control reports, scheduling of next meeting; discussion: other business; and adjourn.

Contact: Minnie Savage, P.O. Box 3543, San Angelo, Texas 76902, (915) 659-8777.

Filed: February 14, 1994, 11:43 a.m.

TRD-9436162

Tuesday, March 1, 1994, 3:00 p.m.

Snyder Chamber of Commerce, Board Room

Snyder

According to the complete agenda, the Scurry County Cotton Producers will discuss: review and approval: minutes from previous meeting, financial statement, refund requests; discussion and action: election of new officers; discussion: 1994 assessment, other business; and adjourn.

Contact: John Derouen, P.O. Drawer CC, Snyder, Texas 79548, (915) 573-3558.

Filed: February 14, 1994, 3:10 p.m.

TRD-9436177

Texas Animal Health Commission

Thursday, February 24, 1994, 1:00 p.m.

2105 Kramer Lane

Austin

According to the agenda summary, the Commission will discuss orientation for new board members

Contact: Jo Anne Conner, P.O. Box 12966, Austin, Texas 78711, (512) 719-0714.

Filed: February 14, 1994, 10:15 a.m.

TRD-9436156

Friday, February 25, 1994, 8:30 a.m.

2105 Kramer Lane

Austin

According to the agenda summary, the Commission will approve minutes of previous meeting, approve actions of executive director, present awards, update on brucellosis program, consideration for adopting amendments to Chapter 35 A and B; review and possible action on petition for rulemaking, review and discussion of TB and EIA regulations, consideration for proposing amendments to Chapter 36, consideration and proposed action on risk management policy statement; appointment of committees, and set date for next meeting

Contact: Jo Anne Conner, P.O. Box 12966, Austin, Texas 78711, (512) 719-0714.

Filed: February 14, 1994, 10:16 a.m.

TRD-9436157

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Texas Commission on the Arts

Tuesday, March 22, 1994, 8:00 a.m.

E.O. Thompson Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Performing Arts Touring-Peer Review Panel will discuss introductions; grants deliberations and voting, and policy review.

Contact: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535

Filed: February 11, 1994, 3:26 p.m.

TRD-9436052

Wednesday, March 23, 1994, 8:00 a.m.

E.O. Thompson Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Performing Arts Touring-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review

Contact: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

TRD-9436053

Friday, March 25, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Media-Peer Review Panel will discuss: instructions; grants deliberations and voting; and policy review.

Contact: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:26 p.m.

TRD-9436054

Monday, March 28, 1994, 3:00 p.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Dance-Peer Review Panel will discuss introductions; grants deliberations and voting; and policy review

Contact: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:27 p.m.

TRD-9436055

Tuesday, March 29, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Dance-Peer Review Panel will discuss: introductions, grants deliberations and voting; and policy review

Contact: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:27 p.m.

TRD-9436056

Wednesday, March 30, 1994, 3:00 p.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Theatre-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535

Filed: February 11, 1994, 3:27 p.m.

TRD-9436058

Thursday, March 31, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Theatre-Peer Review Panel will discuss: in-

troductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:28 p.m.

TRD-9436059

Tuesday, April 5, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Literature-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:28 p.m.

TRD-9436060

Thursday, April 7, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Community Arts-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535

Filed: February 11, 1994, 3:28 p.m.

TRD-9436061

Friday, April 8, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Community Arts-Peer Review Panel will discuss: introductions, grants deliberations and voting, and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:28 p.m.

TRD-9436062

Monday, April 11, 1994, 3:00 p.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Education-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535

Filed: February 11, 1994, 3:29 p.m.

TRD-9436063

Tuesday, April 12, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Education-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:29 p.m.

TRD-9436064

Thursday, April 14, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Visual Arts-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:29 p.m.

TRD-9436065

Friday, April 15, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Visual Arts-Peer Review Panel will discuss: introductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:30 p.m.

TRD-9436066

Wednesday, April 20, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Music-Peer Review Panel will discuss: introductions, grants deliberations and voting; and policy review

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535

Filed: February 11, 1994, 3:30 p.m.

TRD-9436068

Thursday, April 21, 1994, 8:00 a.m.

E.O. Thompson, Building, 10th Floor Conference Room, 920 Colorado

Austin

According to the complete agenda, the Music-Peer Review Panel will discuss: in-

roductions; grants deliberations and voting; and policy review.

Filed: Connie Ree Green, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: February 11, 1994, 3:30 p.m.

TRD-9436067

◆ ◆ ◆
Texas Department of Banking

Thursday, February 24, 1994, 3:00 p.m.

2601 North Lamar Boulevard, Finance Commission Building

Austin

According to the complete agenda, the Finance Commission will discuss: public session, discussion of and vote to approve performance appraisals of Commissioners for Texas Department of Banking, Texas Savings and Loan Department, and Office of Consumer Credit Commissioner; executive session: consideration and discussion of performance appraisals of Commissioners for Texas Department of Banking, Texas Savings and Loan Department, and Office of Consumer Credit Commissioner.

Contact: Randall S. James, 2601 North Lamar Boulevard, Austin, Texas 78705 (512) 475-1300.

Filed: February 14, 1994, 9:47 a.m.

TRD-9436140

Tuesday, March 1, 1994, 1:30 p.m.

State Finance Building, 2601 North Lamar Boulevard

Austin

According to the complete agenda, the Prepaid Funeral Guaranty Fund Advisory Council will review and approve minutes of previous meeting; introduction of new members; discussion and review of the Commissioner's proposed guaranty fund rules, §25.17, §25.18, §25.19, and §25.20; discussion and review of the status of the guaranty fund; review claims received against the fund; and discussion of next meeting date.

Contact: Stephanie Newberg, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1280.

Filed: February 14, 1994, 9:47 a.m.

TRD-9436141

◆ ◆ ◆
State Board of Barber Examiners

Monday, February 21, 1994, 10:00 a.m.

9101 Burnet Road, Suite 103

Austin

According to the complete agenda, the Board Members will call the meeting to order; roll call; Board will then meet and act to hire a new Accountant II; and adjourn

Contact: B Michael Rice, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040

Filed: February 11, 1994, 3:50 p.m.

TRD-9436086

◆ ◆ ◆
Texas Committee on Purchases of Products and Services of Blind and Severely Disable Persons

Wednesday, February 23, 1994, 1:30 p.m.

General Services Commission, Central Services Building, Room 401F, 1711 San Jacinto

Austin

According to the agenda summary, the Pricing Subcommittee will call to order; introduction of subcommittee members and guests; acceptance of minutes from November 29, 1993, meeting; discussion and recommendation for action on new services, renewal services, new products, and product changes and revisions; and adjournment.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2605.

Filed: February 15, 1994, 9:08 a.m.

TRD-9436187

◆ ◆ ◆
Coastal Coordination Council (CCC)

Friday, February 18, 1994, 9:00 a.m.

William B. Travis Building, 1701 North Congress Avenue, Room 1-111

Austin

According to the complete agenda, the CCC Executive Committee will call to order and approval of minutes of the January 21, 1994, meeting; review process and schedule for Coastal Management Program (CMP) development; presentation and discussion of draft rule for CMP goals and policies, approval of recommendations for CCC consideration, presentation and discussion of draft rule for the federal, state, and local consistency review processes, approval of recommendations for CCC consideration; presentation and discussion of draft rule and program description of the Special Area Management Planning, approval of recommendations to CCC consideration; adminis-

trative business; public comment period; and adjournment.

Contact: Janet L. Fatheree, 1700 North Congress Avenue, Room 831, Austin, Texas 78701, (512) 463-5385.

Filed: February 10, 1:37 p.m.

TRD-9435966

Texas Department of Criminal Justice

Monday, February 14, 1994, 7:00 a.m.

Four Seasons Hotel, Fifth Floor Boardroom, 98 San Jacinto Boulevard

Austin

Emergency revised agenda

According to the agenda summary, the Board of Criminal Justice, Subcommittee on Construction, added following agenda item: strategy for three construction projects relating to food production. Changed meeting start time from 7:30 a.m. to 7:00 a.m. same date.

REASON FOR EMERGENCY. These three projects will support the greatly increased demand for meat production to feed inmates in the prison system, pursuant to state leadership direction to build additional capacity for alleviation of critical conditions in county jails.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250

Filed: February 10, 3:30 p.m.

TRD-9435986

Texas Education Agency (TEA)

Tuesday, February 22, 1994, 1:00 p.m.

Room 1-100, William B. Travis Building, 1701 North Congress Avenue

Austin

According to the complete agenda, the State Board of Education (SBOE) Committee on Students will hold a work session to discuss the proposed amendments to 19 TAC Chapter 89, Subchapter G, Special Education, including the use of psychologists in determining emotional disturbance, and teacher involvement in the development of the individual education plan.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: February 14, 1994, 12:26 p.m.

TRD-9436167

Wednesday, February 23, 1994, 9:00 a.m.

Room 1-140, William B. Travis Building, 1701 North Congress Avenue

Austin

According to the complete agenda, the State Board of Education (SBOE) Ad Hoc Committee on Communications will follow-up to the January meeting regarding a public awareness campaign to effectively communicate the message a successful practices and academic success currently underway in Texas' public schools.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: February 14, 12:26 p.m.

TRD-9436166

Finance Commission of Texas

Friday, February 25, 1994, 8:30 a.m.

Finance Commission Building, 2601 North Lamar Boulevard

Austin

According to the agenda summary, the Commission will review and discuss approval of the minutes of the previous meeting; receive reports from the Consumer Credit Commissioner, the Savings and Loan Commissioner, and the Banking Commissioner; discuss and vote on repeal of existing rules, publishing of proposed rules, adopting final rules affecting pawn shops, savings and loan associations, savings banks, banking and trust industries, prepaid funeral benefits industry, and perpetual care cemeteries industry; and meet in executive session to discuss pending litigation.

Contact: Randall S. James, 2601 North Lamar Boulevard, Austin, Texas 78705 (512) 475-1300.

Filed: February 14, 1994, 9:47 a.m.

TRD-9436142

Texas Commission on Fire Protection

Wednesday-Friday, March 2-4, 1994, 9:00 a.m.

3006B Longhorn Boulevard

Austin

According to the complete agenda, the Fire Protection Personnel Advisory Committee will call to order; approval of minutes; election of officers; briefing of agenda items; report of test committee; discussion of and possible action on: 37 TAC Chapters: 423,

Subchapter C: 443; 429; 431; 437; 439; 447; 449; 423, Subchapter A, B, C; 419, Subchapter B; proposed streamlining curricula revision procedure; and future meeting dates, agenda items, and locations.

Contact: Jack Woods, 30068 Longhorn Boulevard, Austin, Texas 78758, (512) 673-1700.

Filed: February 11, 1994, 3:40 p.m.

TRD-9436082

General Services Commission

Tuesday, February 22, 1994, 9:30 a.m.

1711 San Jacinto, Room 402

Austin

According to the agenda summary, the Commission will discuss consideration of proposed amendment of rule §113.73 concerning sale of surplus firearms; consideration of proposed amendment of §113.2 concerning definitions and new §113.20 concerning group purchasing programs; consideration of proposed amendment to rule §111.12 and §111.19 concerning the addition of Asian Indian American owned businesses in the HUB Program; consideration of amendments to §121.5 and §121.9 concerning the General Services Commission's retention of telephone records; consideration of change order project #91-002D-303, Phase 1 Heating, Ventilation, and Air Conditioning (HVAC) renovations, William P. Hobby, Jr. Building, Austin, Texas; consideration for change orders for projects #91-006A, B, E, G-303 LoanSTAR Energy Programs, Sam Houston and Stephen F. Austin State Office Buildings; presentation of issues relating to A&A contract termination; division issues, executive session to consider personnel matters; executive session to receive a report from counsel concerning the status of pending litigation; and executive session to consider the status of the purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601(b).

Contact: Judith M. Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: February 11, 1994, 2:10 p.m.

TRD-9436044

Texas Growth Fund

Tuesday, February 22, 1994, 10:30 a.m.

1000 Red River

Austin

According to the agenda summary, the Board of Directors will review and approve

minutes of the December 7, 1993, special meeting, review and approve Treasurer's report, including review of audit report; review and approve invoice from Ernst & Young for audit and authorize Transfer Notice for same; review and approve reimbursement expense reports from the current and former trustees, review and approve Texas Annual Insurance Tax Report for independently procured insurance and authorize Transfer Notice to pay applicable state tax; review and approve invoice from Vinson & Elkins L.L.P. and authorize Transfer Notice for same, receive an activity report from TGF Management Corporation; review and approve TGF Management Corporation's second quarter 1994 budget request and authorize Transfer Notice for same; and 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: February 11, 1994, 11:42 a.m.
TRD-9436030

Health and Human Services Commission

Tuesday, February 22, 1994, 9:30 a.m.

11044 Research Boulevard, Building A
Austin

According to the complete agenda, the Hospital Payment Advisory Committee will discuss opening comments; state Medicaid director's comments, approval of minutes; modification to inpatient hospital utilization review rules, Disproportionate Share Hospital Program rule modifications, selective contracting rules, open discussion, and next meeting/adjournment

Contact: Geri Williams, 4807 Spicewood Springs Road, Building 4, Austin, Texas, (512) 502-3256

Filed: February 10, 1994, 1:36 p.m.
TRD-9435965

Tuesday, February 22, 1994, 10:00 a.m.

1100 West 49th Street, Board Room M-739
Austin

According to the agenda, the Long-Term Care Task Force will review agenda; public comments, finalize list of experts for March 8 meeting, Chairman's proposal for agenda structure and product desired for March 8 meeting, Steering Committee's recommendations on staff-revised vision statement, record in minutes two letters received after January 28 meeting, full task force continue to discuss issue areas 4-8; general business; and adjourn

Note Please inform the Commission if you will need interpreter services The Commission's phone number is (512) 502-3200. The Texas Relay number is 1-800-735-2989. Interpreters will be available throughout the morning, they will stay for the entire meeting if their services are needed

Contact: Sonica Lieou, 4807 Spicewood Springs Road, Austin, Texas, (512) 502-3250.

Filed: February 15, 1994, 9:53 a.m.
TRD-9436196

Texas Department of Health

Friday, February 18, 1994, 9:30 a.m.

Howard Johnson Plaza-Hotel North, 7800 North IH-35

Austin

According to the complete agenda, the Texas Emergency Medical Services Advisory Council (TEMSAC) will give an overview of the Board of Health meeting, discuss approval of the minutes of the previous meeting, and discuss and possibly act on: bureau chief's report; revision of 25 Texas Administrative Code, §157.45; and other business not requiring action

Filed: Harold Broadbent, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6700 For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: February 9, 1994, 10:07 a.m.
TRD-9435961

Friday-Saturday, February 18-19, 1994, 1:00 p.m. and 7:30 a.m. respectively

Travis Meeting Room, Lago Vista Country Clubs and Resort

Lago Vista

Emergency Meeting

According to the complete agenda, the board will hold a strategic planning meeting for the purpose of reviewing the fiscal year 1993; Texas Department of Health (department) legislative priorities; and to receive a status report on those priorities. The board will also discuss fiscal year 1994-1995 priority options and opportunities for the department

Reason for emergency: Unforeseeable circumstances

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler at (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the

meeting.

Filed: February 11, 1994, 10:37 a.m.

TRD-9436023

Monday, February 21, 1994, 9:30 a.m.

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

Austin

According to the complete agenda, the Midwifery Board will discuss approval of the minutes of September 13, 1993 meeting and the minutes of the December 6, 1993 training workshop; and discuss and possibly act on: committee reports (grievance; continuing education; education; and standards); rule change recommendations; new business not requiring board action; open forum (public comments will be limited to three minutes each, not to exceed allotted time of 30 minutes; persons interested in making public comments should notify the Midwifery Program, Belva Alexander, (512) 458-7700, 10 working days prior to the board meeting); and executive session.

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

Filed: February 9, 1994, 10:06 a.m.

TRD-9435960

Tuesday, February 22, 1994, 1:00 p.m.

Room #2-11, Texas Department of Health, 2201 Donley Drive

Austin

According to the complete agenda, the Wholesale Drug Advisory Committee will discuss and possibly act on: reimbursement procedures for travel vouchers; amendments to the rules for licensing of wholesale distributors of drugs including good manufacturing practices (adoption of specific Code of Federal Register's and revision of definitions), discussion of proposed amendments; and new business not requiring committee action.

Contact: Cynthia T. Cuimo, R. Ph., 1100 West 49th Street, Austin, Texas 78756, (512) 719-0200. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1994, 4:15 p.m.

TRD-9436181

House of Representatives

Friday, February 18, 1994, 9:30 a.m.

Capitol Extension E1.036

Austin

According to the complete agenda, the House-Senate Joint Interim Committee on Telecommunications will invite members of various state agencies to testify on: telecommunications policy; Texas Telecommunications Planning Group; education; and telemedicine.

Contact: Walt Baum, P.O. Box 2910, Austin, Texas 78768, (512) 463-0814.

Filed: February 10, 1994, 4:39 p.m.

TRD-9435990

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Monday-Tuesday, February 21-22, 1994, 9:30 a.m.

Fifth Ward Multi-Service Center, 4014 Market Street

Houston

According to the complete agenda, the Board will meet to consider and possibly act upon the following: Approval of minutes of December 7, 1993; programs changes in Down Payment Assistance Program; conversion of bonds; purchase of properties and financing from RTC; inducement resolution for Cornerstone Housing; multi-family tax-exempt compliance fees; review of fiscal year 1992 HOME Program summary; regional and activity allocation fiscal year 1993 HOME funds; fiscal year 1993 HOME tenant-based rental applications; review of 1994 Community Development Block Grant proposed final statement; executive director's report; executive session-THA MF housing revenue bonds (Mutual Benefit Life Mortgage Loan Guarantor) and anticipated litigation; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: February 11, 1994, 3:39 p.m.

TRD-9436080

◆ ◆ ◆
Texas Department of Human Services

Friday, February 18, 1994, 10:00 a.m.

701 West 51st, Public Hearing Room

Austin

According to the complete agenda, the Texas Board of Human Services will consider approval of minutes of January 21, 1994, meeting; chairman's comments and announcements; rates for the CLASS

waiver program; amendment to reimbursement methodology rules for CLASS waiver program and CLASS task force recommendations; changes to the licensure application rules; changes to the discharge rules in LTC/NFR for Licensure and Medicaid Certification; rates for ICF-MR state schools; rules regarding criminal history checks on applicants for employment in certain industries that contract with or are licensed by DHS; proposed child care services rules and rule changes concerning eligibility and responsibilities of CCMS clients; proposed child care services rules and rule changes concerning vendor participation in the CCMS system; proposed child care services rules and rule changes concerning CCMS contractor operations; proposed advisory committee rule changes; amendments to policies and procedures; update on immunization initiatives in the AFDC program; report on register nurse delegation of health-related tasks in attendant care programs; and commissioner's report.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: February 10, 1994, 1:38 p.m.

TRD-9435967

◆ ◆ ◆
Department of Information Resources

Wednesday, February 18, 1994, 9:30 a.m.

300 West 15th, Fifth Floor, Room 5

Austin

According to the complete agenda, the Mini Grant meeting will consider executive director's report; update on comments received on proposed rules for quality assurance review; update on actions related to Council on Competitive Government recommendations regarding Information Services Division; update on issues relating to Telecommunications Planning Division; and other business.

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

Filed: February 10, 4:18 p.m.

TRD-9435987

◆ ◆ ◆
Texas Juvenile Probation Commission

Wednesday, February 23, 1994, 5:00 p.m.

2015 South IH-35

Austin

According to the complete agenda, the Internal Audit Committee will call to order; discussion of peer review options of the

internal auditor; responses and status of internal auditor's report-IV-E, Annual Report; public hearings of the Internal Audit Committee-probation standards update; update of waiver of standards submitted; report of the Clara P. Willoughby Symposium; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711 (512) 443-2001.

Filed: February 14, 4:14 p.m.

TRD-9436180

Wednesday, February 23, 1994, 7:00 p.m.

Marriott at the Capitol, 701 East 11th Street
Austin

According to the complete agenda, the Long Range Plan Committee will call to order; excused absences; discuss recommendations for Board committees and their responsibilities; update on TJPC's Strategic Plan; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711.

Filed: February 14, 1994, 5:00 p.m.

TRD-9436184

◆ ◆ ◆
Texas Department of Licensing and Regulation

Friday, February 18, 1994, 9:00 a.m.

Houston Regional Office, Texas Department of Licensing and Regulation, 1414 South Loop West, Suite 140

Houston

According to the complete agenda, the Department will hold an Appeal Hearing to consider the grievance of Paul Peters in accordance with the Departmental Administrative Operating Procedures, §14, adhering to the limits of §14.14.05 of the same rules.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: February 11, 1994, 4:15 p.m.

TRD-9436093

Tuesday, February 22, 1994, 10:00 a.m.

920 Colorado, E.O. Thompson Building, Room 1012

Austin

According to the agenda summary, the Property Tax Consultants Advisory Council will discuss: Property Tax Consultants Advisory Council public membership; Education Committee report; rules and procedures; test results; and enforcement procedure for employment or association with Senior Property Tax Consultant.

TRD-9435996

Texas Natural Resource Conservation Commission

Monday, February 21, 1994, 1:00 p.m.

12118 North Interstate Highway 35, Building E, Room 201 South

Austin

According to the agenda summary, the Commission will hold a public meeting to discuss environmental programs and issues of regional interest that are within the jurisdiction of the Texas Natural Resource Conservation Commission. Commission will accept public comments by environmental groups.

Contact: Douglas A Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 11, 1994, 10:04 a.m.

TRD-9435999

Wednesday, February 23, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F Austin Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters on the attached contested agenda solid waste enforcement; water quality enforcement, rules; state implementation plan, resolution, memorandum of understanding, examiner's proposal for decision, executive session, in addition, 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.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 11, 1994, 10:32 a.m.

TRD-9436018

Wednesday, February 23, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F Austin Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters on the attached uncontested agenda temporary variance; new water quality permit; amendment to water quality permit, permit renewals, water right permit; district matters, water utility matters; settled hearing, in addition, 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.

Contact: Douglas A. Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 11, 1994, 10:04 a.m.

TRD-9435997

Wednesday, February 23, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

Revised agenda

According to the second addendum to the contested agenda, the Commission will consider written response to the Commission's directives made at the agenda of January 26, 1994, and proposed order prepared by the General Counsel.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 14, 1994, 3:22 p.m.

TRD-9436179

Thursday-Friday, February 24-25, 1994, 8:00 a.m.

12015 Park 35 Circle, Building E, 2015 Auditorium

Austin

According to the agenda summary, the Municipal Solid Waste Management and Resource Recover Advisory Council will meet on February 24, 1994, to hold the following committee meetings: Waste Minimization/Recycling/Composting Committee; Border Affairs Committee; Budget/Grants Committee, and Regulatory Oversight Committee.

The Advisory Council will also meet on February 25, 1994, to hear presentations and reports from Nancy Lynch, TNRCC Enforcement Division; Cindy Blewett, Manager of Solid Waste Projects-LCRA; Ronald L. Bond, Municipal Solid Waste Division Director-TNRCC; Dan Eden, Waste Policy Division Director-TNRCC; and committee reports from the previous day.

Contact: Gary W. Trim, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6708.

Filed: February 15, 1994, 9:08 a.m.

TRD-9436188

Thursday, March 3, 1994, 1:00 p.m.

Angelina Jr. College, Fine Arts Auditorium, Highway 59 South

Lufkin

According to the agenda summary, the Commission will hold a public meeting to discuss environmental programs and issues of regional interest that are within the jurisdiction of the Texas Natural Resource Conservation Commission. Commission will accept comments from local citizens, officials, and environmental groups.

Contact: Douglas A. Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 11, 1994, 10:04 a.m.

TRD-9435998

Friday, March 4, 1994, 9:00 a.m.

Administration Drive, Hubbard Hall, Southwest Room

Denton

According to the agenda summary, the Commission will consider Examiner's Proposal for Decision and Order, concerning the application of Sentry Environmental, for a Type I municipal waste landfill permit.

Contact: Douglas A. Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: February 14, 1994, 10:15 a.m.

TRD-9436155

Board of Nurse Examiners

Tuesday, February 22, 1994, 10:00 a.m.

9101 Burnet Road, Suite 104

Austin

According to the agenda summary, the Disciplinary and Eligibility Committee will meet to review and take action on seven declaratory order petitions; 10 ALJ proposals for decision; and 26 agreed orders.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: February 10, 1994, 3:10 p.m.

TRD-9435983

Public Utility Commission of Texas

Friday, February 25, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has scheduled a prehearing conference in Docket Number 12751-General Counsel's Petition for Declaratory Order Setting a Schedule for Conciliation Proceedings.

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: February 14, 1994, 2:50 p.m.
TRD-9436176

◆ ◆ ◆
**Texas National Research
Laboratory Commission**

Wednesday, February 16, 1994, 11:30 a.m.

1801 North Hampton Road, Suite 400
DeSoto

Emergency Meeting

According to the agenda summary, the Commission will convene meeting and roll call of members; chairman's report-Shelton Smith, executive session, reconvene, reports, action items; public comment, and adjourn

Reason for emergency Reasonably unforeseeable necessity to meet and consider, and act upon rapidly, developing termination and closure plans for the SSC project

Contact: Karen L. Chrestay, (214) 709-3800

Filed: February 11, 1994, 8:48 a.m.
TRD-9435991

◆ ◆ ◆
**Texas Savings and Loan De-
partment**

Friday, March 11, 1994, 9:00 a.m.

300 West 15th Street, Room 408
Austin

According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of AmWest Savings Association to relocate home office from 300 East Main, Olney, Young County, Texas, to 2800 South Texas Avenue, Bryan, Brazos County, Texas from which record the Commissioner will determine whether to grant or deny the application.

Contact: Teresa Scarborough, 2601 North Lamar, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: February 11, 1994, 9:54 a.m.
TRD-9435994

Friday, March 11, 1994, 10:00 a.m.

300 West 15th Street, Room 408
Austin

According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the

application of AmWest Savings Association to operate a loan office at 9442 Capital of Texas Highway North, Austin, Travis County, Texas from which record the Commissioner will determine whether to grant or deny the application.

Contact: Teresa Scarborough, 2601 North Lamar, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: February 11, 1994, 9:54 a.m.
TRD-9435993

Friday, March 11, 1994, 11:00 a.m.

300 West 15th Street, Room 408
Austin

According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of AmWest Savings Association to operate a loan office at 1225 North Loop West, Houston, Harris County, Texas from which record the Commissioner will determine whether to grant or deny the application

Contact: Teresa Scarborough, 2601 North Lamar, Suite 201, Austin, Texas 78705, (512) 475-1350

Filed: February 11, 1994, 9:54 a.m.
TRD-9435995

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**Texas State Soil and Water
Conservation Board**

February 23, 1994, 8:00 a.m.

311 North Fifth Street, Conference Room
Temple

According to the complete agenda, the Board will review and take action on the following: minutes from January 19, 1994, Board meeting, District Director appointments, consider request for planning priority for PL 83-566 Application for Nolan River, proposed Cost-Share Program rules, fiscal year 1994 expenditure report; Board member travel, recruiting update, Central Texas Agriculture Tour, Director Training Workshop, reports from agencies and guests, USDA reorganization, cultural resources, Coastal Zone Management Program, 1994 fiscal year 319 funding; and next regular board meeting-March 16, 1994.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250 or TEX-AN 820-1250.

Filed: February 14, 1994, 11:43 a.m.
TRD-9436161

February 23, 1994, 8:00 a.m.

311 North Fifth Street, Conference Room
Temple

Revised Agenda

According to the revised agenda, in addition to the previously filed notice, the Board will also discuss: Adoption of 31 TAC 523.5 Concerning Memorandum of Agreement with Texas Natural Resources Conservation Commission.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, or TEX-AN 820-1250.

Filed: February 15, 1994, 9:08 a.m.
TRD-9436189

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Sunset Advisory Commission

Wednesday, February 23, 1994, 3:00 p.m.

One Capitol Square, Fifth Floor, Meeting Room One

Austin

According to the complete agenda, the Commission will call to order; executive session to discuss personnel matters; discussion and action on position of director; discussion of review schedule dates; discussion of across-the-board recommendations (ATBs); next meeting date; and adjourn.

Contact: Susan Kinney, 1400 North Congress Avenue, Room E2.002, Capitol Extension, Austin, Texas 78701 (512) 463-1300.

Filed: February 14, 1994, 11:43 a.m.
TRD-9436160

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**Texas State University Sys-
tem**

Wednesday, February 16, 1994, 2:30 p.m.

Hill House Conference Center, Southwest Texas State University

San Marcos

According to the complete agenda, the System and University Financial Administrator's will present a staff briefing on budgets, funding and related financial matters to the Board of Regents.

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 11, 1994, 3:39 p.m.
TRD-9436077

Thursday-Friday, February 17-18, 1994, 9:00 a.m. and 8:00 a.m. respectively

Room 1112, 11th Floor, J.C. Kellam Building, Southwest Texas State University

San Marcos

According to the agenda summary, the

Board of Regents has scheduled a review of matters of the Board of Regents and the four universities in the system, including: all matters reviewed by the Curriculum Committee (see Curriculum Committee Agenda), the Construction and Planning Committee (see Construction and Planning Committee Agenda), the Finance Committee (see Finance Committee Agenda), and the Rules and Regulations Committee (see Rules and Regulations Committee Agenda) as submitted to the full Board for review and approval; personnel actions including new employees, promotions, resignations, terminations, salary-supplements, and special appointment of any system employee including the Presidents and Chancellor, discussion of litigation; budgetary changes and contract approvals at each university and the system administrative office, acceptance of gifts; admission requirements and fees; room rates; land leases, purchases, easements, and sales (Where appropriate by law, executive sessions may be held for the above listed subjects)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808

Filed: February 11, 1994, 3 39 p m

TRD-9436078

Thursday, February 17, 1994, 2:15 p.m.

Room 1112, 11th Floor, J C Kellam Building, Southwest Texas State University

San Marcos

According to the complete agenda, the Curriculum Committee has scheduled a review of matters of the Board and the four universities in the system, including all matters of curriculum, including Twelfth Class Day and Fourth Class Day reports, and substantive and non-substantive program changes, new degree programs, additions, deletions and retentions of courses, admissions and deletions of degree courses, admission standards, out-of-state and out-of-country studies (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 11, 1994, 3 39 p m

TRD-9436076

Thursday, February 17, 1994, 3:15 p.m.

Room 1112, 11th Floor, J C Kellam Building, Southwest Texas State University

San Marcos

According to the complete agenda, the Planning and Construction Committee has scheduled a review of construction projects and documents for the for universities in the system, including, preliminary plans for the

Disaster Recovery Facility, approval to issue purchase orders for a new parking lot and photography laboratory and contract award for the Central Plant modification at Angelo State University; final acceptance of the Sam South conversion and contract awards for the Art Lab Building V, the Fire Protection in the University Hotel, the Museum Education Center, and the Small Arms Firing Range at Sam Houston State University, contract awards for the Campus Signage project and the Old Main roof repairs, selection of consultant for rerouting of Matthews street, purchase orders for the Lavaca Hall reroofing, and approval for the demolition of two buildings at Southwest Texas State University, and preliminary plan approval for the Lawrence Hall conversional and selection of consultants for the track renovation, the tennis court project, the Fiquine Science Facility, the front of campus parking lot, and the exterior building renovations at Sul Ross State University. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 11, 1994, 3 39 p m

TRD-9436075

Friday, February 18, 1994, 9:15 a.m.

Room 1112, 11th Floor, J C Kellam Building, Southwest Texas State University

San Marcos

According to the complete agenda, the Finance Committee has scheduled a review of financial matters of the system office and the four universities in the system, including amending investment guidelines, approval of depository contracts and demand accounts, adjustment of budgets, approval of system office organizational structure and budget, approval of rates and fees, funding of Building Use and Combined Fee Revenue Bonds, and internal audit reports from Angelo State University, Sam Houston State University, Southwest Texas State University, and Sul Ross State University (Where appropriate and permitted by law executive sessions may be held for the above listed subjects)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808

Filed: February 11, 1994, 3 38 p m

TRD-9436074

Friday, February 18, 1994, 10:15 a.m.

Room 1112, 11th Floor, J C Kellam Building, Southwest Texas State University

San Marcos

According to the complete agenda, the

Rules and Regulations Committee has scheduled a review of proposed amendments to the system rules and regulations concerning personnel contracts (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808

Filed: February 11, 1994, 3 38 p m

TRD-9436073

Texas State Treasury

Tuesday, February 22, 1994, 11:00 a.m.

200 East 10th Street, Room 227

Austin

According to the complete agenda, the TexPool Advisory Board will call to order, approval of minutes, Treasurer's remarks; independent audit report, TexPool operations and financial status report, TexPool investment report, new business, and adjournment

Contact: Ellen Rathgeber, 200 East 10th Street, Suite 309, Austin, Texas 78701 (512) 463-5971

Filed: February 14, 1994, 11 49 a m

TRD-9436165

University of Houston System

Wednesday, February 16, 1994, 8:00 a.m.

Shamrock Room, Conrad Hilton College Building, 4800 Calhoun, University of Houston

Houston

According to the agenda summary, the Board of Regents will meet to discuss and/or approve the following minutes, executive session, appreciation resolutions, board policies, various appointments, various reports, merit-equity program, dual employment requests, investment policies, various agreements, sale of tracts of land/lots, drainage easements, Music Building design, various contracts, appointment of various consultants, integrated library system; various bonds, tuition and fee changes, capital assets, Resolution Financing expenditures, outside counsels, establishment of investment and banking accounts, banking agreements, closure of bank accounts, audited financial statements, consulting and service fee expenditures, and consent docket.

Contact: Peggy Cervenka, 1600 Smith, #3400, Houston, Texas 77002, (713) 754-7442

Filed: February 10, 1994, 11:19 a.m.

TRD-9436025

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University Interscholastic League

Monday, February 14, 1994, 9:00 a.m.

Sheraton Hotel, Fifth and IH-35

Austin

Emergency Meeting

According to the agenda summary, the State District Assignment Review Board will meet to discuss a-o: appeal of District Assignment by fifteen public schools.

Reason for emergency: Accepted appeals through end of business day February 10, 1994, at 5:00 p.m.

Contact: Bill Farney, 3001 Lake Austin Boulevard, Austin, Texas 78705, (512) 471-5883.

Filed: February 11, 1994, 11:40 a.m.

TRD-9436029

Wednesday, February 16, 1994, 10:00 a.m.

Sheraton Hotel, 500 North IH-35

Austin

According to the agenda summary, the Waiver Review Board meeting will request for retroactive waiver of LaKendra Kendrick, Midland High School, Parent Residence Rule; and request for retroactive waiver of Ramon Pargas, Hondo High School, Parent Residence Rule.

Contact: George Carlisle, 3001 Lake Austin Boulevard, Austin, Texas 78703, (512) 471-5883.

Filed: February 11, 1994, 11:40 a.m.

TRD-9436028

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University of North Texas/University of North Texas Health Science Center

Saturday, February 12, 1994, 8:00 a.m.

201 Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents Role and Scope Committee will discuss: UNT: routine academic reports; establishment of holidays for fiscal year 1994-1995; and personnel transactions. UNTHSC: agreement with

UNTHSC/TCOM Foundation; TCOM Founders' Medal policy; and Mary E. Luibel Distinguished Service Award.

Reason for emergency: Icy road conditions did not allow the Board members to travel to the meeting scheduled earlier.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: February 10, 1994, 12:02 p.m.

TRD-9436031

Saturday, February 12, 1994, 8:45 a.m.

Conference Room, Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents Budget and Finance Committee will discuss: UNT: gift report; athletic update; report on interest earnings, and internal audit update. UNTHSC: challenge examination fee; gift report; report on interest earnings; and internal audit update.

Reason for emergency: Icy road conditions did not allow the Board members to travel to the meeting as scheduled earlier.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: February 10, 1994, 12:02 p.m.

TRD-9436032

Saturday, February 12, 1994, 8:45 a.m.

Board Room, Administrative Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents Facilities Committee will discuss: UNT: upgrade classrooms; renovate and rename Kolmar Building; renovate Lab Gym and construct new building; and project status report.

Reason for emergency: Icy road conditions did not allow the Board members to travel to the meeting as scheduled earlier.

Filed: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8516.

Filed: February 10, 1994, 12:02 p.m.

TRD-9436034

Saturday, February 12, 1994, 10:00 a.m.

Diamond Eagle Suite, University Union, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents will discuss: UNT: approval of minutes; executive session

(UNT/UNTHSC-Austin update; athletic update; enrollment management; internal audit update; UNT legal update; Chancellor's contract; affiliations UNTHSC legal update); routine academic reports; establishment of holidays; personnel transactions; gift report; upgrade classrooms; renovate Lab Gym and construct new building; renovate and rename Kolmar Building; and downtown Higher Education Center in Dallas. UNTHSC: agreement with UNTHSC/TCOM Foundation, TCOM Founders' Medal policy; Mary E. Luibel Distinguished Service Award policy; health care reform; challenge examination fee; gift report; Access and Equity Plan 2000; and Department of Pathology update.

Reason for emergency: Icy road conditions did not allow the Board members to travel to the meeting as scheduled earlier.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: February 10, 1994, 12:02 p.m.

TRD-9436033

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University of Texas Health Science Center at San Antonio

Wednesday, February 23, 1994, 3:00 p.m.

Room 422A, Medical School Building, 7703 Floyd Curl Drive

San Antonio

According to the agenda summary, the Institutional Animal Care and Use Committee will discuss approval of minutes; protocols for review; subcommittee reports; and other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 567-3717.

Filed: February 14, 1994 2:13 p.m.

TRD-9436170

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Public Utility Commission of Texas

Tuesday, February 22, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has a scheduled a prehearing conference in Docket Number 12757; application of Brazos Electric Power Cooperative, Inc. for authority to change rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has scheduled a prehearing conference in Docket Number 12738; complaint of Claybar's Concrete Products, Inc. against Jasper-Newton Electric Cooperative, Inc.

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 11, 1994, 11:01 a.m.

TRD-9436024

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**Texas Council on Workforce
and Economic Competitiveness**

Monday-Tuesday, February 21-22, 1994,
1:30 p.m. and 8:30 a.m. respectively

Austin Community College Board Room,
5930 Middle Fiskville Road

Austin

According to the agenda summary, the Apprenticeship and Career Pathways Programs Design Committee will consider items that include approval of the minutes of the Committee's January 5, 1994, meeting, public comment/testimony, a staff report on the Design Committee's Report to the Legislature and the School-to-Work Implementation grants, an update on activities of the Apprenticeship and Training Advisory Committee, discuss on steps in creating a School-to-Work system, discussion on bench marking the School-to-Work system, discussion on governance criteria, a panel presentation on "Methods to Obtain Active Involvement of Employers"; discussion on strategies to obtain active involvement of employers, and a discussion on performance standards.

Persons with disabilities who plan to attend who may need auxiliary aids or services, or assistance in having English translated into Spanish, should contact Val Bleschke, (512) 305-7008, at least two days before this meeting so arrangements can be made

Contact: Val Bleschke, 816 Congress Avenue, Suite 1293, Austin, Texas 78701, or P.O. Box 2241, Austin, Texas 78768, (512) 305-7008.

Filed: February 11, 1994, 3:51 p.m.

TRD-9436088

Regional Meetings

**Meetings Filed February 9,
1994**

The Wheeler County Appraisal District Board of Review will meet at the District's Office, County Courthouse Square, Wheeler, February 24, 1994, at 9:30 a.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900 TRD-9435962.

The Permian Basin Regional Planning Commission Board of Directors will meet at the PBRPC Offices, 2910 La Force Boulevard, Midland, Texas, February 16, 1994, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061 TRD-9435963

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**Meetings Filed February 10,
1994**

The Austin Transportation Study Policy Advisory Committee will meet at 26th and Red River, Joe C. Thompson Conference Center, Austin, February 15, 1994, at 6:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767 or at 301 West Second Street, Austin, Texas 78701, or call (512) 499-2275 TRD-9435964

The Burnet County Appraisal District Board of Directors will meet at 110 Avenue H, Suite 106, Marble Falls, on February 17, 1994, at 12:00 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291 TRD-9435980.

The Education Service Center Region XV Board of Directors will meet in Conference Room 1 at the ESC Region XV, 612 South Irene Street, San Angelo, on February 17, 1994, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571 TRD-9435981.

The Texas Health Benefits Purchasing Cooperative will meet in the Board Room, United Bank and Trust Building, 1525 Elm Street, Second Floor, on February 23, 1994, at 10:00 a.m. Information may be obtained from Rebecca Lightsey, 1005 Congress Avenue, Austin, Texas 78701, (512) 472-3956 TRD-9435988

The Hunt County Appraisal District (Rescheduled from February 13, 1994.) Board of Directors met in the Hunt County Appraisal District Boardroom, 4801 King Street, Greenville, February 17, 1994, at Noon. Information may be obtained from Shirley Smith, 4801 King Street, Greenville, Texas 75401, (903) 454-3510 TRD-9436035

The Johnson County Rural Water Supply Corporation Annual Membership Committee will meet at the JCRWSC Office-Highway 171 South, Cleburne, February 15, 1994, at 4:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9435968.

The Johnson County Rural Water Supply Corporation Reproduction Fee Committee will meet at the JCRWSC Office-Highway 171 South, Cleburne, February 15, 1994, at 5:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9435969.

The Johnson County Rural Water Supply Corporation Finance Committee will meet at the JCRWSC Office-Highway 171 South, Cleburne, February 15, 1994, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646 TRD-9435985

The Johnson County Rural Water Supply Corporation Regular Board Meeting will meet at the JCRWSC Office-Highway 171 South, Cleburne, February 15, 1994, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9435982

The Lower Colorado River Authority Ad Hoc Committee on Community Resources and Development will meet in Room H-110, 3701 Lake Austin Boulevard, Hancock Building, February 14, 1994, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283 TRD-9435972.

The Lower Colorado River Authority Planning and Public Policy Committee will meet in the Board Conference Room, 3701 Lake Austin Boulevard, Hancock Building, February 14, 1994, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD-9435971

The North Central Texas Council of Governments for the North Central Texas Job Training Consortium Private Industry Council will meet at 616 Six Flags Drive, Centerpoint Two, Arlington, February 17, 1994, 9:30 a.m. Information may be obtained from Mike Gilmore, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9175. TRD-9435973

The Sabine Valley Center Finance Committee met at 107 Woodbine Place, Longview, February 15, 1994, at 6:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9436036.

The Sabine Valley Center Personnel Committee met at 107 Woodbine Place, Longview, February 15, 1994, at 6:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9436037.

The Sabine Valley Center Board of Trustees met at 107 Woodbine Place, Longview, February 15, 1994, at 7:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9436038.

The San Antonio-Bexar County Metropolitan Planning Organization Freight Movement Study Long Range Plan Oversight Committee will meet in the VIA Metropolitan Transit Board Room, 800 West Myrtle, San Antonio, February 16, 1994, at 9:30 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, #205, San Antonio, Texas 78204, (210) 227-8651. TRD-9435970.

The Wise County Appraisal District (Revised agenda.) Board of Directors met at 206 South State Street, Decatur, February 15, 1994, at 7:00 p.m. Information may be obtained from Michael Hand, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081. TRD-9435989.

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**Meetings Filed February 11,
1994**

The Austin-Travis County MHMR Center (Rescheduled from Wednesday, February 9, 1994.) Board of Trustees, Human Resources Committee met at 1430 Collier Street, Board Room, Austin, February 14, 1994, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9436045.

The Brazos River Authority Special Called Meeting Board of Directors Brazos River Authority met in the Johnson Room, The Westin Galleria, Dallas Hotel, 13340 Dallas Parkway, Dallas, February 17, 1994, at 2:00 p.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9436001.

The Brazos Valley Solid Waste Management Agency Board of Trustees met at the University Towers, Room 1203, College Station, February 15, 1994, at 2:15 p.m. Information may be obtained from Cathy Locke, 1101 Texas Avenue, College Station, Texas 77840, (409) 764-3507. TRD-9436081.

The Callahan County Appraisal District Board of Directors will meet at 130-A West Fourth Street, Callahan County Appraisal

District Offices, Baird, February 21, 1994, at 7:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165. TRD-9436027.

The Capital Area Rural Transportation System CARTS Board of Directors met at 2010 East Sixth Street, Austin, February 17, 1994, at 9:00 a.m. Information may be obtained from Edna M. Burroughs, P.O. Box 6050, Austin, Texas 78702, (512) 478-7433. TRD-9436039.

The Dallas Area Rapid Transit Committee-of-the-Whole met in Conference Room "C", 1401 Pacific Avenue, Dallas, February 15, 1994, at 1:00 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9436083.

The Dallas Area Rapid Transit (Rescheduled from February 8, 1994.) Special Board of Directors Meeting met in the DART Board Meeting Room, First Floor, 1401 Pacific Avenue, Dallas, February 15, 1994, at 4:00 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9436084.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, February 23, 1994, at 10:00 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9436000.

The East Texas Council of Governments Private Industry Council met at the ETCOG Offices, Kilgore, February 17, 1994, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9436043.

The Golden Crescent Private Industry Council Oversight Committee met at 2401 Houston Highway, Victoria, February 14, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9436041.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, February 16, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9436040.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, February 17, 1994, at 6:00 p.m. Information may be obtained from Glenda Starckbein, 928 St. Paul Street, Gonzales, Texas 78629, (210) 672-2879. TRD-9436129.

The Hickory Underground Water Conservation District Number One Board and Advisors met at 2005 South Bridge Street, Brady, February 17, 1994, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9436091.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth, Lampasas, February 17, 1994, at 7:00 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9436047.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, February 23, 1994, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9436002.

The Lometa Rural Water Supply Corporation Board of Directors met at the Lometa Rural Water Supply Corporation Office, 506 West Main Street, Lometa, February 14, 1994, at 7:00 p.m. Information may be obtained from Tina Hodge and/or Levi Cash, P.O. Box 158, Lometa, Texas 76853, (512) 752-3505. TRD-9436022.

The Lower Colorado River Authority Retirement Benefits Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 15, 1994, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9436069.

The Lower Neches Valley Authority Board of Directors met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, February 15, 1994, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9436026.

The Middle Rio Grande Development Council Private Industry Council met at the C.A.S.H. Office, 223 West Zavala Street, Crystal City, February 16, 1994, at 1:00 p.m. Information may be obtained from Paul Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9436019.

The Riceland Regional Mental Health Authority Board of Trustees Joint Committee met at 3007 North Richmond Road, Wharton, February 17, 1994, at 11:00 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9436072.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, February 17, 1994, at noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9436071.

The Rio Grande Council of Governments Board of Directors will meet at 1100 North Stanton, Main Conference Room, El Paso, February 18, 1994, at 9:30 a.m. Information may be obtained from Lidia Flynn, 1100 North Stanton, Suite 610, El Paso, Texas 79902, (915) 533-0998. TRD-9436021.

The San Antonio River Authority (Revised agenda.) Board of Directors met at 100 East Guenther Street, Boardroom, San Antonio, February 16, 1994, at 1:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9436046.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road, Fort Worth, February 18, 1994, at 9:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005. TRD-9436020.

The Tax Appraisal District of Bell County (Revised agenda.) Board of Directors met at the Tax Appraisal District Building, 411 East Central Avenue, Belton, February 16, 1994, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9436087.

The Tax Appraisal District of Bell County Board of Directors met at the Tax Appraisal District Building, 411 East Central Avenue, Belton, February 16, 1994, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9436090.

The Trinity River Authority of Texas (Rescheduled from Friday, February 11, 1994.) Administration Committee met at 5300 South Collins, Arlington, February 17, 1994, at 10:00 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9436131.

◆ ◆ ◆
**Meetings Filed February 14,
1994**

The Austin-Travis County MHMR Center Planning and Operations will meet in the Board Room at 1430 Collier Street, Friday, February 18, 1994, at 12:00 Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street,

Austin, Texas 78704, (512) 447-4141. TRD-9436163.

The Central Texas Council of Governments Executive Committee will meet at 302 East Central, Belton, Texas, 76513, February 24, 1994, at 12:45 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9436159.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at Crockett Inn, 1600 East Loop 304, South Crockett, Texas 75835, February 24, 1994, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704. TRD-9436174.

The Deep East Private Industry Council Inc. will meet at 300 Shepherd Avenue, Lufkin City Hall, Lufkin, Texas 75901, February 22, 1994, at 2:30 p.m. Information may be obtained from Charles Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9436168.

The Education Service Center, Region XVI, Board of Directors will meet at the Region XVI Education Service Center, 1601 South Cleveland, Amarillo, Texas, February 18, 1994, at 11:45 a.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9436164.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise, Athens, Texas 75751, February 21, 1994, at 7:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9436169.

The Lometa Rural Water Supply Corporation Board of Directors will meet at the Lometa Rural Water Supply Corporation Office, 506 West Main Street, P.O. Box 158, Lometa, Texas, February 17, 1994, at 7:00 p.m. Information may be obtained from Levi Cash or Tina Hodge, P.O. Box 158, Lometa, Texas, (512) 752-3505. TRD-9436183.

The Lometa Rural Water Supply Corporation Board of Directors will meet at the Lometa Rural Water Supply Corporation Office, 506 West Main Street, P.O. Box 158, Lometa, Texas, February 17, 1994, at 7:00 p.m. Information may be obtained from Tina Hodge or Levi Cash, P.O. Box 158, Lometa, Texas, (512) 752-3505. TRD-9436182.

The San Antonio-Bexar County Metropolitan Planning Organization Technical Advisory Committee (TAC) will meet in Suite 205, MPO Conference Room, 434 South Main, San Antonio, Texas 78204, February 17, 1994, at 9:00 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9436158.

The San Jacinto River Authority Board of Directors will meet in the Magnolia Room, Woodlands Executive Conference Center, 2301 North Millbend, The Woodlands, Texas, February 23, 1994, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9436175.

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**Meetings Filed February 15,
1994**

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, Texas 79009, March 10, 1994, at 7:00 p.m. Information may be obtained from Ronald E. Proctor, Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9436194.

The Region III Education Service Center Board of Directors will meet at the Ramada Inn, 3901 Houston Highway, Victoria, Texas 77901, February 21, 1994, at 11:30 a.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9436191.

The Region III Education Service Center Board of Directors will meet at 1905 Leary Lane, Victoria, Texas 77901, February 21, 1994, at 1:30 p.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9436192.

The San Antonio-Bexar County Metropolitan Planning Organization Freight Movement Study Oversight Committee will meet in the VIA Metropolitan Transit Board Room, 800 West Myrtle, San Antonio, Texas, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, #205, San Antonio, Texas 78204, (512) 227-8651. TRD-9436190.



Name: Heriberto Rodriguez, Jr.
Grade: 9
School: Lopez High School, Brownsville 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 Department of Agriculture Correction of Error

The Texas Department of Agriculture proposed new §§18.1-18.17, concerning a program for certification of organic food and fiber. The rules appeared in the February 1, 1994, issue of the *Texas Register* (19 TexReg 687).

On page 691, §18.5(b)(1)(E), the fee for 50 to 100 acres was incorrectly printed. That subpart should read as follows: "(E) 50 to 100 acres will be charged \$150."

On page 691, at §18.5(c), language in that subsection was incorrectly printed or omitted. That subsection should read as follows: "(c) A person who fails to submit a renewal fee

on or before the expiration date of the certification shall pay, in addition to the renewal fee, the late fee provided by the Code, §12.024."

On pages 691 and 693, §18.6(a)(1)(A) and (B), the logos submitted for publication were not included. That subsection should appear as follows:

"(a) Logos

(1) The department shall have two registered logos as certification marks.

(A) Texas Department of Agriculture Certified Organically Produced Logo. One logo shall include the phrase "Texas Department of Agriculture Certified Organically Produced" and shall take the following form:



(B) Transitional Logo. A second logo shall include the phrase "Texas Department of Agriculture Transitional Organic Certification Pending" and shall take the following form:



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Texas Commission on Alcohol and Drug Abuse Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Commission on Alcohol and Drug Abuse (TCADA) invites proposals from qualified consultants to provide training for staff of TCADA-funded programs in the use of the Addiction Severity Index (ASI) in a manner that is practical, economical, and clinically useful.

The consultant will provide 20 training sessions with no more than 20 participants per session. The trainings will be scheduled in various regions of the state to allow accessibility for local program staff. The consultant will provide and manage all aspects of training, including publicizing the availability of the training, scheduling sessions, notifying prospective participants, securing suitable facilities, providing training aids, providing qualified and experienced trainers, and all other costs associated with this effort.

To obtain a complete copy of this RFP, contact Kelly Reichenbach, Texas Commission on Alcohol and Drug Abuse, 710 Brazos, Austin, Texas 78701, (512) 867-8735.

All proposals in response to the RFP must be received by 5:00 p.m. on February 24, 1994.

A panel of program and administrative staff from TCADA will score and rank proposals based on criteria described in the Request for Proposed (RFP) Consultant Contract. The initial award period for this work will be March 16, 1994-August 31, 1994.

Issued in Austin, Texas, on February 14, 1994.

TRD-9436136 David P. Tatum
Interim Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: February 14, 1994

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Office of Consumer Credit Commissioner Correction of Error

The Office of Consumer Credit Commissioner submitted proposed new to 7 TAC §1.305, concerning procedures for requesting clarification of aspects of Title 79 from the Consumer Credit Commissioner. The rule appeared in the January 28, 1994, issue of the *Texas Register* (19 TexReg 565).

The last paragraph of the preamble should read: "The new rule is proposed under Texas Civil Statutes, Article 342-114A, which provided the State Finance Commission with the authority to prescribe such rules or procedure as may be necessary for supervising the Consumer Credit Commissioner and for ensuring compliance with Texas Civil Statutes, Title 79, Article 5069-1.01, et seq."

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

Section (a)(2) should read: "Commissioner-The commissioner of the Office of Consumer Credit Commissioner."

Section (b)(5) should read: "A fee not to exceed \$300 will be charged for an interpretation to compensate the agency for the expense involved in researching and answering the request. A payment of \$300 should be submitted with the request. The commission shall determine and remit a partial refund if deemed applicable. The commission may waive the fee."

◆ ◆ ◆

State Employee Campaign Policy Committee

State Employee Charitable Campaign- Notice of Request for Applications for Charitable Organizations

In accordance with Texas Civil Statutes, Article 6813h, the State Employee Charitable Campaign Policy Committee is accepting applications from federations and funds seeking participation as a Statewide Charitable Organization in the State Employee Charitable Campaign.

Who is eligible to apply.

Eligibility criteria include, but are not limited to, the following:

(1) Applicant organizations must be a "federation or fund." A "federation or fund" means an umbrella fundraising entity that:

(A) is exempt from taxation under §501(a) of the Internal Revenue Code of 1986 as an organization described in §501(c)(3) of that code and to which contributions are deductible for income tax purposes under §170 of that code;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from state employees; and

(D) is supported by voluntary contributions from the public.

Application Forms and Deadline Date.

An application form can be obtained by writing the State Employee Charitable Campaign, 603 West 13th, #418, Austin, Texas 78701, and requesting the Statewide Charitable Organization Application Form. For more information, contact Tom Tobin, State Advisory Committee, (512) 473-2249. If alternate format is required, please contact Tom Tobin or (800) 735-2989.

Completed applications must be postmarked no later than March 18, 1994. No applications received after the deadline will be considered.

Issued in Austin, Texas, on February 11, 1994.

TRD-9436051 Tom Tobin
Member
State Employee Campaign Advisory
Committee

Filed: February 11, 1994

State Employee Charitable Campaign- Notice of Request for Applications for State Campaign Manager

In accordance with Texas Civil Statutes, Article 6813h, the State Employee Charitable Campaign Policy Committee is accepting applications from federations and funds seeking the position of State Campaign Manager.

Responsibilities.

Responsibilities include, but are not limited to, coordinating and facilitating campaign services to state employees throughout the state, developing a campaign plan, and preparing generic campaign materials and a campaign budget.

Who is eligible to apply.

Eligibility criteria include, but are not limited to, the following:

(1) Application organizations must be a "federation or fund." A "federation or fund" means an umbrella fundraising entity that:

(A) is exempt from taxation under §501(a) of the Internal Revenue Code of 1986 as an organization described in §501(c)(3) of that code and to which contributions are deductible for income tax purposes under §170 of that code;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from state employees; and

(D) is supported by voluntary contributions from the public.

(2) Application organizations must also:

(A) have demonstrated expertise in conducting workplace charitable campaigns;

(B) demonstrate that they distribute funds raised through a cooperative community campaign to at least five agencies that provide direct health and human services.

Application Forms and Deadline Date.

An application form can be obtained by writing the State Employee Charitable Campaign, 603 West 13th, #418, Austin, Texas 78701, and requesting the State Campaign Manager Application Form. For more information contact Tom Tobin, State Campaign Advisory Committee, (512) 473-2249. If an alternate format is required, please contact Tom Tobin or (800) 735-2989.

Completed applications must be postmarked no later than March 18, 1994. No applications received after the deadline will be considered.

Issued in Austin, Texas, on February 11, 1994

TRD-9436051 Tom Tobin
Member
State Charitable Campaign Advisory
Committee

Filed: February 11, 1994

Texas Department of Health Notice of Intent to Revoke Certificates 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 complaints against the following registrants: Southern Cats Inc. of Texas, Arlington, R18370; Medplus West, El Paso, R18707, Mobile Technology, Inc., Converse, R17691, Azar Nut Company, El Paso, R19180; Medical Plaza Hospital, Inc., Sherman, Z00644; One Day Surgery Center, Fort Worth, Z00653, Jim B Hales, D D S, Argyle, R18295; Jonathan W Twigg, D.C., Alpine, R18307, Steven Skinner, D.C., Lubbock, R18618.

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., Acting

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 February 11, 1994.

TRD-9436057 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: February 11, 1994

◆ ◆ ◆
Texas Department of Human Services
Correction of Errors

The Texas Department of Human Services (DHS) filed a proposed amendment to 40 TAC §19.1912. The rule was published in the December 10, 1993, issue of the *Texas Register* (18 TexReg 9169).

In the proposal the agency inadvertently omitted the word "Service" from the title of the rule. The rule was adopted in the February 1, 1994, issue of the *Texas Register* (19 TexReg 717), DHS did not adopt the section with changes which was necessary to restore the correct rule title. Therefore, the change is being made by correction of error. DHS requests that §19.1912 be changed from "Additional Clinical Record Requirements" to "Additional Clinical Record Service Requirements."

The Texas Department of Human Services submitted a proposed amendment to 40 TAC §52.501 and §52.502. The rules appeared in the February 4, 1994, issue of the *Texas Register* (19 TexReg 779).

The proposal contained an error as published in the issue. The phrase "the department" should appear in brackets, not parentheses, because it is being deleted. It should read:

(15) insurance expenses for life insurance premiums if the beneficiary is the provider agency, and for insurance on assets not related to delivering services for which DHS [the department] has contracted;

(16) interest expense on loans for assets not related to delivering of services for which DHS [the department] has contracted (interest expenses must be reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds);

(17) personal compensation to persons not providing services contributory to delivering services for which DHS [the department] has contracted;

(18) personal expenses not related to delivering services for which DHS [the department] has contracted;

(19) (No change.)

(20) rental or lease expense on any item not related to delivering services for which DHS [the department] has contracted;

Texas Natural Resource Conservation
Commission

Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding the City of Bryan (Permits Numbers 10426-01, 10426-02, and 10426-03) on January 31, 1994, assessing \$26,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Geoff Petrov, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0677.

An agreed enforcement order was entered regarding the City of Thorndale (Permit Number 10302-01) on January 31, 1994, assessing \$20,000 in administrative penalties with \$7,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

An enforcement order was entered regarding Royce Radicke (Water Well Drilling License Number 3074-W, Docket Number WWD 93-17) on January 31, 1994, assessing \$6,000 in administrative penalties with \$3,000 deferred pending compliance.

Information concerning any aspect of this order may be obtained by contacting Kerrie Qualtrough or Bonnie Rubey, Staff Attorneys, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

An agreed enforcement order was entered regarding Petroleum Wholesale, Inc. (TNRCC Facility I.D. Number 48158/No WQ Permit Number) on January 31, 1994, assessing \$11,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

An agreed enforcement order was entered regarding the City of Ladonia (Permit Number 10740-01) on January 31, 1994, assessing \$7,840 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Geoff Petrov, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0677.

An enforcement order was entered regarding Donn Gallo-way (Water Well Drilling License Number 3067W, Docket Number WWD 94-04) on January 31, 1994, assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kerrie Qualtrough or Bonnie Rubey, Staff Attorneys, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

An enforcement order was entered regarding Donald Donnley (Water Well Drilling License Number 3064-WI; Docket Number WWD 94-03) on January 31, 1994, assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kerrie Qualtrough or Bonnie Rubey, Staff Attorneys, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

An agreed enforcement order was entered regarding Roscoe Conoley (TNRCC Operator Certificate Number 454204261) on January 31, 1994, assessing \$4,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

Issued in Austin, Texas, on February 7, 1994.

TRD-9345954
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: February 9, 1994

◆ ◆ ◆ Notice of Application for Municipal Solid Waste Management

Attached are Notices of Applications for municipal solid waste permits issued during the period of January 31-February 4, 1994.

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 newspaper 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 Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Republic/Maloy Landfill and Sanitation, Inc.; Commerce; Type I; 389 acres 3 miles north of Interstate 30 on FM Road 1568, approximately 4 miles south of the City of Commerce, Hunt County, Texas; amendment; MSW1195-A.

Issued in Austin, Texas, on January 31, 1994.

TRD-9435948
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: February 9, 1994

◆ ◆ ◆ Notice of Application for Waste Disposal Permits For the Weeks Ending: February 4-11, 1994

Attached are Notices of Application for waste disposal permits. These notices were issued during the period of February 4-11, 1994.

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 the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

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 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.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

Exxon Corporation, Exxon Company U.S.A.; the petroleum refinery and organic chemical manufacturing facility; is at 2800 Decker Drive in the City of Baytown, Harris County, Texas, renewal, 00592.

Central Independent School District, the wastewater treatment facilities, are south of and adjacent to U.S. Highway 69, approximately 0.4 mile northwest of the intersection of U.S. Highway 69 and FM Road 843 in Angelina County, Texas; renewal; 12214-01.

City of Goodlow, the wastewater treatment facilities; are approximately two miles south of the intersection of State Highway 31 and State Highway 309 on the west side of State Highway 309 in Navarro County, Texas; renewal; 12616-01

Mayde Creek Municipal Utility District, the wastewater treatment facilities, are approximately 1 mile south of Clay Road and 0.5 mile east of Fry Road in Harris County, Texas, renewal; 11969-01

P Chem, Inc.; a chemical manufacturing facility primarily producing oil field chemicals, the plant site is at 100 Old Latexo Road in the City of Latexo, Houston County, Texas, renewal, 02393.

Palmer Barge Line, Incorporated; the Palmer Terminal, a barge cleaning and repair facility; the plant site is at 8600 Old Yacht Club Road in the City of Port Arthur, Jefferson County, Texas; amendment; 02573

Pioneer Concrete of Texas, Inc.; a sand and gravel dredging operation; the plant site is on the east bank of the Brazos River at River Mile 140.5, approximately 6 miles southwest of the City of Brookshire, Waller County, Texas; renewal, 02665

City of Portland, the wastewater treatment plant; is at 900 Moore Avenue (FM Road 893), 2,000 feet northwest of the intersection of FM Road 893 and U.S. Highway 181 in the City of Portland in San Patricio County, Texas; renewal, 10478-01.

Sun Pipe Line Company, a Marine Terminal which leases tanks for storage of crude oil, petroleum fuels, lube oil stock and organic chemicals; the plant site is north of the City of Nederland and north of the intersection of State Highway 347 and FM Road 366, Jefferson County, Texas; amendment, 01151.

Taiwan Shrimp Village Association, Inc.; a mariculture facility to raise shrimp for human consumption, the plant site is on the south side of FM 2925 and approximately 1.4 miles east of the intersection of FM 2925 and FM 1897 near the City of Arroyo City, Cameron County, Texas, new; 03596.

City of Troy, the wastewater treatment facilities; are approximately 5,500 feet north of the center of the City of Troy and lying between Interstate Highway 35 and the Missouri-Kansas-Texas Railroad in Bell County, Texas, renewal, 11263-01.

Lyondell Petrochemical Company, the facility stores and processes Class I hazardous, Class I and Class II industrial

solid wastes generated on-site. Hazardous wastes managed at the facility consist of off-specification commercial chemical products, container and spill residues, listed hazardous waste from specific and non-specific sources, and characteristically hazardous wastes resulting from the manufacture of synthetic organic chemicals; the facility is located on a 1,246.30-acre tract of land approximately six miles north of Interstate Highway 10 on Sheldon Road, west of the San Jacinto River, Channelview, in Harris County, Texas; new; HW-50117.

Monarch Tile Manufacturing, Inc.; to authorize post-closure care for an on-site closed landfill. Sludges from surface impoundments that contained lead were stabilized and deposited in the landfill; the Class I hazardous wastes formerly managed in the landfill were generated on-site from the manufacture of ceramic tiles; the facility is located on a 15.57-acre tract of land at the southwest corner of the intersection of U.S. Highway 80 (West Grand Avenue) and Marshall Street in Marshall, Harrison County, Texas; new; HW-50333.

Issued in Austin, Texas, on February 11, 1994.

TRD-9436126

Gloria A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed February 11, 1994

◆ ◆ ◆ Notice of Opportunity to Comment on Permitting Actions

The following 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 the permits unless one or more persons file written protests and/or requests for hearing within 10 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 conditions 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 10 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, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Application by Andrew and Anna Johnson doing business as Opelousas Water System Application Number 30212-C, for a Water Certificate of Convenience and Necessity in Anderson County, Texas.

Kendall County; Application Number TA-7156 for a temporary permit to divert and use for industrial purposes (roadway construction and maintenance) in Kendall County, Texas, 10 acre-feet of water for a 3-year period from various creeks and rivers throughout Kendall County, which are: the Guadalupe River, Guadalupe River Basin, tributaries of the Guadalupe River, Guadalupe River Basin, tributaries of the Colorado River, Colorado River Basin (in the northern portion of Kendall County), and tributaries of the San Antonio River, San Antonio River Basin (in the southern portion of Kendall County). The proposed points of diversion are from the roadway crossings of the various creeks and rivers throughout Kendall County, Texas.

Application by North Alamo Water Supply Corporation Application Number 23-240F, to amend Certificate, as amended, to combine the rights they own pursuant to Certificate 23-828, as amended, with the rights authorized by Certificate Number 23-240, as amended, and change the purpose of use of the 5,000 acre-feet of Class "A" irrigation water rights they own to municipal use and to change the place of use of the water and diversion point.

Issued in Austin, Texas, on February 11, 1994.

TRD-9436128 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: February 11, 1994

◆ ◆ ◆
**Notices of Receipt of Applications and
Declaration for Administrative
Completeness for Sludge Registrations**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of February 7-11, 1994.

These applications have 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 these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, 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 these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Alamo Pumping Service; located approximately 0.25 mile east of the intersection of Stewart Road and Juan Balli

Road, 4 miles south of the City of San Juan, Hidalgo County, Texas; new beneficial sludge use site; 710674.

Issued in Austin, Texas, on 11, 1994.

TRD-9436127 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: February 11, 1994

◆ ◆ ◆
Public Hearing Notice

The Texas Natural Resource Conservation Commission (TNRCC) will hold a public hearing at 2:00 p.m., Monday, February 28, 1994, at the TNRCC offices, Building E, Room 202-S, 12118 North IH-35, Park 35 Technology Center, Austin, Texas. TNRCC has proposed an amendment to 30 TAC §320.21, concerning the program for water quality assessment by watershed. Water Code, §26.0135 authorizes the commission to assess an annual fee against each permittee holding a permit for wastewater treatment or a permit for surface water rights for the purpose of supporting the costs of regional water quality assessment activities conducted by the commission and river authorities or other eligible local jurisdictions.

Proposed rules were published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 706) which, if adopted, will increase fee assessments under the regional water quality assessment program. Written comments on the proposal may be submitted to Stephen Minick, Budget and Planning Division, Texas Natural Resources Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. For further information regarding the hearing, please contact Stephen Minick at (512) 239-0214.

Issued in Austin, Texas, on February 14, 1994

TRD-9436145 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: February 14, 1994

◆ ◆ ◆
**Texas Parks and Wildlife Department
Executive Order Number 92-001**

The Executive Director of the Texas Parks and Wildlife Department finds that effective September 31, 1991, two species of native plants (Terlingua Creek cat's-eye (*Cryptantha crassipes*) and Texas trailing phlox (*Phlox nivalis* ssp. *texensis*)) were added to the United States List of Endangered Plant Species. The Executive Director further finds that effective October 2, 1991, the species of native plant, Walker's manioc (*Manihot walkerae*), was added to the United States List of Endangered Plant Species. The Executive Director further finds that effective November 14, 1991, the species of native plant, Little Aguja pondweed (*Potamogeton clystocarpus*), was added to the United States List of Endangered Plant Species.

The Executive Director of the Texas Parks and Wildlife Department further finds that the species of native plants listed below are included on the United States List of Endangered Plant Species or the United States List of Threatened Plant Species as of this date and that the listed plants occurred in the State of Texas.

Accordingly, the Executive Director hereby ORDERS that the species of native plants listed below are designated as endangered or threatened and therefore are subject to all protections under Chapter 88 of the Texas Parks and Wildlife Code.

The following plants are endangered:

Tobusch fishhook cactus ¹	<i>Ancistrocactus tobuschii</i>
Nellie cory cactus ¹	<i>Coryphantha minima</i>
Sneed pincushion cactus ¹	<i>Coryphantha sneedii</i> var. <i>sneedii</i>
Lloyd's hedgehog cactus ¹	<i>Echinocereus lloydii</i>
Black lace cactus ¹	<i>Echinocereus reichenbachii</i> var. <i>albertii</i>
Davis' green pitaya ¹	<i>Echinocereus viridiflorus</i> var. <i>davisii</i>
Johnston's frankenia ²	<i>Frankenia johnstonii</i>
Texas snowbells ²	<i>Styrax texana</i>
Terlingua Creek cat's-eye ⁵	<i>Cryptantha crassipes</i>
Walker's manioc ⁵	<i>Manihot walkerae</i>
Texas trailing phlox ⁵	<i>Phlox nivalis</i> ssp. <i>texensis</i>
Ashy dogweed ²	<i>Thymophylla tephroleuca</i>
Prairie dawn ²	<i>Hymenoxys texana</i>
White bladderpod ³	<i>Lesquerella pallida</i>
Texas poppy mallow ¹	<i>Callirhoe scabriuscula</i>
Large-fruited sand verbena ⁴	<i>Abronia macrocarpa</i>
Little Aguja pondweed ⁵	<i>Potamogeton clystocarpus</i>
Texas wildrice ¹	<i>Zizania texana</i>
Navasota ladies'-tresses ¹	<i>Spiranthes parksii</i>
Sleder rush-pea ²	<i>Hoffmannseggia tenella</i>

The following plants are threatened:

Bunched cory cactus ¹	<i>Coryphantha ramillosa</i>
Chisos hedgehog cactus ⁴	<i>Echinocereus chisoensis</i> var. <i>chisoensis</i>
Lloyd's mariposa cactus ¹	<i>Neolloydia mariposensis</i>
Hinckley's oak ⁴	<i>Quercus hinckleyi</i>
McKittrick pennyroyal ¹	<i>Hedeoma apiculatum</i>

The effective dates of listing:

- ¹ April 29, 1983
- ² January 9, 1987
- ³ May 18, 1987
- ⁴ December 30, 1988
- ⁵ March 30, 1993

This order is issued pursuant to Chapter 88 of the Texas Parks and Wildlife Code and is effective immediately.

Issued in Austin, Texas, on February 8, 1994.

TRD-9435984

Paul M. Shinkawa
General Counsel
Texas Parks and Wildlife Department

Filed: February 10, 1994

◆ ◆ ◆
Public Utility Commission of Texas
Correction of Error

The Public Utility Commission of Texas adopted new §23.92. The rule appeared in the February 8, 1994, issue of the *Texas Register* (19 TexReg 902).

The effective date of the rule was listed as "March 1, 1994", the correct date should be "February 22, 1994".

Public Utility Commission of Texas
Requests Comments on Amendments
to the Commission's Substantiative
Rules to Include Spanish Language
Requirements

The Public Utility Omission of Texas has established a project (Project Number 12706) to consider the amendment of the Commission's Substantiative and Procedural Rules to require utilities to communicate with customers in both English and Spanish. The Commission seeks comments from interested parties in response to the following questions. Parties should include their reasons supporting the response to each question. Parties have the option of offering draft language whenever it is appropriate. The Commission requests that parties respond to the questions in the order in which they are presented below and encourages parties to include an executive summary of their comments.

1. Should the Commission establish a general rule or, in the alternative, amend existing rules, to require public utilities to include a Spanish language translation in all written customer communications including notices? If yes, how should the utilities accomplish this?
2. Should the Commission establish a general rule or, in the alternative, amend existing rules to require public utilities to be capable of conducting all oral communications with the utilities' business office or repair service in Spanish? If yes, how should the utilities accomplish this capability?
3. Should public telecommunications utilities be required to provide Spanish-speaking operators upon customer request or when it is evident that the caller can speak only Spanish? If yes, how should the utilities accomplish this?
4. Should public telecommunications utilities be required to provide any oral announcements/notices in the Spanish language? If yes, how should the utilities accomplish this?
5. Should a requirement to provide oral or written notice in Spanish apply to all areas of Texas or only areas where a certain percentage of the general population of that area speaks Spanish?
6. If a requirement should only apply to areas where a certain percentage of the general population speaks Spanish, what percentage should trigger the requirement?

7. How should the Commission define areas where the requirement would apply (eg., by exchange, LATA, city, county)?

8. The Commission has identified the following Substantiative Rules as potentially affected by such a requirement: §23.41(a)(2),(4),(6),(8), and (b) (2); §23.42(b); §23.43(a)(5), (c)(1)(A)(B), and §23.44(c)(3); §23.45(c)(3),(5),(7),(8), (e), (f)(1)(A)(B), (f)(2)(A), (g), (h)(1), (i)(1), and (j); §23.46(a), (j), (k)(2), (l)(3), and (m)(3); §23.49(b)(7); §23.50(e)(1)(A) ; §23.51(c)(1)(H) and (d)(1)(A); §23.52(d) and (e); §23.54(d)(1)(B),(C), (F), and (d)(2)(A-C), (4); §23.55(d)(1),(2),(e),(h)(1-3), and (j)(1); §23.56(d)(1)(B)(D), and (H); §23.57(e)(3)(A), (e)(5), and (g)(3); §23.58(c) (1-3) and (d)(1); §23.61(e)(3)(B) and (e)(7)(C). Should the Commission amend any other sections of its rules, or should other sections be added, to require that any communication with customers, or written, be in the Spanish language? Please identify any section that should be amended or any issue that should be addressed in a new section.

9. Are there procedures that the Commission should establish or amend to implement a requirement that any communication with customers, oral or written, be in the Spanish language? Please describe fully the current procedure, if any, and suggested changes.

10. Does the Commission have the authority to require utilities to provide written and oral communications in Spanish? Please explain.

11. Please indicate other matters, if any, the Commission should consider in order to fully implement a requirement to communicate with customers in the Spanish language.

The Commission staff and the General Counsel will review the comments and use them in preparing a recommendation to the Commission for further action, including possible amendments to the Commission's Substantiative Rules (16 TAC §23.1 *et seq.*).

Comments (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice. Comments should refer to Project Number 12706.

Issued in Austin, Texas, on February 10, 1994.

TRD-9436004

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 11, 1994

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Notice of Intent to File Pursuant to
P.U.C. Substantiative Rule 23.27

Notice is given to the public of the intent to file with Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantiative Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for American State Bank, Lubbock, Texas

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for American State Bank pursuant to Public Utility Commission Substantiative Rule 23.27 Docket Number 12745.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Amer-

ican State Bank. The geographic service market for this specific service is the Lubbock, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 8, 1994.

TRD-9435948 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed February 9, 1994

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Public Utility Commission of Texas Requests Comments on Opportunities for Minorities and Women

The Public Utility Commission of Texas has established a project (Project Number 12375) to examine questions regarding efforts made by public utilities to provide contracting opportunities to historically-under-utilized businesses and employment opportunities to minorities and women. The Commission seeks comments from interested parties in response to the following questions. Parties should include reasoning supporting the response to each question. Parties are requested to respond to the questions in the order in which they are presented below and are encouraged to include an executive summary of their comments.

1. Generally, historically-under-utilized businesses have been defined to include businesses with majority shares owned, managed, and controlled by "minority group members" defined as:

- (A) African-Americans;
- (B) American-Indians,
- (C) Asian-Americans;
- (D) Hispanic-Americans and other Americans of Hispanic origin, and
- (E) Women.

Identify any other groups of businesses or persons that should be included in this list, or any groups listed that should be excluded.

2. For employment purposes, should the definition of "minority group members" include the groups listed? If not, should the definition be more or less inclusive? What groups should be added or excluded?

3. Should public utilities be required to periodically report to the Commission the participation of historically-under-utilized businesses in contracting and other business opportunities in Texas?

4. Should public utilities be required to periodically report to the Commission the employment opportunities provided by public utilities to "minority group members" in Texas?

5. What authority, if any, does the Commission possess to require the reporting of such information described in questions 3 and 4?

6. Please submit suggestions for the content and form of reporting requirements, if any.

7. Please identify the regulatory purposes, informational purposes, or other legitimate purposes for which the information provided by the utilities may be used by the Commission, if any.

8. Should the Commission adopt a suggested goal to guide public utilities in their provision of business opportunities for historically-under-utilized businesses? If so, what should the goal be? Also please identify the source, if any, of the Commission's authority to establish such goals.

9. Should the Commission adopt a suggested goal to guide public utilities in their provision of employment opportunities for "minority group members"? If so, what should the goal be? Also please identify the source if any, of the Commission's authority to establish such goals.

10. Please include other comments that the Commission should consider in addressing the issues raised by these questions.

The Commission's staff and General Counsel will review the comments and use them in preparing a recommendation to the Commission for further action. The Commission may use the comments to formulate proposed amendments to its Substantive Rules.

Comments (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice. Comments should refer to Project Number 12375. The names and mailing addresses of commenters will be used to compile a service list for this project. The service list will be used to notify commenters of future proceedings in this project.

Issued in Austin, Texas, on February 10, 1994.

TRD-9436003 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 11, 1994

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Texas Low Level Radioactive Waste Disposal Authority Notice of Public Hearing

In accordance with the Health and Safety Code, the Authority has submitted a license application to the Texas Natural Resource Conservation Commission for the operation of a low-level radioactive waste disposal facility in Hudspeth County, Texas.

Copies of the license application are available for viewing at Austin office of the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas, (512) 451-5292, and the Sierra Blanca office at 203 FM 1111 South, Sierra Blanca, Texas, (915) 369-3391.

Authority staff will hold a public meeting in Forth Hancock, Texas on Thursday, February 24, 1994, to discuss the status of the proposed disposal facility project. The meeting will be held in the school library from 6:30 p.m. to 8:30 p.m. Technical staff will be available to answer questions.

For more information, please contact Adriana Riojas, Public Information Officer, at (512) 451-5292.

Issued in Austin, Texas, on February 11, 1994.

TRD-9436130

Lee H. Mathews
Deputy General Manager and Legal
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: February 14, 1994

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**Texas Savings and Loan Department
Correction of Error**

The Texas Savings and Loan Department proposed a repeal to 7 TAC §67.5 and §77.105, concerning gifts or inducements to attract customers to open or add to deposit accounts with an institution, amendments to 7 TAC §§69.1, 69.2, 69.7-69.9, 69.11, concerning reorganizations, mergers, consolidation and acquisitions involving state chartered savings and loan associations, a new 7 TAC §73.6, concerning the authority of state savings and loan associations to invest in operating subsidiaries whose activities are limited to those that could be conducted directly by the parent savings and loan association, repeal to 7 TAC §79.12, concerning the authority to adopt, amend, and repeal the bylaws of a state savings bank, an amendment to 7 TAC §79.95, concerning the fee charged to each savings bank for an examination, and amendment to 7 TAC §79.105, concerning the filing fee for existing depository institutions to convert to a state savings bank charter. The rules appeared in the January 25, 1994, *Texas Register* (19 TexReg 390, 393, and 392).

Due to a publishing error the agency's information phone number was incorrectly printed. The number should be "(512) 475-1350".

In §73.6, line five, should read "which could be conducted directly by the".

◆ ◆ ◆
**Texas Department of Transportation
Notice of Contract Award**

Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services

The request for qualifications for professional engineering services was published in the *Texas Register* on September 24, 1993 (18 TexReg 6576).

The consultant will provide professional engineering services for the Airport Layout Plan Report for the following TxDOT Project: City of Pleasanton, TxDOT Project Number 94-40-053.

The engineering firm for these services is: Espey, Huston and Associates, Inc., P.O. Box 519, Austin, Texas 78767-0519.

The total value of the contract is \$10,280 and the contract period starts on February 1, 1994, until the completion of the project.

Issued in Austin, Texas, on February 7, 1994.

TRD-9436049 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 11, 1994
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1994 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1994 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 March 11, July 22, November 11, and November 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.
1 Tuesday, January 4	Wednesday, December 29	Thursday, December 30
2 Friday, January 7	Monday, January 3	Tuesday, January 4
3 Tuesday, January 11	Wednesday, January 5	Thursday, January 6
4 Friday, January 14	Monday, January 10	Tuesday, January 11
5 Tuesday, January 18	Wednesday, January 12	Thursday, January 13
Friday, January 21	1993 ANNUAL INDEX	
6 Tuesday, January 25	Wednesday, January 19	Thursday, January 20
7 Friday, January 28	Monday, January 24	Tuesday, January 25
8 Tuesday, February 1	Wednesday, January 26	Thursday, January 27
9 Friday, February 4	Monday, January 31	Tuesday, February 1
10 Tuesday, February 8	Wednesday, February 2	Thursday, February 3
11 Friday, February 11	Monday, February 7	Tuesday, February 8
12 Tuesday, February 15	Wednesday, February 9	Thursday, February 10
13 Friday, February 18	Monday, February 14	Tuesday, February 15
14 Tuesday, February 22	Wednesday, February 16	Thursday, February 17
15 *Friday, February 25	Friday, February 18	Tuesday, February 22
16 Tuesday, March 1	Wednesday, February 23	Thursday, February 24
17 Friday, March 4	Monday, February 28	Tuesday, March 1
18 Tuesday, March 8	Wednesday, March 2	Thursday, March 3
Friday, March 11	NO ISSUE PUBLISHED	
19 Tuesday, March 15	Wednesday, March 9	Thursday, March 10
20 Friday, March 18	Monday, March 14	Tuesday, March 15
21 Tuesday, March 23	Wednesday, March 16	Thursday, March 17
22 Friday, March 25	Monday, March 21	Tuesday, March 22
23 Tuesday, March 29	Wednesday, March 23	Thursday, March 24
24 Friday, April 1	Monday, March 28	Tuesday, March 29
25 Tuesday, April 5	Wednesday, March 30	Thursday, March 31
26 Friday, April 8	Monday, April 4	Tuesday, April 5
27 Tuesday, April 12	Wednesday, April 6	Thursday, April 7
Friday, April 15	FIRST QUARTERLY INDEX	
28 Tuesday, April 19	Wednesday, April 13	Thursday, April 14

29 Friday, April 22	Monday, April 18	Tuesday, April 19
30 Tuesday, April 26	Wednesday, April 20	Thursday, April 21
31 Friday, April 29	Monday, April 25	Tuesday, April 26
32 Tuesday, May 3	Wednesday, April 27	Thursday, April 28
33 Friday, May 6	Monday, May 2	Tuesday, May 3
34 Tuesday, May 10	Wednesday, May 4	Thursday, May 5
35 Friday, May 13	Monday, May 9	Tuesday, May 10
36 Tuesday, May 18	Wednesday, May 11	Thursday, May 12
37 Friday, May 20	Monday, May 16	Tuesday, May 17
38 Tuesday, May 24	Wednesday, May 18	Thursday, May 29
39 Friday, May 27	Monday, May 23	Tuesday, May 24
40 Tuesday, May 31	Wednesday, May 25	Thursday, May 26
41 *Friday, June 3	Friday, May 27	Tuesday, May 31
42 Tuesday, June 7	Wednesday, June 1	Thursday, June 2
43 Friday, June 10	Monday, June 6	Tuesday, June 7
44 Tuesday, June 14	Wednesday, June 8	Thursday, June 9
45 Friday, June 17	Monday, June 13	Tuesday, June 14
46 Tuesday, June 21	Wednesday, June 15	Thursday, June 16
47 Friday, June 24	Monday, June 20	Tuesday, June 21
48 Tuesday, June 28	Wednesday, June 22	Thursday, June 23
49 Friday, July 1	Monday, June 27	Tuesday, June 28
50 Tuesday, July 6	Wednesday, June 29	Thursday, June 30
51 *Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	SECOND QUARTERLY INDEX	
52 Friday, July 15	Monday, July 11	Tuesday, July 12
53 Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	NO ISSUE PUBLISHED	
54 Tuesday, July 26	Wednesday, July 20	Thursday, July 21
55 Friday, July 29	Monday, July 25	Tuesday, July 26
56 Tuesday, August 2	Wednesday, July 27	Thursday, July 28
57 Friday, August 5	Monday, August 1	Tuesday, August 2
58 Tuesday, August 9	Wednesday, August 3	Thursday, August 4
59 Friday, August 12	Monday, August 8	Tuesday, August 9
60 Tuesday, August 16	Wednesday, August 10	Thursday, August 11
61 Friday, August 19	Monday, August 15	Tuesday, August 16
62 Tuesday, August 23	Wednesday, August 17	Thursday, August 18
63 Friday, August 26	Monday, August 22	Tuesday, August 23
64 Tuesday, August 30	Wednesday, August 24	Thursday, August 25
65 Friday, September 2	Monday, August 29	Tuesday, August 30
66 Tuesday, September 6	Wednesday, August 31	Thursday, September 1
67 *Friday, September 9	Friday, September 2	Tuesday, September 6

68 Tuesday, September 13	Wednesday, September 7	Thursday, September 8
69 Friday, September 16	Monday, September 12	Tuesday, September 13
70 Tuesday, September 20	Wednesday, September 14	Thursday, September 15
71 Friday, September 23	Monday, September 19	Tuesday, September 20
72 Tuesday, September 27	Wednesday, September 21	Thursday, September 22
73 Friday, September 30	Monday, September 26	Tuesday, September 27
74 Tuesday, October 4	Wednesday, September 28	Thursday, September 29
75 Friday, October 7	Monday, October 3	Tuesday, October 4
Tuesday, October 11	THIRD QUARTERLY INDEX	
76 Friday, October 14	Monday, October 10	Tuesday, October 11
77 Tuesday, October 18	Wednesday, October 12	Thursday, October 13
78 Friday, October 21	Monday, October 17	Tuesday, October 18
79 Tuesday, October 25	Wednesday, October 19	Thursday, October 20
80 Friday, October 28	Monday, October 24	Tuesday, October 25
81 Tuesday, November 1	Wednesday, October 26	Thursday, October 27
82 Friday, November 4	Monday, October 31	Tuesday, November 1
83 Tuesday, November 8	Wednesday, November 2	Thursday, November 3
Friday, November 11	NO ISSUE PUBLISHED	
84 Tuesday, November 15	Wednesday, November 9	Thursday, November 10
85 Friday, November 18	Monday, November 14	Tuesday, November 15
86 Tuesday, November 22	Wednesday, November 16	Thursday, November 17
87 Friday, November 25	Monday, November 21	Tuesday, November 22
Tuesday, November 29	NO ISSUE PUBLISHED	
88 Friday, December 2	Monday, November 28	Tuesday, November 29
89 Tuesday, December 6	Wednesday, November 30	Thursday, December 1
90 Friday, December 9	Monday, December 5	Tuesday, December 6
91 Tuesday, December 13	Wednesday, December 7	Thursday, December 8
92 Friday, December 16	Monday, December 12	Tuesday, December 13
93 Tuesday, December 20	Wednesday, December 14	Thursday, December 15
94 Friday, December 23	Monday, December 19	Tuesday, December 20
95 Tuesday, December 27	Wednesday, December 21	Thursday, December 22
96 *Friday, December 30	Friday, December 23	Tuesday, December 27

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Texas Natural Resources Conservation Commission, Title 30

- Chapter 285 \$20 update service \$15/year (On-Site Wastewater Treatment)
 Chapter 290 \$20 update service \$15/year (Water Hygiene)
 Chapter 330 \$45 update service \$15/year (Municipal Solid Waste)
 Chapter 334 \$35 update service \$15/year (Underground/Aboveground Storage Tanks)
 Chapter 335 \$25 update service \$15/year (Industrial Solid Waste/Municipal Hazardous Waste)

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Texas Workers Compensation Commission, Title 28

- Update service \$25/year

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