

TEXAS REGISTER

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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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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
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The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

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

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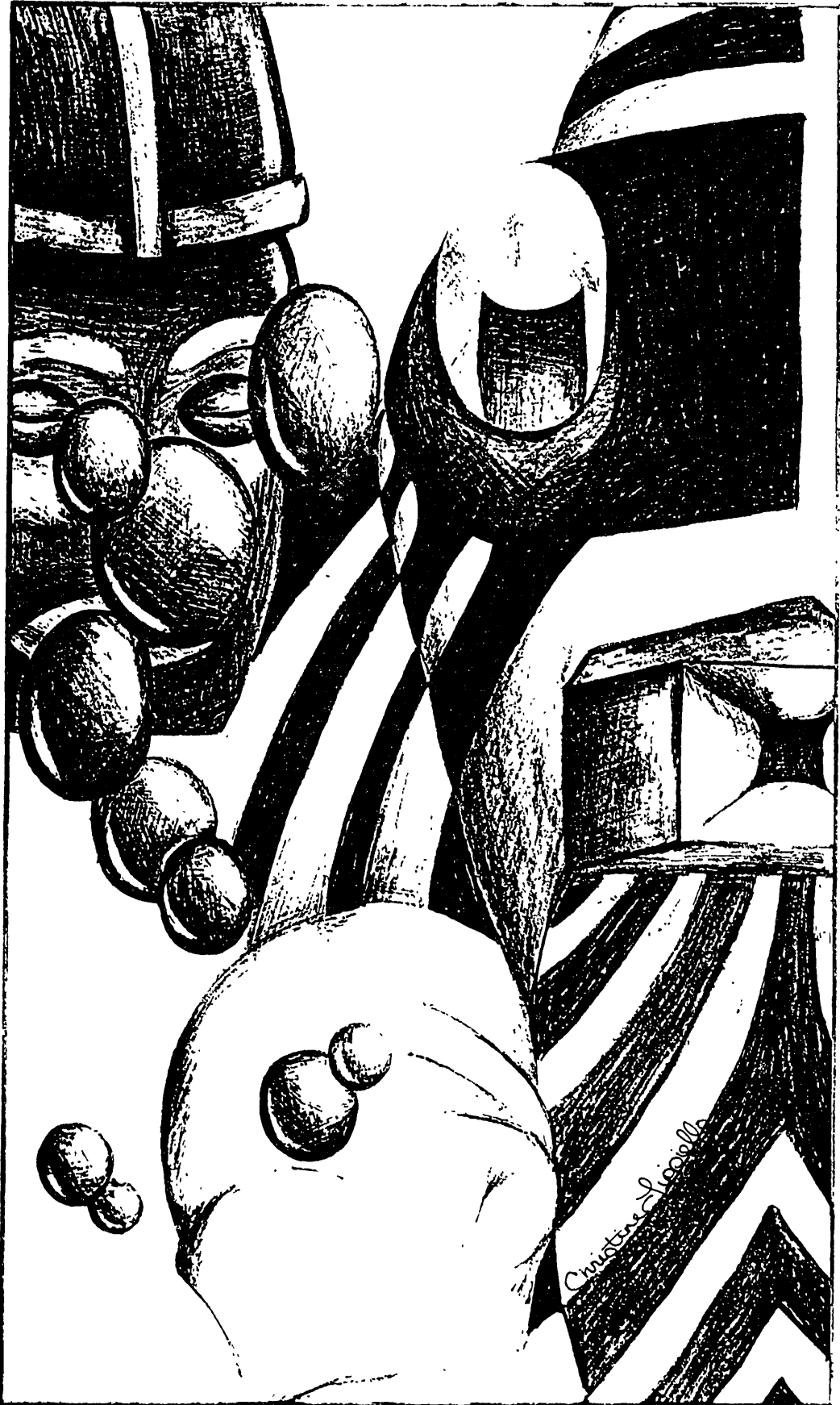
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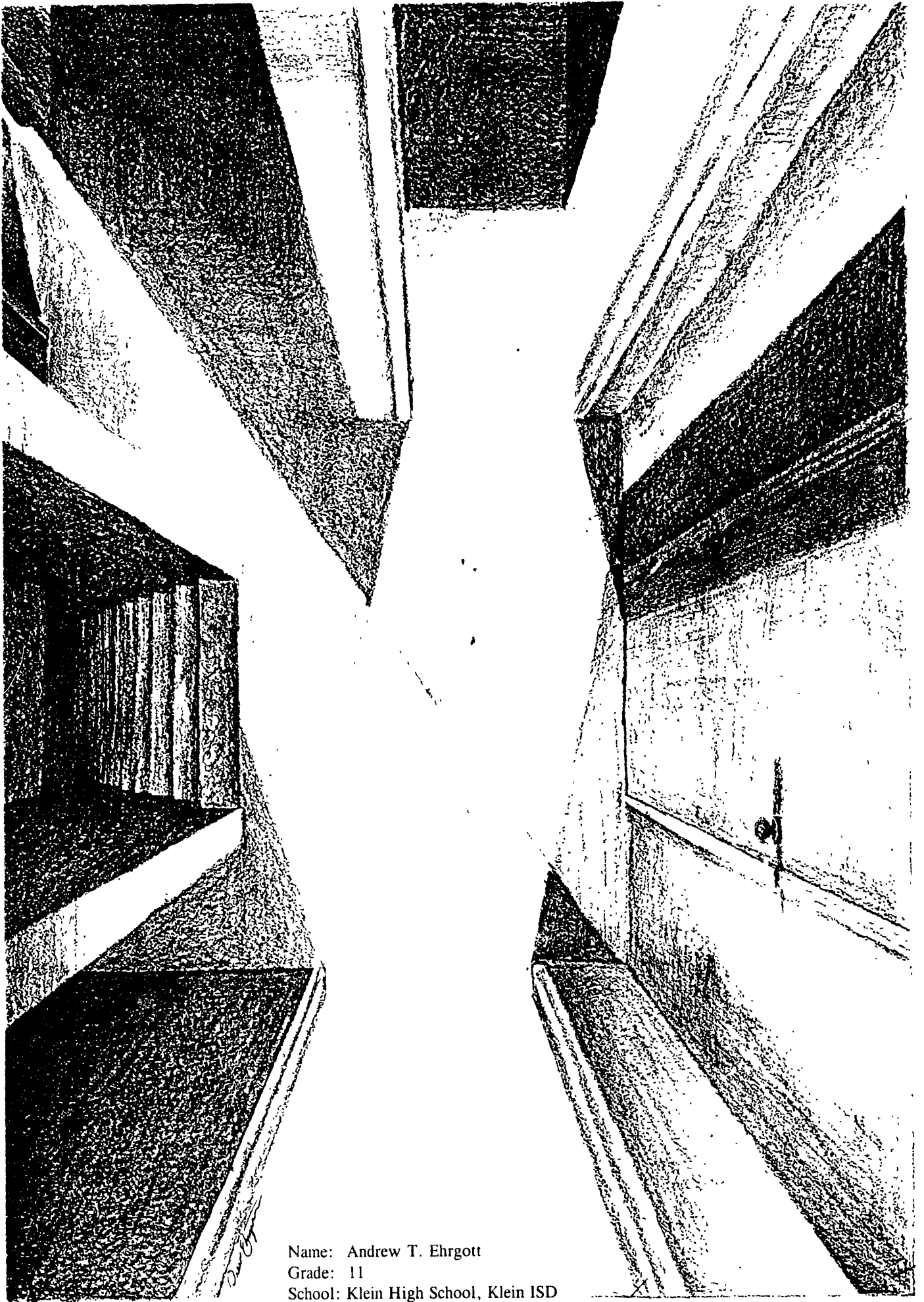
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PROPOSED RULES

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

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

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 184. Work Force Development Incentive Program

• 10 TAC §§184.101-184.104

(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 Commerce or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Commerce proposes the repeal of §§184.101-184.104 of the Work Force Development Incentive Program rules, because the 73rd Legislature repealed §481.076 of the Texas Government Code, which was the statutory authority for the Program. Since there is no longer authority for a Work Force Development Incentive Program, rules for the Program are unnecessary. Repeal of the rules should alleviate any confusion on the part of the public that might exist concerning the Program if the rules were left in place.

Renee Mauzy, staff attorney for the Texas Department of Commerce, has determined that for the first five-year period the repeals are in effect there will be no fiscal impact on state or local government as a result of enforcing or administering the repeals. There will be no impact on small businesses. There is no anticipated economic cost to persons required to comply with the repeals as proposed.

Two copies of written comments on the proposed repeals should be submitted to Renee Mauzy, Staff Attorney, Texas Department of Commerce, 816 Congress Avenue, Suite 1180, Austin, Texas 78701 within 30 days of publication of the proposed repeals.

The repeal of §§184.101-184.104 is proposed under the authority of the Texas Government Code, §481.021(a)(1) and §481.103(23), which specifically authorize the Texas Department of Commerce to promulgate rules, and the Administrative Procedure Act, Government Code, Chapter 2002, which pre-

scribes the standards for agency rulemakings

§184.101. *General Provisions.*

§184.102. *Filing Requirements and Consideration of Applications.*

§184.103. *Criteria for Selection of Eligible Business.*

§184.104. *Conflicts.*

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 17, 1994.

TRD-9436478

Deborah C. Kastrian
Acting Executive Director
Texas Department of
Commerce

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 320-9401

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.84

The Railroad Commission of Texas proposes new §3.84, relating to agency procedures for determining whether there exists a natural gas supply emergency, and if so, the procedures by which the commission will implement emergency response actions. The purpose of this section is to provide a means for a producer, distributor, transporter, or purchaser to increase, without penalty, produc-

tion and takes from wells in a field in response to an increase in demand caused by unforeseen events. This section outlines the commission's mechanism for determining that a gas shortage emergency exists and for responding to a gas shortage emergency.

Under current commission rules, every well can produce up to two times its monthly allowable without authorization from the commission. Later, however, any production over the allowable must be made up. Because the commission will supplement the initial allowable under proposed rule §3.84, overproduction of an allowable during a gas shortage emergency will not have to be made up.

Potential correlative rights problems have been precluded by equalizing the opportunities for every well during the course of the emergency. For example, if the emergency is three days long, then the supplemental allowable added to every gas well in the state would be equal to the daily capability minus the daily allowable, times the number of days of the emergency. A single well example for a well with a capability of 100 thousand cubic feet per day (MCFPD) and an assigned allowable of 90 MCFPD follows: Capability (100 MCFPD) - Allowable (90 MCFPD) = 10 thousand cubic feet (MCF) times three days, or 30 MCF total supplemental allowable. If the emergency is early in the month, and this example well produces at capability (e.g., 100 MCFPD) for the entire month, the well will be overproduced 300 MCF. In this case, the supplemental allowable is 30 MCF, meaning that 270 MCF must be made up. If the example well cannot respond to the emergency, the supplemental allowable will still be granted to the well, and the resultant underage can be produced later. The correlative rights associated with all wells are protected whether or not they respond to the emergency.

The proposed rule provides an efficient and effective means to address increased demand associated with unforeseeable circumstances.

Rita Percival, systems analyst, Oil and Gas Division, has determined that for the first five-year period the new section is in effect there will be fiscal implications as a result of enforcing or administering it. The effect on state government for the first five-year period the proposed section will be in effect is an estimated cost of \$500 annually for fiscal years 1994-1998, plus \$700 per emergency decla-

ration. There will be no fiscal implications for local governments as a result of enforcing or administering the section

Larry Borella, hearings examiner, Legal Division, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient method of allocating natural gas during a natural gas supply shortage. There will be no effect on small businesses or costs to persons required to comply with the proposed section

Comments on the proposal may be submitted to Thomas D Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P O Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*

The new section is proposed under Texas Natural Resources Code, §81 052, which gives the commission the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission

The following is the statute, article, or code affected by the proposed new section §3.84-Texas Natural Resources Code, §§81 052, 85 055, 86 012, 86.041, 86 042, 86.081, 86 083-86 086, 86 090, 86 094, 111 083, and 111 090

§3.84 Gas Shortage Emergency Response

(a) The purpose of this section is to provide a means for a producer, distributor, transporter, or purchaser to increase production and takes from wells in a field without penalty in response to an increase in demand caused by unforeseen events. This section outlines the commission's mechanisms for both determining that a gas shortage emergency exists, and responding to a gas shortage emergency

(b) The commission may, after notice and hearing, determine that a gas shortage emergency exists. The commission may also determine the duration of the emergency at such hearing. The commission shall issue notice when it has determined that a gas shortage emergency exists and when it determines the gas shortage emergency has ended or will end. In determining whether a gas shortage emergency exists, the commission shall consider any relevant information, including, but not limited to, the following

- (1) notification from gas storage facilities that they are attaining maximum gas withdrawal rates;
- (2) notification from gas utilities that curtailments are anticipated, and
- (3) weather data.

(c) Upon the commission finding that a gas shortage emergency exists, a distributor, transporter, or purchaser may increase its takes from all wells in a field

during the emergency period in order to meet the demand for gas. Producers shall be authorized to meet the increased demand during the emergency period regardless of a well's assigned allowable or allowable status. Such increase in production and takes shall be authorized from the time that the commission issues notice of the gas shortage emergency until the commission determines and issues notice that such emergency has ended.

(d) The commission shall adjust inequalities in gas production caused by the gas shortage emergency through the setting of allowable production of the various wells in the common reservoir or zone. The adjustment shall be made at the hearing on the lawful market demand for gas in which production reported for the month of the gas shortage emergency is considered in setting future allowables. Such adjustment shall include the assignment of additional allowable to adequately protect correlative rights. The commission may determine the amount of the supplemental allowable by multiplying the number of days of the gas shortage emergency period by the difference between the well's capability (as defined in §3 31 of this title (relating to Gas Well Allowables)) and the assigned allowable

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 22, 1994

TRD-9436562
Mary Ross McDonald
Assistant Director, Legal
Division-Gas
Utilities/LP-Gas Section
Railroad Commission of
Texas

Earliest possible date of adoption April 1, 1994

For further information, please call (512) 463-6949

Chapter 7. Gas Utilities Division

Substantive Rules

• 16 TAC §7.91

The Railroad Commission of Texas proposes new §7 91, relating to the human needs natural gas supply reliability program. Because in today's natural gas market many pipelines have become transporters of natural gas rather than sellers of gas, the proposed rule requires that local distribution companies file on an annual basis certain information concerning their system capabilities and suppliers. By obtaining this information prior to the heating season the commission will be in a better position to foresee potential problem areas

Over the last several years there have not been any reported curtailments of natural gas

to those consumers listed in Rule 2 of Gas Utilities Docket Number 489. The problems that the industry has experienced are those resulting from malfunctions of equipment (such as freeze-ups, etc.), or from insufficient system capabilities during extremely cold and long-lasting heating periods. It appears that the industry has been able to avert potential disasters by voluntarily allocating sufficient supplies of natural gas in such emergencies.

Jackie Standard, supervisor, Reports and Curtailments, Transportation/Gas Utilities Division, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for local governments as a result of enforcing or administering the section. However, there will be a minimal fiscal implication for state government. It is estimated that for Fiscal Year 1995 the cost of enforcing or administering the section would be approximately \$23,000. This cost includes the salary of one full-time employee plus related support equipment and materials.

Ms. Standard also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a better assurance of adequate gas supplies to meet peak demand. There will be no effect on small businesses. There is an anticipated economic cost to persons and/or the affected natural gas distribution utilities; due to the nature of the provisions, the amount of that cost cannot be determined. The anticipated economic cost to persons and/or affected natural gas distribution utilities arises from the provision that certain information, not previously required, would have to be assembled and submitted.

Comments on the proposal may be submitted to Thomas D Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*

The new section is proposed under Texas Civil Statutes, Article 1446e (the Gas Utility Regulatory Act), §4.02, which gives the commission the authority to require that gas utilities report such information as the commission may consider useful in the administration of the Act; §4.03 which permits the regulatory authority to inquire into the management and affairs of all gas utilities and keep informed as to the manner and method in which the same are conducted; and §5 01, which gives the commission the power to ensure compliance with the obligations of gas utilities in the Act.

The following is the article affected by the proposed new section: §7 91-Texas Civil Statutes, Article 1446e, §§4 02, 4 03, 5 01, and 4 09

§7.91 Human Needs Natural Gas Supply Reliability Program

(a) On or before September 1 of each year every natural gas utility selling to residences, hospitals, schools, churches and other human needs customers shall file with

the commission the following information for every supplier for the succeeding heating season (i.e., November 1-April 30):

- (1) supplier name; ss
 - (2) supplier classification (i.e., utility, pipeline marketing affiliate, producer, marketer, futures speculator, or other);
 - (3) status of supply contracts (i.e., firm or interruptible);
 - (4) term of supply contracts (specify terms of evergreen provision if applicable);
 - (5) expiration date of supply contracts;
 - (6) supply delivery points;
 - (7) status of transportation to delivery points (i.e., firm or interruptible);
 - (8) status of transportation from delivery points to city gate;
 - (9) minimum and maximum contract quantities by each month of the heating season;
 - (10) highest system peak demand (daily, weekly, and monthly) dates and volume experienced during the previous three heating seasons broken down by curtailment priority class;
 - (11) highest system peak demand projected for the succeeding heating season broken down by curtailment priority class;
 - (12) past delivery problems experienced from the supplier, if any;
 - (13) future delivery problems expected from the supplier, if any; and
 - (14) contingency supply plans for the succeeding heating season, if any.
- (b) Any natural gas utility subject to the requirements of subsection (a) of this section may request an exception to these reporting requirements if the natural gas utility.

(1) shows that customers in the categories set forth in subsection (a) of this section represent an insignificant portion of the utility's total sales; and

(2) files a statement under oath that it has not curtailed any such customers during the previous three heating seasons.

(c) After receiving the information provided in subsection (a) of this section, the commission will review the reasonableness of the supply reliability for human needs customers and shall conduct show cause hearings in instances where supplies for human needs customers appear unreliable.

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 22, 1994.

TRD-9436560

Mary Ross McDonald
Assistant Director, Legal
Division-Gas
Utilities/L.P-Gas Section
Railroad Commission of
Texas

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-6949

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Applicability and Requirements

• 16 TAC §9.31

The Railroad Commission of Texas proposes new §9.31, relating to LP-gas regional supply emergency response. The purpose of this section is to develop a distribution plan to minimize the severity of disruptions in the supplies of LP-gas in a region of the State. This section outlines the commission's mechanisms for both determining that a regional LP-gas shortage exists and responding to a regional LP-gas shortage emergency.

Texas Natural Resources Code, §113.243(c)(3) authorizes the commission to develop and implement conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels, including LPG (propane). Propane shortages are rare and brief. Texas has not had a serious shortage for 20 years, and those that occur normally last less than three days.

There is no supply problem with retail propane, which accounts for only 10% of Texas's propane consumption. The other 90% is made into chemicals at Gulf Coast petrochemical plants. Some small share of this feedstock propane could be odorized and sold back into the retail market if conditions warranted

A potential distribution problem exists in West Texas. Since 1983, 75% of the processing capacity at West Texas gas plants has shut down. Instead of being processed and the propane distributed locally, most West Texas gas is now pipelined to Mont Belvieu north of Houston for separation. This means that during periods of high demand in West Texas, propane must be supplied to the region by truck from Mont Belvieu or other storage or processing facilities. During gubernatorially declared emergencies, these shipments may be delayed by out-of-state trucks legally loading propane in Texas. Delays caused by waits of 12 to 17 hours to load at Mont Belvieu could be compounded by icy roads on the trip back to West Texas.

There is also an information problem. Petrochemical companies are not required to re-

port their propane inventories at the state or national level. Because these companies consume 90% of the propane in Texas, they are the key players in releasing adequate amounts to the retail market. They invest heavily in the futures market and will hold inventory until they can make the highest profit.

Finally, there is a potential coordination problem with the emergency needs for LP-gas in other states. Texas Natural Resources Code, §113.083 authorizes the governor to declare an LP-gas emergency which has the effect of suspending certain licensing, permitting, and certification requirements for LP-gas trucks and operators from other states in order to facilitate LP-gas exports to states experiencing LP-gas shortages. The declaration of an LP-gas emergency by the governor during a regional supply emergency within Texas would require coordination of the efforts to respond to the needs of both supply emergencies. By monitoring West Texas weather, the commission can be ready to respond to impending emergencies by putting into effect the procedures in the proposed rule which give first priority for loading at Mont Belvieu and selected other loading racks to trucks bound for commission-defined shortage areas in Texas

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the section

Mr. Petru 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 ensuring that the LP-gas needs of consumers will be met. There may be fiscal implications for certain small businesses; however, it is impossible to specify the amount of that impact. There is no anticipated economic cost to persons who would be required to comply with the section as proposed

Comments on the proposal may be submitted to Thomas D. Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under Texas Natural Resources Code, §113.051, which gives the commission the authority to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public. Texas Natural Resources Code, §113.083 authorizes the governor to declare an LP-gas emergency which has the effect of suspending certain licensing, permitting, and certification requirements for LP-gas trucks and operators from other states in order to facilitate LP-gas exports to states experiencing LP-gas shortages. Texas Natural Resources Code, §113.243(c)(3) authorizes the commission to develop and implement conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels, including LP-gas (propane).

The following is the statute, article, or code affected by the proposed new section: §9.31-Texas Natural Resources Code, §§113.051, 113.083, and 113.243(c)(3).

§9.31 LP-Gas Regional Supply Emergency Response.

(a) The purpose of this section is to develop a distribution plan to minimize the severity of disruptions in the supplies of LP-gas in a region of Texas. This section outlines the commission's mechanisms for both determining that a regional LP-gas shortage exists and responding to a regional LP-gas shortage emergency.

(b) The commission may, after notice and hearing, determine that an LP-gas supply emergency exists within designated counties of the state. The commission may also determine the duration of the regional supply emergency at such hearing. The commission shall issue notice when it has determined that an LP-gas regional supply emergency exists and when it determines that the LP-gas regional supply emergency has ended or will end. In determining whether an LP-gas regional supply emergency exists, the commission shall consider any relevant information, including, but not limited to, the following:

(1) notification from LP-gas storage facilities that they are attaining maximum LP-gas withdrawal rates;

(2) notification from LP-gas licensees that sufficient supplies are not available locally or that curtailments are anticipated; and

(3) weather data.

(c) Upon the commission finding that an LP-gas regional supply emergency exists, the commission shall instruct selected LP-gas loading rack operators to give first priority in loading to LP-gas transport vehicles whose cargoes are bound for counties designated as within the region subject to the LP-gas supply emergency until the regional supply emergency has been determined to be abated.

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 22, 1994.

TRD-9436561 Mary Ross McDonald
Assistant Director, Legal
Division-Gas
Utilities/LP-Gas Section
Railroad Commission of
Texas

Earliest possible date of adoption. April 1, 1994

For further information, please call. (512) 463-6949

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 33. Investment Program of the Permanent School Fund

• 19 TAC §§33.30, 33.35, 33.60, 33.80

The Texas Education Agency (TEA) proposes amendments to §§33.30, 33.35, and 33.60, and new §33.80, concerning the investment program of the Permanent School Fund (PSF). The amendments and new rule expand the investment tools available to PSF investment managers, allowing the fund to incrementally increase income.

Carlos Resendez, executive administrator of the Permanent School Fund, has determined that for the first five-year period the rules are in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rules; however, the effects cannot be accurately determined at this time.

Mr. Resendez and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 additional investment tools will complement the investment strategy and objectives of the PSF. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendments and new rule submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The amendments and new rule are proposed under the Texas Constitution, Article VII, §5(d), which authorizes the State Board of Education to establish investment procedures and restrictions for the PSF.

§33.30 Equity Transactions.

(a) Any [All] equity security [securities] must be purchased from the approved list of corporations for security purchases.

(b) The Committee on the Permanent School Fund shall approve each specific equity [Specific equities] from the approved list to be purchased or sold and also approve [including] a recommended price. [shall be approved by the Committee on the Permanent School Fund]. Each transaction [All transactions] shall be made within 10% or better of the recommended

price unless otherwise specified by the Committee on the Permanent School Fund.

(c) Equities eligible for purchase or sale are restricted to common and preferred stocks, including their options and/or derivatives, of United States corporations, [and] American Depository receipts, or [common stocks of] foreign corporations that are listed on a major United States stock exchange and [which] have paid dividends for five consecutive years or longer immediately preceding [prior to] the date of purchase.

(d) Not more than 1.0% of the Permanent School Fund [permanent school fund] on a book value basis may be invested in stock issued by one corporation, and not [nor shall] more than 5.0% of the voting stock of any one corporation shall be owned.

(e) Each [All] consummated transaction [transactions] shall be reported in writing to the Committee on the Permanent School Fund at the first subsequent meeting of the committee.

§33.35 Fixed Income Transactions.

(a) Any fixed income security, including its options and/or derivatives, on the approved list of corporations for security purchases with at least a "BBB-" [an "A"] rating may be purchased or sold.

(b) Any fixed income security, including its options and/or derivatives, [Fixed income securities] not on the approved list may be purchased if it meets [they meet] the quality standards specified [set forth] in the investment operating manual.

(c) The Committee on the Permanent School Fund shall approve each specific [Specific] fixed income security [securities] to be sold [shall be approved by the Committee on the Permanent School Fund]. A recommended price may be included at the discretion of the committee.

(d) Each [All] consummated transaction [transactions] shall be reported in writing to the Committee on the Permanent School Fund at the first subsequent meeting of the committee.

§33.60 Items Requiring State Board of Education Approval.

(a) The following items require approval by the State Board of Education:

(1) the total amount of funds to be invested in each investment program (§33.15 of this title (relating to Definition of Investment Programs [Program]));

(2) the allocation between equity, [and] fixed income, and option and/or derivative securities in each invest-

ment program (§33.15 of this title (relating to Definition of Investment Programs [Program]));

(3)-(6) (No change.)

(b) (No change.)

§33.80. Income from Options or Derivatives. All net income derived from the sale of options or derivatives shall be placed in the Available School Fund.

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 23, 1994.

TRD-9436577 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-9701

Chapter 75. Curriculum

Subchapter H. Promotion and Alternatives to Social Promotion

• 19 TAC §75.197

The Texas Education Agency (TEA) proposes new §75.197, concerning the Texas Advanced Placement (AP) Incentive Program. Passed by the 73rd Texas Legislature, the program rewards students, teachers, and campuses for performance on the College Board AP examinations. The new rule outlines the available awards.

Linda Cimusz, executive deputy commissioner for curriculum, assessment, and professional development, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$7,500 in fiscal year (FY) 1994; and \$112,500 in each of FYs 1995-1998. The effect on local government will depend on the level of program participation.

Ms. Cimusz and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be students will be encouraged to participate in AP courses, which provide a highly challenging curriculum. Moreover, a student who scores three or above on an AP exam may earn course credit when he or she goes to college. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed rule submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The new rule is proposed under the Texas Education Code, Chapter 35, which authorizes the State Board of Education to promulgate rules regarding the Texas AP Incentive Program.

§75.197. Texas Advanced Placement Incentive Program.

(a) The Texas advanced placement incentive program is created to recognize and reward students, teachers, and schools that demonstrate success in achieving the educational goals of the state. Awards and subsidies granted under this section are for the public purpose of promoting an educated citizenry.

(b) Types of awards.

(1) A school participating in the program shall be eligible to receive the following awards:

(A) a one-time \$3,000 equipment grant for providing a college advanced placement course, based on need as determined by the commissioner; and

(B) \$100 for each student who receives a score of three or better on a college advanced placement test.

(2) A teacher who teaches a college advanced placement course shall be eligible to receive the following awards:

(A) a subsidy of up to \$450 per teacher for teacher training for college advanced placement courses;

(B) a one-time award of \$250 for teaching a college advanced placement course for the first time; and

(C) a share of the teacher bonus pool proportional to the number of courses taught that shall be distributed by the teacher's school. Fifty dollars may be deposited in the teacher bonus pool for each student enrolled in the school who scores a three or better on a college advanced placement test.

(3) A student who receives a score of three or better on a college advanced placement test may receive a reimbursement of up to \$65 for the advanced placement testing fee. This reimbursement

shall be reduced by the amount of any subsidies awarded either by the College Board or under subsection (e) of this section.

(c) Award adjustment. The commissioner of education shall adjust and prorate by category the sum and number of awards to ensure the purpose of the program is realized.

(d) Application for and use of awards.

(1) To obtain an award, a school or teacher must submit to the State Board of Education (SBOE) a written application in a form, manner, and time prescribed by the commissioner. The intended recipient of the award must submit the application.

(2) Schools shall give priority to academic enhancement purposes in using the awards received under this section. The awards may not be used for any purpose relating to athletics.

(e) Subsidies for College Board advanced placement tests.

(1) A student is entitled to a subsidy for the fee he or she pays to take a college advanced placement test if the student demonstrates financial need according to guidelines adopted by the College Board.

(2) The Texas Education Agency (TEA), with SBOE approval, may pay all eligible applicants an equal amount of up to \$25 for each applicant.

(f) Funding of awards and subsidies.

(1) All awards and subsidies granted under this section are subject to the availability of funds. Awards and subsidies may be funded by donations, grants, or legislative appropriations.

(2) The commissioner may solicit and receive grants and donations for the purpose of making awards under this section. The TEA shall account for and distribute donations, grants, or legislative appropriations.

(3) The TEA shall apply to the program any available funds from its appropriations that may be used for this purpose.

(4) Applications for funding may be filed with the commissioner beginning July 15, 1995.

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 23, 1994.

TRD-9436578 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-9701

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Chapter 89. Adaptations for
Special Populations

Subchapter G. Special Educa-
tion

General Provisions

• 19 TAC §89.239

The Texas Education Agency (TEA) proposes an amendment to §89.239, concerning programs between school districts and the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf that provide specialized services to students with visual or auditory handicaps

The amendment deletes subsection (c)(3). The Attorney General issued an opinion that this subsection, which would allow TEA to withhold funds from a school district's share of the Available School Fund to satisfy a district's debt to the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf exceeds the authority of the State Board of Education (SBOE)

Kevin O'Hanlon, chief legal counsel, has determined that for the first five-year period the rule is in effect there no fiscal implications for state or local government as a result of enforcing or administering the rule

Mr. O'Hanlon and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the rule will comply with the legal requirements set forth in the Attorney General's opinion. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.507, which authorizes SBOE to implement statutory requirements concerning support of students referred to the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf

§89.239 *Other Special Program Provisions.*

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

(c) For each student enrolled in the Texas School for the Blind and Visually

Impaired or Texas School for the Deaf, the school district responsible for providing appropriate special education services to the student shall share the cost of the student's education (excluding the summer programs) as provided under the TEC, §21.507(b)(c).

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

[(3) Beginning with the 1993-1994 school year, if the agency cannot make the deductions required by this section from a district's foundation school program payments, the deductions shall be made from the available school fund payments to the district. A district shall indicate whether it will make a direct payment or authorize the TEA to deduct the appropriate amount from the available school fund payment.]

(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 23, 1994.

TRD-9436579 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-9701

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Chapter 175. Proprietary
Schools and Veterans
Education

Subchapter E. Minimum Stan-
dards for Operation of
Texas Proprietary Schools

• 19 TAC §175.128

The Texas Education Agency (TEA) proposes an amendment to §175.128, concerning application fees and other charges for proprietary schools. The amendment increases the original and change of owner fees and the renewal certificate of approval fees paid by proprietary schools.

J. R. Cummings, executive deputy commissioner for the education of special populations and adults, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated increase in revenue of \$9,285 in fiscal year (FY) 1994 and \$23,352 in each of FYs 1995-1998. There will be no effect on local government

Mr. Cummings and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of

the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the increased revenue will help support the regulation of proprietary schools.

The estimated cost of compliance with the section for small businesses will be \$1,791 in FY 1994 and \$9,414 for each of FYs 1995-1998. The cost of compliance for small businesses compared with the largest businesses affected by the proposed change in application fees may differ based on \$100 of sales because the \$450 increase in the original/change of ownership application fee would require small businesses to pay more per \$100 of sales. The proposed change in renewal fees would result in small businesses that do not meet the definition of small proprietary schools paying the same amount relative to total sales as large businesses. These small businesses would pay a larger amount relative to total sales than would the small businesses that meet the definition of a small proprietary school. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt rules necessary to carry out the provisions of the Texas Proprietary School Act.

§175.128. *Application Fees and Other Charges.*

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

(e) Certificate and registration fees shall be collected by the administrator and deposited with the state treasurer according to the following schedule.

(1) Initial fee for:

(A) a school is **\$3,000** [\$2,550]; and

(B) (No change.)

(2) The first renewal fee and each subsequent renewal fee authorized by the Texas Education Code, §32.71(a)(2), is the greater of 0.31% [0.3%] of the school's gross tuition and fees, excluding refunds as provided by Texas Education Code, §32.39, or \$500. Small proprietary schools shall pay the renewal fee specified in subsection (b) of this section if the certificate of approval is issued for more than one year.

(3)-(14) (No change.)

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

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

Issued in Austin, Texas, on February 23, 1994.

TRD-9436580

Cris Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-9701

TITLE 22. EXAMINING BOARDS

Part XX. Texas Board of Private Investigators and Private Security Agencies

Chapter 429. Application and Examination

• 22 TAC §429.2

The Texas Board of Private Investigators and Private Security Agencies proposes an amendment to §429.2, concerning Application and Examination. The Board has determined that the addition of this section is necessary to comply with House Bill 1862.

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

Ms. Sanders also has determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be to insure that the licensee is knowledgeable in the business in which he/she is licensed. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Clema D. Sanders, Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 4413(29bb), §11(a)(3), which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

The amendment implements Texas Civil Statutes, Article 4413(29bb).

§429.2. Examination.

(a) All applicants to qualify as manager or supervisor shall be required to pass written examination based on the provisions of the Act as amended. This includes applicants:

(1) reinstating a suspended [renewing and reinstating an expired] license;

(2) applying to manage or supervise an original license or adding an additional category or categories to an existing license; and

(3) (No change.)

(b) (No change.)

(c) The examination shall cover [all sections of] the Act and board rules as well as specific testing on all categories of licensure. [so that the manager or supervisor shall not be required to be reexamined when the licensee upgrades from Class A or B to Class C, or adds authorized categories under Class B or C.]

(d) Except as provided in subsection (a) of this section, a person who has qualified as a manager or supervisor prior to the effective date of this section shall not be required to be re-examined.

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 22, 1994.

TRD-9436557

Clema D. Sanders
Executive Director
Texas Board of Private
Investigators and
Private Security
Agencies

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 463-5545

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

• 30 TAC §101.1

The Texas Natural Resource Conservation Commission (TNRCC) proposes an amendment to §101.1, concerning Definitions. New definitions for the terms "account" and "sulfuric acid mist" will be added.

The proposed "account" definition is the result of a working group appointed by the Execu-

tive Director of the Texas Air Control Board (TACB) in the fall of 1992. The group was assigned the task of developing the definition to comply with the 1990 Federal Clean Air Act Amendments (CAAA) and state legislative requirements. The proposed definition of "account" will provide consistency with the definition of "federal source" as used in the Title V operating permit program. It will also provide consistency with TNRCC procedures for computer tracking and fee assessment.

The proposed definition of "sulfuric acid mist" was created to eliminate confusion over the composition of this air contaminant. The definition correlates to Test Method 8 which is a test method established by the U.S. Environmental Protection Agency (EPA) in Title 40, Code of Federal Regulations, Part 60. Test Method 8 is used to measure stack emissions of sulfuric acid mist which may include sulfuric acid liquid droplets, sulfur trioxide, and gaseous sulfuric acid which condenses in the sampling train. The new definition includes all of these compounds.

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

Mr. Minick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of implementing the section will be simplification of enforcement and administration by making the state and federal definitions consistent with one another.

There may be fiscal implications for facilities and small businesses affected by the definition of "account" because the term is used in setting certain fees assessed by the TNRCC. Only businesses with multiple accounts located on the same or adjacent properties should be affected by the definition. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

A public hearing on this proposal will be held on March 29, 1994, at 10:00 a.m. in the Auditorium (Room 201S) of the TNRCC Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TNRCC staff member will discuss the proposal 30 minutes before the hearing and will be available to answer questions.

Written comments not presented at the hearings must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than April 8, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas

78753, and at all TNRCC Air Program regional offices. For further information, contact Gary McArthur at (512) 239-1917.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

The amendment is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

No other chapter of the TCAA is affected by the proposed amendment.

§101.1. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Commission [Board], the terms used by the Commission [Board] have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Account-Any combination of facilities or sources, including federal sources, as defined in the Texas Clean Air Act (Texas Health and Safety Code, Title 5, §382.003) where the combined facilities or sources are:

(A) under common ownership, management, or control; and

(B) located on contiguous property or on properties that are contiguous except for intervening road, railroads, rights-of-way, waterways, or the like.

Sulfuric acid mist-Emissions of sulfuric acid mist are expressed as H_2SO_4 and shall include sulfuric acid liquid mist, sulfur trioxide, and sulfuric acid vapor as measured by Test Method 8 in Title 40 Code of Federal Regulations, Part 60, Appendix A.

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 16, 1994.

TRD-9436586

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: April 1, 1994

For further information, please call: (512) 239-0815

Chapter 115. Control of Air Pollution from Volatile Organic Compounds

Subchapter J. Administrative Provisions

Alternate Means of Control

• 30 TAC §§115.901, 115.910-115.916

The Texas Natural Resource Conservation Commission (TNRCC) proposes new §115.901, an amendment to §115.910, and new §§115.911-115.916; concerning Alternate Means of Control (AMOC), which establishes procedures for requesting the Executive Director's approval of an AMOC. In lieu of complying with control requirements in Chapter 115, relating to Control of Air Pollution from Volatile Organic Compounds, the AMOC rules provide for alternate emission reductions greater than or equal to reductions specified in Chapter 115.

The proposed §115.910 provides any person affected by a control requirement and/or emission specification of this chapter the opportunity to comply with an AMOC, provided the AMOC plan is approved. Such AMOC plan will be considered federally enforceable and shall include monitoring, recordkeeping, and reporting requirements appropriate to the AMOC specifications.

Proposed §115.911, concerning Criteria for Approval of AMOC Plans, sets forth basic criteria for an AMOC plan approval. The intent of the §115.911 requirement for surplus reductions is to avoid double counting of emission reduction credits with regard to the State Implementation Plans and any netting or offsetting requirements of §§116.150 of this title (relating to New Major Source or Major Source Modification in Ozone Nonattainment), §116.151 of this title (relating to New Major Source or Modification in Nonattainment Area Other than Ozone), §116.160 of this title (relating to Prevention of Significant Deterioration Requirements), and §116.161 of this title (relating to Source Located in an Attainment Area with Greater than De Minimis Impact).

Proposed §115.912, concerning Calculations for Determining AMOC Reductions, provides basic guidance for calculations of equivalency based on actual 1990 annual emissions.

Proposed §115.913, concerning Procedures for AMOC Plan Submittal, provides for the submittal of a proposed AMOC plan and demonstration to the Executive Director and to the United States Environmental Protection Agency (EPA) Regional Office in Dallas, for concurrent review. Section 115.913 details the basic required components of an AMOC plan.

Proposed §115.914, concerning Procedures for an AMOC Plan Approval, sets forth the procedures upon preliminary and final determination to approve or deny the AMOC plan. Section 115.914 provides EPA an additional 45-day review period, upon notice of the Executive Director's final determination, with the opportunity to disapprove the Executive Di-

rector's determination. The Executive Director shall then revise or revoke the AMOC plan.

Proposed §115.915, concerning Public Notice Format, provides for written comment on the Executive Director's preliminary determination to approve an AMOC plan.

Proposed §115.916, concerning Review of Approved AMOC Plans, voids an AMOC plan upon the compliance date of a new or modified regulation of this chapter affecting a source subject to an AMOC plan; and requires the holder of an AMOC plan to comply with the requirements of this chapter. Section 115.916 requires the holder of an AMOC plan to submit a demonstration that the plan continues to meet all applicable criteria every three years. This requirement is to ensure that actual emission reductions are being achieved.

The goal of the TNRCC is to review the proposed AMOC plans and establish the Executive Director's preliminary determination within 45 days of an AMOC plan submittal. It is recommended the application be submitted six months prior to compliance dates to provide for a reasonable period of time for TNRCC consideration. A method of control implemented prior to January 1, 1991 shall not be recognized as meeting the criteria established for an AMOC.

Stephen Minick, budget and planning division, has determined that the amended rules will result in no external fiscal impact for state government because the provisions of this proposal conform with existing state and federal requirements. The internal fiscal impact for TNRCC includes the redistribution of the workload to: the Engineering Services Section; the Legal Division; the Emissions Inventory Section; and the regional offices. The increase in resources is a projected cost range of \$200,000 to \$600,000 for each year for the next five years dependent upon the demand for alternatives available under the AMOC rules. In order to address resource concerns, the projected number of Full-Time Employment (FTE) Professionals ranges from 0-100.

The AMOC rules impact local government needs for increased compliance personnel and local program staff in order to implement the rules.

Mr. Minick also has determined that the public benefit anticipated as a result of implementing the proposed changes will be improved air quality due to greater than or equal emission reductions achieved through alternate control requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

A public hearing on this proposal will be held on March 31, 1994 at 10:00 a. m. at the TNRCC Central Office, Room 201S, Building E, 12118 North IH-35, Austin, Texas.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearing. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearing must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than April 1, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78758, and at all TNRCC Air Program regional offices. For further information, contact Monica Pesek at (512) 239-1971.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

The amendment and new sections proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC the authority to adopt rules consistent with the policy and purposes of the TCAA.

No other chapter of the TCAA is affected by the proposed amendment or new section.

§115.901. Insignificant Emissions. For persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis counties, the Executive Director, after consultation with appropriate local governmental agencies, may exempt a specific compound or a specific vent gas stream from the application of this chapter if the Executive Director determines that the emissions from the compound or specific vent gas stream will not make a significant contribution to air contaminants in the atmosphere.

§115.910. Availability of AMOC. [Procedure.]

[(a)] Any person affected by a [any] control requirement and/or emission specification of this chapter may request approval of an [the Executive Director to approve] alternate means [methods] of control (AMOC) plan using the procedures established in §115.912 of this title (relating to Calculations for Determining AMOC Reductions). Such AMOC plan shall be approved if it is demonstrated that the plan meets all applicable criteria and procedures of §§115.911, 115.912, 115.913, and 115.916 of this title (relating to Criteria for Approval of AMOC Plans; Calculations for Determining AMOC Reductions; Procedures for AMOC Plan Submittal; and Review of Approved AMOC Plans). AMOC plans not satisfying the requirements of this undesignated head will require a site-specific State Implementation Plan (SIP) revision approved by United States Environmental Protection Agency. [The Exec-

utive Director shall approve such alternate means of control if it can be demonstrated that such control will result in substantially equivalent emission reductions as the method of control specified in this regulation. Approval by the United States Environmental Protection Agency (EPA) is not required.]

[(b) For persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, the Executive Director, after consultation with appropriate local governmental agencies, may exempt a specific compound or a specific vent gas stream from the application of this chapter if it can be demonstrated that the emissions from the compound or specific vent gas stream will not make a significant contribution to air contaminants in the atmosphere.]

§115.911 Criteria for Approval of AMOC Plans. An alternate means of control (AMOC) plan shall be approved if it meets each of the following criteria, as applicable.

(1) All facilities covered by the AMOC plan are and remain in the same Texas Natural Resource Conservation Commission (TNRCC) account number.

(2) The AMOC must result in emissions reductions equal to or greater than those that would be achieved by compliance with the otherwise applicable requirements of this chapter. If the AMOC plan involves emission reductions at an alternate source in lieu of emission reductions and/or control requirements otherwise required at a source regulated by this chapter, the AMOC plan shall provide for a reduction in the amount of total actual annual emissions which is equal to or greater than the amount of total theoretical annual emissions reductions required by otherwise applicable provisions of this chapter, multiplied by the applicable factor provided in the following subparagraphs.

(A) For sources located in the Beaumont/Port Arthur area, the applicable factor is 1.2.

(B) For sources located in the Dallas/Fort Worth area, the applicable factor is 1.15.

(C) For sources located in the El Paso area, the applicable factor is 1.2.

(D) For sources located in the Houston/Galveston area, the applicable factor is 1.3.

(E) For sources located in other areas in Texas, the applicable factor is 1.1.

(3) The AMOC must be implemented and reductions created after January 1, 1991.

(4) Reductions in actual emission created by the AMOC must be surplus and remain surplus to reductions required by this chapter and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area), §116.151 of this title (relating to New Major Source or Major Modification in Nonattainment Area Other than Ozone), §116.160 of this title (relating to Prevention of Significant Deterioration Requirements), and §116.161 of this title (relating to Source Located in an Attainment Area with a Greater than De Minimis Impact)

(5) Mobile sources and associated emissions shall not be included in the AMOC plan.

(6) For purposes of demonstrating reductions and establishing emission limits in any AMOC plan, quantification of emissions must be accomplished using any of the following methods as specified by the Executive Director

(A) test methods approved by the Executive Director for the direct measurement of emissions, either continuously or periodically;

(B) calculation equations which are a function of process or control system parameters, activity levels, and/or throughput or production rates,

(C) mass balance calculations which are a function of inventory, usage, and/or disposal records,

(D) other appropriate methods acceptable to the Executive Director; or

(E) any combination of these approaches.

(7) The AMOC plan must ensure that actual emission reductions are created and preserved with respect to actual emissions in 1990; establish emission limits and/or control requirements for all sources in the plan; and include all necessary and appropriate provisions for monitoring, reporting and recordkeeping as specified by the Executive Director

(A) If this chapter includes monitoring, reporting, and/or recordkeeping requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such requirement shall be used to render the

AMOC plan enforceable. If this chapter does not include readily transferable monitoring, reporting and/or recordkeeping requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then priority shall be given to any such set of requirements adopted under other TNRCC rules for the control of volatile organic compounds (VOC) emissions from sources of the type(s) to be covered by an alternate emission limitation and/or control requirement. If no such monitoring, reporting, and/or recordkeeping requirements have been adopted by the TNRCC; then monitoring, reporting, and/or recordkeeping requirements shall be established on a case-by-case basis for sources of the type(s) to be covered by an alternate emission limit and/or control requirement.

(B) If this chapter includes emission limits and/or control requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such alternate emission limitation and/or control requirement shall be based on the same averaging time as is applied to similar type sources under this chapter. If this chapter does not include emission limitations and/or control requirements for sources of the type(s) to be covered by an alternate emission limit and/or control requirement, then priority shall be given to averaging times for emission limits and/or control requirements on similar units governed by other TNRCC rules limiting VOC emissions from sources of the type(s) to be covered by an alternate emission limit and/or control requirement. If no such TNRCC monitoring, reporting and/or recordkeeping rules have been adopted that satisfy the criteria of paragraph (7)(A) and (B) of this subsection, then averaging times shall be established on a case-by-case basis.

(C) Additional or more frequent monitoring, reporting and/or recordkeeping may be required by the Executive Director to ensure the integrity of any AMOC plan.

§115.912. Calculations for Determining AMOC Reductions. Calculations of equivalency are based on actual 1990 annual emissions, as follows.

(1) The alternate means of control (AMOC) applicant shall calculate credits needed for any source not controlled as otherwise specifically required by this chapter by subtracting the source's baseline from the source's proposed actual emissions (its alternative emission limit) under the AMOC plan. This difference shall be multiplied by the appropriate factor in §115.911(2) of this title (relating to Criteria for Approval of AMOC Plans) to determine the credits required.

(2) The AMOC applicant shall calculate emission reduction credits generated (credits are generated by controlling a source beyond the degree required by this chapter) by subtracting the source's proposed actual emissions under the AMOC plan (its alternative emission limit) from the source's baseline.

(3) The AMOC applicant shall determine proposed actual emissions under this subsection utilizing the best available data and good engineering practice which may include the use of statistical techniques to address variations in the data.

(4) For purposes of this section, baseline is defined as the projected actual emission rate that is calculated assuming full compliance with the requirements of this chapter and using data representative of actual operations in 1990 for all variables necessary to calculate annual emissions.

§115.913. Procedures for AMOC Plan Submittal.

(a) All persons requesting an alternate means of control (AMOC) as provided by §115.910 of this title (relating to Availability of AMOC) shall submit a proposed AMOC plan and demonstration to the Executive Director, attention Office of Air Quality, Engineering Services Section; and copies of such plan and demonstration to the Texas Natural Resource Conservation Commission (TNRCC) Regional Office; to any local air pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan; and to the U.S. Environmental Protection Agency (EPA) Regional Office in Dallas.

(b) The proposed AMOC plan shall include the following information:

(1) the company name with mailing address, site name with physical address, TNRCC account number, and contact person including address and telephone number; and

(2) an identification and a description of the sources involved in the AMOC plan including any applicable air permit numbers, plot plans, flow diagrams, emission point numbers (EPNs), and facility identification numbers (FINs); an identification of the provisions of this chapter that are applicable to such sources; and an identification of promulgated provisions of this chapter that will be applicable to such sources; and

(3) a quantification of the AMOC plan sources' actual 1990 emissions; and

(4) a specification of emission limitation(s) and/or control requirement(s) to be applicable to each source affected by the proposed AMOC plan including calcula-

tions from which the specifications were derived. Emission limitations and/or control requirements shall include proposed actual annual emission limit and a short-term emission limit based upon a typical peak ozone weekday for the base year 1990, averaged over a rolling period no greater than 30 days. If this averaging period or limitation conflicts with an averaging period or limitation under §115.911(7)(B) of this title (relating to Criteria for Approval of AMOC Plans), then the more stringent of the two subsections applies. Assumptions and emission factors utilized in the calculations shall be included; and

(5) a quantification of emissions from all sources affected by the AMOC showing the difference between projected emissions from the affected source(s) without the AMOC plan and projected emissions resulting under the proposed AMOC plan. These calculations shall be done in accordance with the requirements of §115.912 of this title (relating to Calculations for Determining AMOC Reductions); and

(6) a description of the compliance methodologies, including monitoring, reporting, and recordkeeping measures, that will be used to enforce the emission limitation(s) and/or control requirement(s) applicable to each source affected by the AMOC plan; and

(7) a sample of reporting and recordkeeping forms to be utilized; and

(8) a demonstration that the AMOC plan satisfies each applicable requirement of §115.911 of this title; and

(9) a list containing the name, address, and telephone number for any air pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan; and

(10) any other relevant information necessary to evaluate the merits and/or enforceability of the AMOC plan, as may be requested by the Executive Director.

(c) All representations with regard to the AMOC plan, as well as any provisions attached to the AMOC plan, become conditions upon which the subsequent AMOC plan is issued. It shall be unlawful for any person to vary from such representation or provision if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions.

(d) Applications to amend or revise an AMOC plan as a new AMOC plan shall be submitted subject to the requirements of this chapter.

§115.914. Procedures for an AMOC Plan Approval. Upon a preliminary determina-

tion to approve or deny the proposed alternative means of control (AMOC) plan, the Executive Director shall, in writing, so notify the submitter of the plan, any local air pollution control program with jurisdiction over the Texas Natural Resource Conservation Commission (TNRCC) account affected by the AMOC plan, and the U.S. Environmental Protection Agency (EPA) Regional Office in Dallas.

(1) If the Executive Director makes a preliminary determination to approve the AMOC plan, then this notice shall include a copy of the AMOC plan as preliminarily approved.

(2) If the Executive Director makes a determination to deny the AMOC plan, then the notice shall include a description of the reasons for such determination of denial. This determination shall constitute a final appealable action of the Executive Director.

(3) Upon receipt of notice from the Executive Director that the AMOC plan has received preliminary approval, the applicant at the applicant's own expense shall cause to be published notice of the applicant's intent to obtain an AMOC plan and of the opportunity to submit written comments. Notice shall be consistent with §115.915 of this title (relating to Public Notice Format).

(4) The Executive Director shall consider and prepare a written summary of any response to all significant and timely written comments filed in connection with an AMOC plan.

(5) The Executive Director may modify the provisions of the AMOC plan in response to the analysis of written comments, deny the AMOC plan, or approve the AMOC plan without changes.

(6) The Executive Director shall send written notice of his/her final determination concerning each AMOC plan to the submitter of the plan, the EPA Regional Office, any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan, and to each person who submitted timely written comments. Such notice shall include proposed final AMOC plan provisions, a copy of the response to comments, and an announcement of the opportunity to appeal the Executive Director's determination to the Commission

(7) Any person entitled to notice under this section may, within 15 days of the receipt of such notice, file with the Executive Director an appeal of the final determination on the AMOC plan. Such appeal shall be considered at the next regularly scheduled meeting of the Commission for which adequate notice may be made. Based on arguments made before the Com-

mission during such appeal or submitted by EPA, the Commission may remand the AMOC determination to the Executive Director, deny the AMOC plan, or issue the AMOC plan unchanged.

(8) Within 45 days of final approval of the AMOC plan by the Executive Director, EPA may notify the TNRCC of EPA's disapproval of the Executive Director's final decision. Such notification shall be in writing and shall include a statement of the reason(s) for the disapproval and a specific listing of changes to the AMOC plan that must be made in order to overcome the disapproval. Anytime prior to the expiration of the 45-day period, EPA may notify the Executive Director that no disapproval is forthcoming. Upon receipt of a timely EPA disapproval, the Executive Director shall void or revise the AMOC plan, and reissue the notice as required by this subsection.

(9) Application for an AMOC plan shall not stay enforcement of regulations of this chapter

(10) If no appeal of the Executive Director's decision to approve the AMOC plan is filed, the AMOC plan becomes effective upon the acceptance of the plan by EPA.

(11) If an appeal of the Executive Director's decision is filed, the AMOC plan becomes effective upon the latter of the acceptance of the AMOC plan by the Commission or the acceptance of the AMOC plan by EPA.

(12) EPA acceptance shall be considered to be explicit approval of the AMOC plan by EPA, notification by EPA to the Executive Director that no EPA disapproval is forthcoming, or failure of EPA to file notice of disapproval within 45 days after the Executive Director's final decision to approve the AMOC plan.

(13) Upon final approval of an AMOC plan, the owner or operator of the facilities affected by such plan shall keep a copy of the plan on the site affected by the plan.

(14) Any violation of an AMOC plan shall be subject to enforcement action as a violation of this chapter

§115.915. Public Notice Format.

(a) Public notice shall be published in the public notice section of two successive issues of a newspaper of general circulation in or closest to the municipality in which the facility with the Texas Natural Resource Conservation Commission (TNRCC) account affected by the alternative means of control (AMOC) plan is located

(b) Public notice shall contain the following information

(1) AMOC plan application number;

(2) company name;

(3) type of facility;

(4) a description of the location of the facility;

(5) a brief description of the AMOC plan;

(6) the Executive Director's preliminary determination to approve such plan;

(7) the locations and availability of copies of the proposed AMOC plan, related documentation, and the Executive Director's preliminary analysis of the plan (included the TNRCC Austin and Regional Offices, any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan, and the U.S. Environmental Protection Agency's (EPAs) Regional Office);

(8) an announcement of the opportunity to submit written comments on the AMOC plan;

(9) the length of the public comment period (30 days from the final publication of this notice);

(10) the procedure for submission of written public comments concerning the proposed AMOC plan;

(11) the name, address, and phone number of the regional TNRCC office to be contacted for further information.

(c) The AMOC plan submitter shall provide proof of adequate notice to the TNRCC, EPA and any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan before the Executive Director may take final action on the AMOC plan.

§115.916. Review of Approved AMOC Plans.

(a) For the purposes of this undesignated head, "compliance date" shall mean the date by which a source must comply with new or modified sections of this chapter.

(b) An AMOC plan becomes void on the compliance date specified in a new or modified section of this chapter affecting a source subject to an alternative means of control (AMOC) plan.

(c) The holder of an AMOC shall comply with the requirements of this chapter if the AMOC becomes void.

(d) Every three years, each holder of an AMOC plan shall submit to the Executive Director a demonstration that the plan continues to meet all applicable criteria of this undesignated head.

(e) An AMOC holder is responsible for obtaining a new AMOC plan prior to the compliance date of any new or modified regulation of this chapter that affects a source subject to an AMOC plan.

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 23, 1994.

TRD-9436591

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption May 15, 1994

For further information, please call (512) 239-0615

Early Reductions

• 30 TAC §§115.920, §115.923

The Texas Natural Resource Conservation Commission (TNRCC) proposes new §§115.920 and §115.923, concerning Early Reductions. This new undesignated head will be included in Subchapter J, concerning Administrative Provisions. The TNRCC proposes to establish early reduction procedures if it can be demonstrated that such control will result in emission reductions which are greater than or equal to the reductions which would be achieved by implementing the applicable methods of control specified in Chapter 115 (relating to Control Of Air Pollution From Volatile Organic Compounds).

Proposed §115.920, concerning Applicability, provides that the TNRCC may allow an early reduction to replace control requirements imposed by any section in this chapter adopted after July 9, 1993, for a limited exemption period of six years from the compliance date, provided that the owner or operator of the affected sources has an approved early reduction application, as specified in 40 Code of Federal Regulations, §63.79, and for which volatile organic compound (VOC) emissions reductions were made after January 1, 1991, and are greater than or equal to the reductions which would be achieved by implementing the applicable method of control specified in Chapter 115; the alternate VOC emissions reductions are verifiable through testing or established engineering calculation methods, and represent reductions in the actual emissions from the base year 1990, provided there is no evidence that emissions in the base year 1990 are artificially inflated or substantially greater than emissions in other years prior to implementation of emissions reduction measures, the alternate VOC emissions reductions shall not be used for purposes of emissions offsetting, netting, or for meeting any other reduction requirements; and the sources in the early reduction application do not include wastewater or fugitive emission sources.

Proposed §115.923, concerning Documentation, establishes documentation criteria re-

quired for use of an early reduction in lieu of VOC control requirements. For each source granted an alternative emission limitation under this section, there shall be established an early reductions plan.

Stephen Minick, Budget and Planning Division, has determined that the new rules will result in no fiscal impact for state or local government because the provisions of this proposal conform with existing state and federal requirements.

Mr. Minick also has determined that the public benefit anticipated as a result of adopting the proposed changes will be improved air quality due to greater than or equal emission reductions achieved through the early reductions program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

A public hearing on this proposal will be held on March 31, 1994, at 10:00 a.m. at the TNRCC Central Office, Room 201S, Building E, 12118 North IH-35, Austin, Texas.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearing. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearing must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than April 1, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78758, and at all TNRCC Air Program regional offices. For further information, contact Monica Pesek at (512) 239-1971.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC the authority to adopt rules consistent with the policy and purposes of the TCAA.

No other chapter of the TCAA is affected by the proposed new sections.

§115.920 Applicability. Any person affected by any control requirement of this chapter may apply to the Texas Natural Resource Conservation Commission for a six-year exemption from the control requirements imposed by any section of this chapter adopted after July 9, 1993, provided that the owner or operator of the affected sources has an approved early reduction

application for those sources for which the owner or operator is seeking an exemption as specified in 40 Code of Federal Regulations, §63.79, and for which:

(a) volatile organic compound (VOC) emissions reductions were made after January 1, 1991, and are greater than or equal to the reductions which would be achieved by implementing the applicable method of control specified in this chapter;

(b) the alternate VOC emissions reductions are verifiable through testing or established engineering calculation methods, and represent reductions in the actual emissions from the base year 1990, provided there is no evidence that emissions in the base year 1990 are artificially inflated or substantially greater than emissions in other years prior to implementation of emissions reduction measures;

(c) the alternate VOC emissions reductions shall not be used for purposes of emissions offsetting, netting, an Alternate Means of Control (AMOC) plan, or for meeting any other reduction requirements; and

(d) the sources in the early reduction application do not include wastewater or fugitive emission sources.

§115.923. Documentation.

(a) For each source requesting a six-year exemption from control requirements in accordance with §115.920 of this title (relating to Applicability), there shall be established an Early Reductions Plan reflecting the emission reduction for volatile organic compounds (VOC) which qualifies the source for the six-year exemption. In lieu of preparing a site-specific State Implementation Plan (SIP), for such Early Reductions Plan a facility owner or operator shall comply with the requirements of this undesignated head.

(b) Documentation required for approval for the exemption shall demonstrate to the satisfaction of the Texas Natural Resource Conservation Commission Executive Director that emissions data for the identified source reflects verifiable data based on information for such source. Documentation shall include but is not limited to:

(1) a listing and description of controlled equipment;

(2) a listing of postponed required controls;

(3) a listing of uncontrolled emissions identified in the 1990 Emission Inventory;

(4) specific facility identification number(s) (FIN);

(5) specific emission point number(s) (EPN);

- (6) account number(s);
- (7) identification of applicable permit number(s);
- (8) calculation(s), test data, and test methods for all VOC emissions associated with each identified source pertaining to paragraphs (1) and (2) of this subsection along with an explanation;
- (9) calculation(s), test data, and test methods VOC reductions as compared to the 1990 Emission Inventory; and
- (10) an emission limitation.

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 23, 1994.

TRD-9436592 Mary Ruth Holder
 Director, Legal Division
 Texas Natural Resource
 Conservation
 Commission

Proposed date of adoption: May 1, 1994

For further information, please call: (512) 239-0615

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

Subchapter B. New Source Review Permits

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §116.110, concerning Applicability; §116.115, concerning Special Provisions; §116.116, concerning Amendments and Alterations; §116.132, concerning Public Notice Format; and §116.133, concerning Sign Posting Requirements. The proposed changes have been developed to comply with the statutory requirements in the Texas Clean Air Act, §382.0513 and §382.056, regarding permit general conditions and bilingual public notification for permit applications, respectively.

The proposed changes to §116.115 will create a list of general conditions within the rule that are applicable to all permits issued after March 31, 1994. This will replace the current practice in the Permits Division of stating the provisions on the face of the permit and on a separate sheet attached to the permit upon issuance. The proposed changes to §116.110 and §116.116 are editorial changes to reflect the change in terminology from permit "provisions" to "conditions" to be consistent with the statutory language. The proposed changes to §116.132 will require a permit applicant to provide public notice of the intent to obtain a permit in a foreign language newspaper whenever an elementary or middle school located nearest to the facility has a bilingual

education program. The proposed changes to §116.133 will extend the bilingual notification to the sign posting requirements. Bilingual sign posting is not included in the statutory requirement, but was initiated by the staff to maintain consistency with the existing public notification rules that require newspaper publication and sign posting during the public comment period for each permit application.

Stephen Minick, Division of Budget and Planning, has determined that for the first five-year period the sections are in effect, there will be fiscal implications as a result of enforcement and administration of the sections. No additional costs for state or local governments are anticipated. Permit applicants affected by the rule will be required to pay the cost of publishing the additional newspaper notice and printing the additional signs. It is estimated that this rule will affect less than 10% of the total permit applications received during a typical year. The cost of the additional publication is estimated to average approximately \$500 and the cost of the signs approximately \$300. There will be no significant expense to any affected party for the other proposed rule changes. The effects on small businesses which may be permit applicants are anticipated to be equivalent to those for any affected party.

Mr. Minick also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be increased public awareness by minority ethnic groups of the permitting process and opportunity to comment on permit applications which may affect their community. Stating the permit general conditions in the rules will provide the general public with a better understanding of the general requirements on permitted facilities located in their communities. There is no anticipated economic cost to persons required to comply with these sections as proposed.

A public hearing on this proposal will be held on March 29, 1994, at 10:00 a.m. in the Auditorium (Room 201S) of the TNRCC Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TNRCC staff member will discuss the proposal 30 minutes before the hearing and will be available to answer questions.

Written comments not presented at the hearing may be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087 no later than April 8, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all TNRCC Air Program regional offices. For further information, contact Gary McArthur at (512) 239-1917.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Permit Application

- 30 TAC §§116.110, 116.115, 116.116

The amendments are proposed under the Texas Health and Safety Code, §382.017, the Texas Clean Air Act (TCAA), which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA. The amendments are also proposed under the TCAA, §382.056 and §382.0513, regarding bilingual public notification for permit applications and permit general conditions, respectively.

§116.110. Applicability.

- (a)-(b) (No change.)
- (c) Change in ownership.

(1) The new owner of a facility which previously has received a permit or special permit from the TNRCC [TACB] shall not be required to apply for a new permit or special permit, and the change of ownership shall not be subject to the public notification requirements of this chapter, provided that within 30 days after the change of ownership the new owner notifies the TNRCC of the change. The notification shall include a certification of each of the following:

(A) the ownership change has occurred and the new owner agrees to be bound by all conditions [and provisions] of the permit or special permit and all representations made in the application for permit or special permit and any amendments to the permit.

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

(2) The new owner of the facility is required to comply with all conditions [and provisions] of the permit or special permit and all representations made in the application for permit or special permit and any amendments to the permit.

§116.115. General and Special Conditions [Provisions].

(a) Permits, special permits, and exemptions may contain general and special conditions [provisions]. The holders of permits, special permits, and exemptions shall comply with any and all such conditions [provisions]. Upon a specific finding by the Executive Director that an increase of a particular pollutant could result in a significant impact on the air environment, or could cause the facility to become subject to

review under the undesignated headings of this subchapter relating to Nonattainment Review or Prevention of Significant Deterioration Review, the permit may include a special condition [provision] which states that the permittee must obtain written approval from the Executive Director before constructing a source under a standard exemption.

(b) Holders of permits issued prior to March 31, 1994, shall comply with the general conditions attached to the permit. For permits issued after March 31, 1994, the following general conditions shall be applicable, but may not be specifically stated within the permit document:

(1) Voiding of permit. A permit under this chapter is automatically void if the holder fails to begin construction within 18 months of date of issuance, discontinues construction for more than eighteen consecutive months prior to completion, or fails to complete construction within a reasonable time. Upon request, the Executive Director may grant a one time 18-month extension of the date to begin construction.

(2) Construction progress. Start of construction, construction interruptions exceeding 45 days, and completion of construction shall be reported to the appropriate regional office of the Texas Natural Resource Conservation Commission (TNRCC) not later than 15 working days after occurrence of the event.

(3) Start-up notification. The appropriate Air Program regional office of the TNRCC shall be notified 30 days prior to the start-up of the facilities authorized by the permit in such a manner that a representative of the TNRCC may be present at the time of start-up.

(4) Sampling requirements. If sampling of stacks or process vents is required, the permit holder shall contact the Source and Mobile Monitoring Section of the TNRCC Office of Air Quality prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the Executive Director and coordinated with the regional representatives of the Commission. The permit holder is also responsible for providing sampling facilities and conducting the sampling operations at his own expense.

(5) Equivalency of methods. It shall be the responsibility of the permit holder to demonstrate or otherwise justify the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the permit.

Alternative methods shall be applied for in writing and must be reviewed and approved by the Executive Director prior to their use in fulfilling any requirements of the permit.

(6) Recordkeeping. A copy of the permit along with information and data sufficient to demonstrate compliance with the permit shall be maintained in a file at the plant site and made available at the request of personnel from the TNRCC or any air pollution control program having jurisdiction. This information shall include, but is not limited to, production records and operating hours. Additional recordkeeping requirements may be specified in special conditions attached to the permit. Information in the file shall be retained for at least two years following the date that the information or data is obtained.

(7) Maximum allowable emission rates. A permit covers only those sources of emissions listed in the table entitled "Emission Sources - Maximum Allowable Emission Rates" attached to the permit. Permitted sources are limited to the emission limits and other conditions specified in the table attached to the permit.

(8) Maintenance of emission control. The facilities covered by the permit shall not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations.

(9) Compliance with rules. Acceptance of a permit by a permit applicant constitutes an acknowledgement and agreement that the holder will comply with all rules, regulations, and orders of the Commission issued in conformity with the Texas Clean Air Act (TCAA) and the conditions precedent to the granting of the permit. If more than one state or federal rule or regulation or permit condition are applicable, then the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated. Acceptance includes consent to the entrance of Commission employees and agents into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the permit.

(c) There may be additional special conditions attached to a permit upon issuance or modification of the permit. Such conditions in a permit may be more restrictive than the requirements of Title 30 of the Texas Administrative Code.

§116.116. Amendments and Alterations.

(a) Permit amendments. All representations with regard to construction plans and operation procedures in an application for a permit, special permit, or special exemption, as well as any general and special conditions [provisions] attached to the permit or special exemption itself, become conditions upon which the subsequent permit, special permit, or special exemption are issued. It shall be unlawful for any person to vary from such representation or permit condition [provision] if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless application is made to the Executive Director to amend the permit or special permit in that regard and such amendment is approved by the Executive Director or Commission [Board]. Applications to amend a permit or special permit shall be submitted with a completed Form PI-1 and are subject to the requirements of §116.111 of this title (relating to General Application).

(b) Permit alterations.

(1) A permit alteration is.

(A) (No change.)

(B) for any change in a general or special condition [provision] of a permit that does not involve an increase in emission rates or a change in the character or method of control of emissions.

(2) All requests for permit alterations which may result in an increase in off-property concentrations of air contaminants, involve a change in permit conditions [provisions], or affect facility or control equipment performance must receive prior approval by the Executive Director. The Executive Director shall be notified in writing of all other permit alterations. Any request for permit alteration shall include information sufficient to demonstrate that the change does not interfere with the owner or operator's previous demonstrations of compliance with the requirements of §116.111 of this title.

(3) (No change.)

(c) Standard exemption in lieu of permit amendment or alteration. Notwithstanding subsections (a) or (b) of this section, no permit amendment or alteration is required if the changes to the permitted facility qualify for an exemption under Subchapter C of this chapter (relating to Permit Exemptions) unless prohibited by permit condition [provision] as provided in §116.115 of this title (relating to Special Conditions [Provisions]). All such exempted changes to a permitted facility shall

be incorporated into that facility's permit at such time as the permit is amended or renewed.

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 16, 1994.

TRD-9436587

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: June 1, 1994

For further information, please call: (512) 463-8159



Public Notification and Comment Procedures

• 30 TAC §116.132, §116.133

The amendments are proposed under the Texas Health and Safety Code, §382.017, the Texas Clean Air Act (TCAA), which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA. The amendments are also proposed under the TCAA, §382.056 and §382.0513, regarding bilingual public notification for permit applications and permit general conditions, respectively.

§116.132. Public Notice Format.

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

(c) Additional alternate language notification. The requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by the Education Code, §21.109, and 19 TAC §89.2(a) (relating to Required Bilingual and English as a Second Language Programs) or if either school has waived out of such a required bilingual program under the provisions of 19 TAC §89.2(g). Schools not governed by the provisions of 19 TAC §89.2 shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.

(1) The applicant shall publish an additional notice at least once in each alternate language in which the bilingual

education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC §89.2(a) under 19 TAC §89.2(g), the notice shall be published in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.

(2) Each notice under this subsection shall be published in a newspaper or publication that is published in the alternate language in which notice is required.

(3) The newspaper or publication must be of general circulation in the municipality or county in which the facility is located or proposed to be located.

(4) The requirements of this subsection are waived for each language in which no publication exists, or if the publishers of all alternate language publications refuse to publish the notice.

(5) Notice under this subsection shall only be required to be published within the United States.

(6) If the alternate language publication is published once a week or more frequently, then notice shall be published in two successive issues. Otherwise, only one publication shall be required.

(7) If the alternate language publication is published less frequently than once a month, this notice requirement may be waived by the Executive Director on a case-by-case basis.

(8) Each alternate language publication shall follow the requirements of subsections (a) and (b) of this section not otherwise inconsistent with this subsection.

§116.133. Sign Posting Requirements

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

(f) Alternate language sign posting. The requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by the Education Code, §21.109, and 19 Texas Administrative Code (TAC) §89.2(a) (relating to Required Bilingual and English as a Second Language Programs) or if either school has waived out of such a required bilingual program under the provisions of 19 TAC §89.2(g). Schools not governed by the provisions of 19 TAC §89.2 shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.

(1) The applicant shall post an additional sign in each alternate language in which the bilingual education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC §89.2(a) under 19 TAC §89.2(g), the alternate language signs shall be posted in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.

(2) The alternate language signs shall be posted adjacent to each English language sign required in this section.

(3) The alternate language sign posting requirements of this subsection shall be satisfied without regard to whether alternate language notice is required under §116.312(c) of this title (relating to Public Notice Format.)

(4) The alternate language signs shall meet all other requirements of this section.

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 16, 1994.

TRD-9436588

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: June 1, 1994

For further information, please call. (512) 463-8159



Chapter 117. Control of Air Pollution from Nitrogen Compounds

Subchapter D. Administrative Provisions

The Texas Natural Resource Conservation Commission (TNRCC) proposes the repeal of §117.570 and the addition of new §117.570 in Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. The proposed changes have been developed in response to a requirement by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) Amendments for states to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller.

The proposed new §117.570, concerning Trading, establishes a NO_x RACT trading pro-

gram which provides a cost-effective alternative method of complying with the NO_x emission specifications of this chapter. Under the trading program, an owner or operator may reduce the amount of NO_x emission reductions otherwise required under this chapter by obtaining an emission reduction credit which may be generated by another company in the same ozone nonattainment area. Proposed new §117.570 states the conditions under which trading may take place, defines procedures for generating and using reduction credits, and specifies the system for administration of the trading program.

Existing §117.570, concerning Alternate Means of Compliance-Trading, was adopted as a "placeholder" until specific rules regarding emission trading and source caps could be proposed. The source cap rule was adopted as §117.580 on August 30, 1993, and proposed for amendment and renumbering as §117.223 on January 4, 1994. With the proposal of new §117.570, the placeholder function of existing §117.570 is no longer necessary. Therefore, the TNRCC staff has determined that it would be appropriate to propose concurrently the repeal of existing §117.570 and the addition of new §117.570.

Stephen Minick, Budget and Planning Division, has determined that for each year of the first five-year period the proposed sections are in effect, fiscal cost implications for state and local governments to implement the program will be minimal.

Mr. Minick also has determined that for the first five-year period the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be satisfaction of FCAA Amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. Economic costs to businesses are not quantifiable, although significant cost savings are anticipated for companies participating in this voluntary program.

Public hearings on this proposal will be held at the following times and places: March 30, 1994, 7:00 p.m., John Gray Institute, 855 Florida Avenue, Beaumont, Texas; and March 31, 1994, 1:30 p.m., Houston-Galveston Area Council, 3555 Timmons Lane, Houston, Texas.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearings must be submitted to the TNRCC, Office

of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than April 8, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all TNRCC Air Program regional offices. For further information, contact Mike Magee at (512) 239-1511.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

• 30 TAC §117.570

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

The repeal is proposed under the Texas Health and Safety Code (Vernon 1990), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA. No other chapter of the TCAA is affected by the proposed repeal.

§117.570. Alternate Means of Compliance-Trading.

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 16, 1994

TRD-9436589

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: May 15, 1994

For further information, please call: (512) 239-0615

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The new rule is proposed under the Texas Health and Safety Code (Vernon 1990), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA. No other chapter of the TCAA is affected by the proposed new rule.

§117.570. Trading.

(a) An owner or operator may reduce the amount of emission reductions otherwise required by §117.105 or §117.205 of this title (relating to Emission Specifications), §117.107 of this title (relating to Alternative System-Wide Emission Specifications), §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), or §117.223 of this title (relating to Source Cap) by obtaining an emission reduction credit which is established in accordance with this section.

(b) The following requirements must be met in order for a particular unit to be eligible to use this section.

(1) The unit or source creating the reduction credit (RC) must be located in the same federally designated ozone nonattainment area as the unit subject to the requirements of this section.

(2) RCs must be generated from a stationary source or sources.

(3) The emission reduction which is the basis for establishment of the RC must have occurred after November 15, 1990.

(c) Reduction credits shall be generated as follows.

(1) For sources not subject to the emission specifications of §117.105 or §117.205 of this title, creditable RCs shall be established in accordance with the following requirements.

(A) RCs shall be calculated in accordance with the establishment of stationary source emission reduction credits (ERCs) under §101.29(f) of this title (relating to Emissions Banking).

(B) The source shall use emissions test data to establish the actual emissions baseline in accordance with the testing requirements of §117.209(b) of this title (relating to Initial Control Plan Procedures), or §117.111 or §117.211 of this title (relating to Initial Demonstration of Compliance), as applicable. If the source creating the RC has been shut down or irreversibly changed, the source shall use the best available data and good engineering practice to establish the actual emissions baseline.

(2) For sources subject to the emission specifications of §117.105 or §117.205 of this title, creditable RCs shall be calculated using the following equation:

$$\text{RCs (tons per year)} = \sum_{i=1}^N \left[H_i \times (R_{M_i} - R_{B_i}) \times \frac{365}{2000} \right]$$

- Where:
- i = each emission unit subject to this section
 - N = the total number of emission units subject to this section
 - H_i = actual daily heat input, in million British thermal units (MMBtu) per day, as calculated according to §117.223(b)(1) of this title
 - R_{M_i} = the lowest of any applicable federally enforceable emission limitation, the reasonably available control technology (RACT) limit of §117.105 or §117.205(b)-(d) of this title, or the actual emission rate as of June 9, 1993, in pounds (lb) nitrogen oxides (NO_x) per MMBtu, that apply to emission unit i in the absence of trading. For units that have been shut down prior to June 9, 1993, the actual emission rate shall be considered to be the average annual emission rate occurring over the period used to define the unit's baseline heat input period in §117.223(g)(3) of this title.

R_N = The enforceable emission rate, in lb
NO_x/MMBtu, established in the registra-
tion under subsection (g) of this sec-
tion.

(d) Reduction credits shall be used as follows.

(1) An owner or operator complying with §117.223 of this title may reduce the amount of emission reductions otherwise required by complying with both of the following equations instead of the equations in §117.223(b)(1) and (2) of this title.

$$\text{New 30-day rolling average emission limit (lb/day)} = \sum_{i=1}^N \left[(H_i \times R_i) + \left(RC_i \times \frac{2000}{365} \right) \right]$$

Where: i , N , and H_i are defined as in subsection (c) (2) of this section

R_i , in lb NO_x/MMBtu, is defined as in §117.223(b) (1) of this title

RC_i = RC used for each unit, in tons per year, generated in accordance with subsection (c) of this section. If RC_i is from a unit not subject to the emission specifications of §117.105 or §117.205 of this title, this term becomes RC_i/F , where F is the offset ratio for the ozone nonattainment area where the unit is located (e.g. 1.2 for Beaumont/Port Arthur and 1.3 for Houston/Galveston).

and

$$\text{New maximum daily emission limit (lb/day)} = \sum_{i=1}^N \left[(H_{Mi} \times R_i) + \left(RC_i \times \frac{2000}{365} \right) \right]$$

Where: i and N are defined as in subsection (c) (2) of this section

R_i , in lb NO_x /MMBtu, is defined as in §117.223(b) (1) of this title

H_{Mi} = the maximum daily heat input, in MMBtu/day, as defined in §117.223(b) (2) of this title.

(2) An owner or operator complying with §§117.105, 117.107, 117.205, or 117.207 of this title may reduce the amount of emission reduction otherwise re-

quired by those sections for a unit or units at a major source by complying with individual unit emission limits calculated from the following equation:

$$\text{New 30-day rolling average emission limit (lb/MMBtu)} = R_{Ai} + \left(\frac{RC_i}{H_i} \times \frac{2000}{365} \right)$$

Where: i , R_{Ai} , and H_i are defined as in subsection (c) (2) of this subsection

RC_i is defined as in paragraph (1) of this subsection.

(e) RCs may be freely transferred in whole or in part and may be sold or conveyed in any manner in accordance with the laws of the State of Texas. The RC may be sold outright or leased for some time period agreed to by the parties subject to subsection (g) of this section, but not less than six months. RCs must be acquired by a source prior to their utilization under subsection (d) of this section.

(f) Any lower NO_x emission specification established by rule or permit for the unit or units generating the RC shall require the user of the RC to obtain a new reduction credit or otherwise reduce emissions prior to the effective date of such rule or permit change. For units affected by this section which are subject to new, more stringent rule or permit limitations, the owner or operator using the RC shall submit a revised

final control plan to the Executive Director of the TNRCC in accordance with §117.117 or §117.217 of this title (relating to Revision of Final Control Plan) to revise the basis for compliance with the emission specifications of this chapter. If a more stringent NO_x emission specification is established by rule or permit for the unit or units generating the RC, the value of the RC shall be recalculated as follows:

$$\text{Recalculated RC (TPY)} = \sum_{i=1}^N \left[H_i \times (R_{Ai-new} - R_{Bi}) \times \frac{365}{2000} \right]$$

Where: i , N , H_i and R_{Bi} are defined as in subsection (c) (2) of this section

R_{Ai-new} = New NO_x emission specification, in lb NO_x /MMBtu

If the recalculated RC is of zero or negative value, the RC is determined to be of zero value.

(g) The RC program established by this section shall be administered as follows.

(1) The owner or operator of a source seeking to create a RC shall submit a registration application to the Executive Director using the RC registration form approved by the Executive Director. The Executive Director shall annotate the RC registration application with the date of receipt. The RC registration shall include information sufficient to calculate the RC value under subsection (c) of this section. The Executive Director shall perform an engineering evaluation of the claimed credit and may adjust the value of the RC on the basis of this evaluation. The application must clearly state the enforceable limits for each unit generating a credit. For emission units subject to the emission specifications of this chapter, which generate RCs, and for which the owner or operator elects to comply with the individual emission specifications of §§117.105, 117.107, 117.205, or 117.207 of this chapter, the enforceable emission limit R_m shall be calculated using the maximum rated capacity. For emission units subject to the emission specifications of this chapter, which generate RCs, and for which the owner or operator elects to achieve compliance using §117.223 of this title, the enforceable emission limit R_m shall be substituted for R_i in the source cap allowable mass emission rate equations of §117.223(b)(1) and (2) of this title and

those allowable rates shall be the enforceable limits for those sources.

(2) Registration applications must be received at least 90 days prior to the utilization of the RC.

(3) The Executive Director shall have 30 days from date of receipt to determine if the registration application is complete.

(4) The Executive Director shall have 90 days from date of receipt to approve or deny the registration or 60 days after determination of completeness, whichever is later.

(5) The Executive Director may revoke approval of a registration under this section at any time upon a determination that the requirements of this section are not being met, and may require submittal of a revised control plan for the generator or user of a RC upon such a finding.

(6) Denial of a registration may be appealed according to the provisions of §101.29(1)(2) of this title.

(7) The owner or operator desiring to utilize the RC in accordance with subsection (d) of this section shall document this in the initial control plan submitted in accordance with §117.109 or §117.209 of this title (relating to Initial Control Plan Procedures). The change of a control plan to include a RC after April 1, 1994 shall require a revision to the initial control plan and resubmission of the plan for approval as soon as practicable.

(8) The owner or operator desiring to utilize the RC in accordance with subsection (d) of this section shall document this in the final control plan submitted in accordance with §117.115 or §117.215 of this title (relating to Final Control Plan Procedures). The new emission limit for each unit as calculated in subsection

(d) of this section shall be clearly listed and will be considered federally enforceable.

(9) After submission of the final control plan in accordance with §117.115 or §117.215 of this title, an owner or operator who wishes to transfer an RC to revise the basis for compliance with the emission specifications of this chapter shall submit a revised final control plan to the Executive Director in accordance with §117.117 or §117.217 of this title. The owner or operator shall not vary from the representations made in the final control plan without prior approval from the Executive Director.

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

Issued in Austin, Texas, on February 16, 1994.

TRD-9436590

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: May 15, 1994

For further information, please call: (512) 239-0615



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 22. EXAMINING BOARDS

Part XX. Texas Board of Private Investigators and Private Security Agencies

Chapter 429. Application and Examination

• 22 TAC §429.2

The Texas Board of Private Investigators and Private Security Agencies has withdrawn from consideration for permanent adoption a proposed amendment to §429.2, which appeared in the January 14, 1994, issue of the *Texas Register* (19 TexReg 258). The effective date of this withdrawal is February 22, 1994.

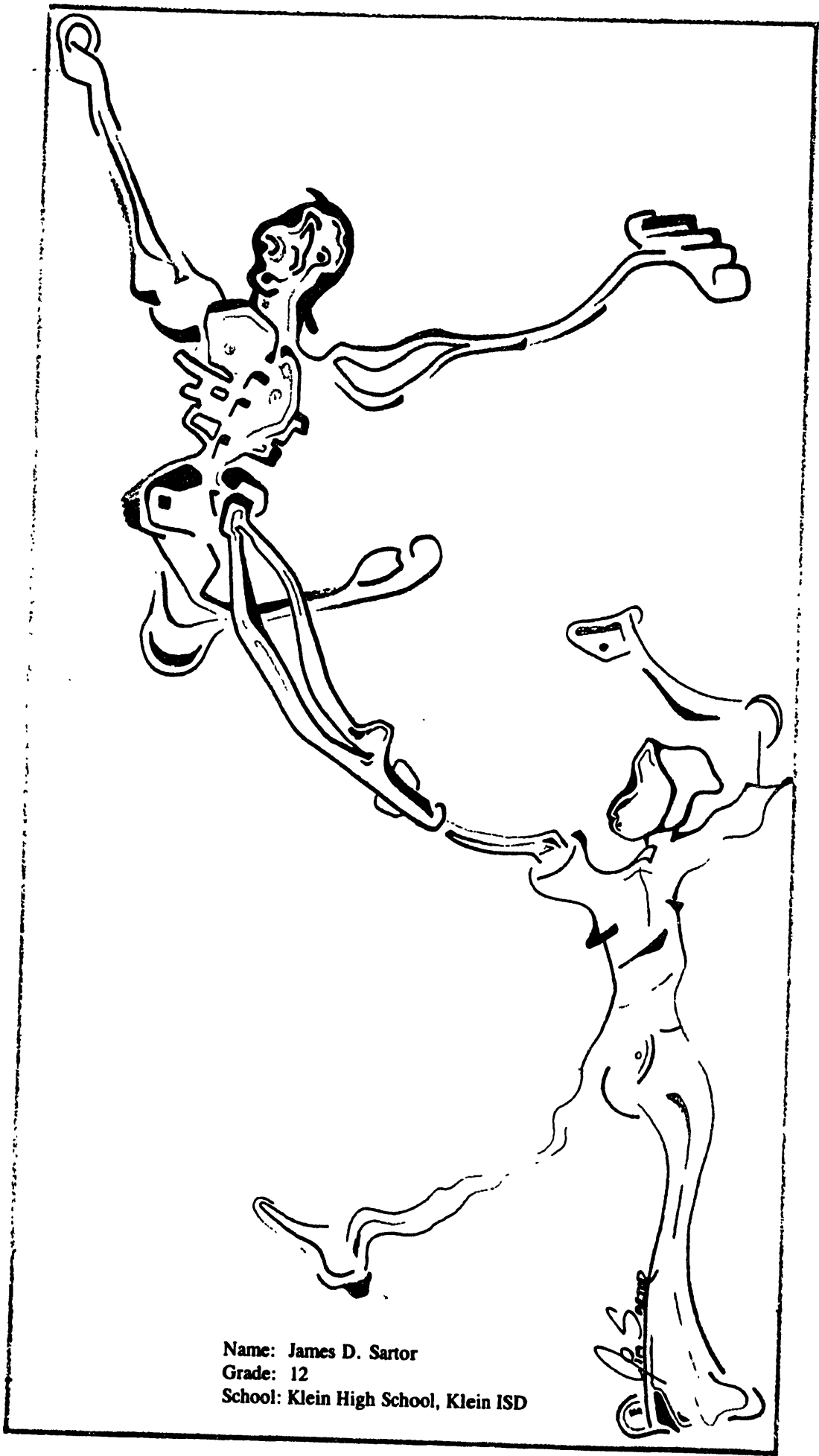
Issued in Austin, Texas, on February 22, 1994.

TRD-9436556 Ciema D. Sanders
Executive Director
Texas Board of Private
Investigators and
Private Security
Agencies

Effective date: February 22, 1994

For further information, please call: (512)
463-5545





Name: James D. Sartor
Grade: 12
School: Klein High School, Klein 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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 97. Communicable Diseases

The Texas Department of Health (department) adopts the repeal of existing §§97.1-97.22 and new §§97.1-97.13, and the repeal of existing §§97.131-97.136, and new §§97.131-97.144. Sections 97.1-97.3, 97.5-97.7, 97.11-97.13, 97.131-97.135, 97.137-97.140, and 97.142-97.144 are adopted with changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6900). The repeal of existing §§97.1-97.22 and §§97.131-97.136, and new §§97.4, 97.8-97.10, 97.136, and 97.141 are adopted without changes and will not be republished. Proposed new §97.145 was deleted due to passage of Senate Bill 981 by the 73rd Texas Legislature, which suspended the Syphilis Serology Approval Program for laboratories in-state operating under the Prenatal Screening Laws, as long as the federal Clinical Laboratory Improvement Amendments of 1988 are in effect. Section 81.090(d) of the Texas Health and Safety Code has been repealed.

The differences between the existing sections and the new sections are the removal and additions of diseases to the list of reportable diseases and implement major revisions in the format used in all sections to more clearly identify the rules and procedures.

The new sections will allow for improved reporting of reportable conditions leading to better control of those important public health conditions.

A summary of comments received regarding the proposed new sections are as follows.

COMMENT: Several commenters suggested the complete rejection of the rules. The commenters believe the rules are too cumbersome and recommended more simplified rules.

RESPONSE: The department disagrees. The public health follow-up of disease is not a uniform process and is very complex. The current rules and regulations were felt to be too cumbersome and confusing. The proposed rules and regulations are more clearly written.

COMMENT: Concerning §97.2 and §97.132, a commenter suggested adding nursing care facilities, e.g. nursing homes and non-hospitals, blood centers and MHRM facilities as reporting entities.

RESPONSE: The department disagrees. In §97.2 individuals, not institutions, are required to report whether patients and/or clients in nursing care facilities are either receiving services under the direction of a physician or are attended by a physician. The physician or his/her designee is required to report in these settings.

COMMENT: Concerning §97.2, a commenter suggested that a person to perform reporting functions within institutions should not be designated. It was explained that this should best be handled internally since it was based on job title/responsibilities.

RESPONSE: In §97.2(a), an individual is not designated to report. An employee from the clinic or office staff may be designated to serve as a reporting officer. This employee can be selected by each institution.

COMMENT: Concerning §97.2, a commenter suggested changing the wording of sentences dealing with duplicate reporting so that there would be no misinterpretation concerning this issue. It would also make it consistent with the wording in §97.132.

RESPONSE: The department agrees and has made the changes suggested in all sections relating to "Who Shall Report."

COMMENT: Concerning §97.3, several commenters recommend to include only diseases in which some therapeutic action and/or contact will be taken by the local health department.

RESPONSE: The department disagrees. All reportable diseases are of public health importance and most are preventable to some degree. Therapeutic and contact activities are not the only activities initiated because of reporting. Health department decisions to initiate preventive measures, public education and advisories are based on reported incidence data.

COMMENT: Concerning §97.3, several commenters recommend to include an address on the information to collect for a patient with a reportable condition. Several commenters recommend to include a telephone number on the required information to collect.

RESPONSE: The department agrees. The addition of address and phone number will assist local health department officials in patient follow-up.

COMMENT: Concerning §97.3(b)(1), a commenter suggested that we do not add "Tuberculosis infection in persons less than 15 years of age" and that the same minimal information be reported for all diseases to keep it simple and promote compliance.

RESPONSE: The department disagrees. Pediatric tuberculosis infections are indicative of active cases and ongoing transmission of tuberculosis in the community.

COMMENT: Concerning §97.3(b)(1), commenters suggested that *E. coli* 0157:H7 infection, hemolytic uremic syndrome (HUS), and hantavirus infection be added to the list of reportable diseases.

RESPONSE: The department agrees. *E. coli* 0157:H7 and hantavirus are recognized as emerging human pathogens. HUS is commonly associated with *E. coli* 0157:H7 infection. All diseases have been added throughout these sections where appropriate.

COMMENT: Concerning §97.3(b)(1), several commenters suggested that coccidioidomycosis, influenza and flu-like illnesses, leptospirosis, psittacosis, Q fever, and tularemia not be removed from the list of reportable diseases.

RESPONSE: The department disagrees. Influenza virus infections are tracked by another surveillance system. The consensus of previous discussions and meetings with local public health officials was that the rest of these conditions were of minimal public health concern.

COMMENT: Concerning §97.3(b)(1), a commenter recommended the addition of congenital cytomegalovirus (CMV) to the list of reportable conditions.

RESPONSE: The department disagrees. Congenital CMV is not of sufficient public health concern to be reportable.

COMMENT: Concerning §97.3, a commenter suggested the deletion of chickenpox, meningitis (except that caused by *Haemophilus influenzae* or *Neisseria meningitidis*), legionellosis, Lyme disease, relapsing fever, Rocky Mountain spotted fever, and invasive, beta-hemolytic streptococcal infection from the list of reportable conditions.

RESPONSE: The department disagrees. These proposed reportable conditions are of public health importance and should be included on the reportable disease list.

COMMENT: Concerning §97.4(a), (b), (e) and (f) a commenter recommends the deletion of timeframes for the reporting of reportable conditions. Another commenter suggested changing those diseases listed as immediately reportable.

RESPONSE: The department disagrees. Some conditions must be immediately reported. Immediate preventive treatment of contacts may be necessary.

COMMENT: Concerning §97.11, a commenter recommends that unless the disease is reportable by name, the disease should not be included in subsection (a)(1) or (2) of this section.

RESPONSE: The department disagrees. Section 97.11 requires hospitals to notify a health authority when an emergency medical responder has been exposed to a particular disease. A name is not needed to provide information to the health director regarding the exposure to a disease. The emergency responder in attendance in the case should be medically assessed and, if required, treated appropriately to prevent infection.

COMMENT: Concerning §97.12(d)(2), a commenter recommends the addition of moist heat disinfection as a method for the disposal and disinfection of needles and other contaminated wastes. A commenter suggested that §97.12(d) of this section be deleted.

RESPONSE: The department will delete §97.12(d)(1)-(3) of this section. Section 97.12(d) will now read, "All persons should routinely practice standard infection control procedures when performing post-mortem care on a deceased person who is known or suspected of having a communicable disease listed in subsection (c) of this section."

COMMENT: Concerning §97.12(c), a commenter suggested that we clarify whether the potential for exposure exists after death with all of the diseases listed.

RESPONSE: The potential of exposure does exist in dealing with a corpse. The conditions listed in §97.12 can be transmitted by contact to blood, body fluids, or tissue.

COMMENT: Concerning §97.13, a commenter suggested that health care workers be listed in the group called "Emergency Responders".

RESPONSE: The department disagrees. Health care workers are covered under infection control protocols in their respective hospitals or health care institutions. "Emergency Responders" are usually not associated with a specific health care institution and, therefore, these rules were drafted to cover these individuals.

COMMENT: Concerning §97.132(b)(4), a commenter suggested that we define social services.

RESPONSE: The department disagrees. This section is requiring the physician who is in the medical director's role in the organization to report. It is not the responsibility of the organi-

zation to report; therefore, a definition of social services is not needed in this section. Staff have made the necessary changes to clarify that it is the medical director of the organization who is required to report.

COMMENT: Concerning §97.133, department staff suggested adding the zip code of residence and physician's telephone number to the reporting information and requiring the AIDS defining condition(s) (if present), and mode of exposure (if known).

RESPONSE: The department agrees and has made the necessary changes.

COMMENT: Concerning §97.133(c)(1), several commenters expressed the need to have HIV infection reported by name.

RESPONSE: The department staff held numerous meetings in which we invited all interested parties to discuss the issue of reporting HIV infection by name. The overwhelming recommendation of the groups that were present was that HIV be reported by unique identifier and improve private laboratory reporting. Staff recommends that the unique identifier system be evaluated, and if it does not provide the information needed we will then address the issue of reporting HIV infection by name.

COMMENT: Concerning §97.133, a commenter suggested that reporting of HIV by demographics only defeats the purpose of reporting communicable diseases, i. e. prevention of additional cases and outbreak investigation.

RESPONSE: Reporting by demographics and unique identifiers was the consensus achieved by interested groups that met to discuss HIV infection reporting. Demographic information can be analyzed to target prevention messages to certain populations to prevent additional cases of HIV infection. Case investigation takes place when individuals are diagnosed with AIDS, which is reported by name.

COMMENT: Concerning §97.133, a commenter suggested that language address a way to deal with individuals who do not have a social security number.

RESPONSE: Reporting by demographics and unique identifiers was the consensus achieved by interested groups that met to discuss HIV infection reporting. Staff will address and evaluate the issue of HIV reporting of individuals that do not have a social security number.

COMMENT: Concerning §97.135(d), a commenter suggested that blood tests for syphilis should not be noted on birth certificates, but should only be included in medical records.

RESPONSE: These rules do not regulate or require information to be recorded on the birth certificate.

COMMENT: Concerning §97.140(B)(3)(b), relating to Counseling and Testing for State Employees Exposed to HIV on the Job, one commenter recommended need for clarification regarding the issue of biting or being bitten.

RESPONSE: Biting and being bitten is not considered as an exposure to HIV because without visible blood present, saliva does not contain quantities of the virus large enough to cause infection after exposure. If a bite or being bitten has caused the transfer of blood or other body fluids containing a high concentration of the virus between two individuals, then the exposure could lead to infection. Each biting incident should be reviewed by appropriate medical personnel to determine if an exposure has taken place.

Department staff added language to define what constituted risk of exposure of health care workers performing medical procedures as required in the Texas Health and Safety Code, §81.102(a)(3).

Proposed new §97.145 was deleted due to passage of Senate Bill 981 by the 73rd Texas Legislature which suspended the Syphilis Serology Approval Program for laboratories in state operating under the Prenatal Screening Laws, as long as the federal Clinical Laboratory Improvement Amendments of 1988 are in effect. Section 81.090(d) of the Texas Health and Safety Code has been repealed.

Minor editorial changes were made for clarification purposes.

The following associations presented comments on the proposed rules: the City of Houston Health and Human Services Department, the Corpus Christi-Nueces County Department of Public Health, and the Texas Youth Commission. Several individuals presented comments and comments were received from department staff.

Control of Communicable Diseases

• 25 TAC §§97.1-97.22

The repeals are adopted under the Health and Safety Code, Chapter 81, which provides the Board of Health with the authority to adopt rules concerning the reporting of communicable diseases; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

Issued in Austin, Texas, on February 23, 1994.

TRD-9436575

Susan K. Steeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Effective date: March 16, 1994

Proposal publication date: October 8, 1993

For further information, please call: (512) 458-7463

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• 25 TAC §§97.1-97.13

The new sections are adopted under the Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81, which provides the Board of Health with the authority to adopt rules concerning the reporting of communicable diseases; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§97.1. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Act—Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81.

AIDS—Acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service. The publication designating the most current definition may be requested from: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7504 or 1-800-252-8239.

Carrier—An infected person or animal that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source or reservoir for the infection of man.

Case—As distinct from a carrier, the term "case" is used to mean a person in whose tissues the etiological agent of a communicable disease is lodged and which usually produces signs or symptoms of disease. Evidence of the presence of a communicable disease may also be revealed by laboratory findings.

Commissioner—Commissioner of Health.

Communicable disease—An illness due to an infectious agent or its toxic products which is transmitted directly to a well person from an infected person or animal, or indirectly through an intermediate plant or animal host, vector, or the inanimate environment.

Contact—A person or animal that has been in such association with an infected person or a contaminated environment so as to have had opportunity to acquire the infection.

Department—Texas Department of Health.

Disinfection—Destruction of infectious agents outside the body by chemical or physical means directly applied.

Epidemic or outbreak—The occurrence in a community or region of a group of illnesses of similar nature, clearly in excess of normal expectancy, and derived from a common or a propagated source

Health authority—A physician designated to administer state and local laws relating to public health under the Local Public Health Reorganization Act, Health and Safety Code, Chapter 121. The health authority, for purposes of these sections, may be:

(A) a local health authority:

(i) director of a local health department; or

(ii) physician as appointed by the Commissioner of Health if there is no director of a local health department; or

(B) a regional director of the Texas Department of Health if no physician has been appointed by the Commissioner of Health as a local health authority.

HIV—Human immunodeficiency virus.

HIV infection—Infection with HIV confirmed by one of the following laboratory procedures:

(A) a serum specimen that is repeatedly reactive for HIV antibody by a licensed screening test (e.g. enzyme-linked immunosorbent assay (ELISA)) and the same or an additional serum specimen that is positive by a subsequent test (e.g. Western blot, immunofluorescence assay); or

(B) a positive test for serum HIV antigen; or

(C) a positive lymphocyte culture confirmed by an HIV-specific antigen test (not just reverse transcriptase detection); or

(D) by in situ hybridization technique using a deoxyribonucleic acid (DNA) probe (e.g. polymerase chain replication (PCR)).

Hospital laboratory—Any laboratory that performs laboratory test procedures for a patient of a hospital either as a part of the hospital or through contract with the hospital.

Outbreak—See definition of epidemic in this section.

Physician—A person licensed by the Texas State Board of Medical Examiners to practice medicine in Texas.

Regional director—The physician who is the chief administrative officer of a region as designated by the department under the Local Public Health Reorganization Act, Health and Safety Code, Chapter 121.

Report—Information that is required to be provided to the department.

Report of a disease—The notification to the appropriate authority of the occurrence of a specific communicable disease in man or animals, including all information required by the procedures established by the department.

Reportable disease—Any disease or condition that is required to be reported under the Act or by these sections. See §97.3 of this title (relating to What to Report). Any outbreak, exotic disease, or unusual group expression of illness which may be of public health concern, whether or not the disease involved is listed in §97.3 of this title, shall be considered a "reportable disease."

School administrator—The city or county superintendent of schools, or the principal of any school not under the jurisdiction of a city or county board of education.

§97.2. Who Shall Report.

(a) A physician, dentist, veterinarian, or chiropractor shall report as required by these sections, each patient or animal he or she shall examine and who has or is suspected of having any reportable disease or health condition, and shall report any outbreak, exotic disease, or unusual group expression of illness of any kind whether or not the disease is known to be communicable or reportable. An employee from the clinic or office staff may be designated to serve as the reporting officer. A physician, dentist, veterinarian, or chiropractor who can assure that a designated or appointed person from the clinic or office is regularly reporting every occurrence of these diseases or health conditions in their clinic or office does not have to submit a duplicate report.

(b) The chief administrative officer of a hospital shall appoint one reporting officer who shall be responsible for reporting each patient who is medically attended at the facility and who has or is suspected of having any reportable disease or health condition. Hospital laboratories may report through the reporting officer or independently in accordance with the hospital's policies and procedures.

(c) Except as provided in subsection (b) of this section, any person who is in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, or other evidence of a reportable disease or health condition shall report as required by this section.

(d) School authorities, including a superintendent, principal, teacher, school health official, or counselor of a public or private school and the administrator or health official of a public or private institution of higher learning should report as

required by these sections those students attending school who are suspected of having a reportable disease. School authorities are exempt from reporting sexually transmitted diseases in accordance with §97.132(b)(5) of this title (relating to Who Shall Report Sexually Transmitted Diseases.)

(e) Any person having knowledge that a person is suspected of having a reportable disease or health condition should notify the local health authority or the department and provide all information known to them concerning the illness and physical condition of such person or persons.

(f) Sexually transmitted diseases including HIV and AIDS shall be reported in accordance with §97.132 of this title.

(g) Failure to report a reportable disease is a Class B misdemeanor under the Texas Health and Safety Code, §81.049.

§97.3. What to Report.

(a) Identification of reportable conditions.

(1) The Texas Department of Health's (department) publication titled "Identification and Confirmation of Reportable Diseases" is a guideline to be used to determine when a reportable disease shall be reported under these sections based on a specific diagnosis, test procedure, and/or confirmatory test. Copies are available upon request to the Materials Acquisition and Management Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(2) Repetitive test results from the same patient do not need to be reported except for mycobacterial infections.

(b) Reportable conditions.

(1) Confirmed and suspected cases of the following diseases are reportable: acquired immune deficiency syndrome (AIDS); amebiasis; anthrax; botulism—adult and infant; brucellosis; campylobacteriosis; chancroid; chickenpox; *Chlamydia trachomatis* infection; cholera; dengue; diphtheria; encephalitis (specify etiology); *Escherichia coli* O157:H7; gonorrhea; Hansen's disease (leprosy); *Haemophilus influenzae* infection, invasive; hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis, acute viral (specify type); human immunodeficiency virus (HIV) infection; legionellosis; listeriosis; Lyme disease; malaria; measles (Rubeola); meningitis (specify type); meningococcal infection invasive; mumps; pertussis; plague; poliomyelitis, acute paralytic; rabies in man; relapsing fever; Rocky Mountain spotted fever; rubella (including congenital); salmonellosis, including typhoid fever; shigellosis; streptococcal disease, invasive

Group A, syphilis; tetanus; trichinosis; tuberculosis; tuberculosis infection in persons less than 15 years of age; typhus; vibrio infection; viral hemorrhagic fevers; and yellow fever.

(2) In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease which may be of public health concern should be reported by the most expeditious means.

(c) Minimal reportable information requirements. The minimal information that shall be reported for each disease is as follows:

(1) for chickenpox—numeric totals by age group;

(2) for AIDS and HIV infection—shall be reported in accordance with §§97.132, 97.133, and 97.134 of this title (relating to Sexually Transmitted Diseases including AIDS and HIV infection);

(3) for chancroid, *Chlamydia trachomatis* infection, gonorrhea, and syphilis—shall be reported in accordance with §§97.132, 97.133, 97.134, and 97.135 of this title (relating to Sexually Transmitted Diseases including AIDS and HIV infection);

(4) for tuberculosis—name, city, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, and antibiotic susceptibility results; and

(5) for all other reportable diseases—name, city, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, address, and telephone number.

§97.5. Where to Report.

(a) A physician, dentist, veterinarian, chiropractor, reporting officer of a hospital and a person in charge of a hospital laboratory (if the laboratory reports independently), or school authority shall report to the local health authority where the office, clinic, hospital, or school is located. If there is no local health authority appointed for the jurisdiction where the office, clinic, hospital, or school is located, the report shall be made to the Texas Department of Health (department) regional director. Public health emergencies shall be reported to the department's central office if the local health authority or the department's regional director is not immediately accessible.

(b) The administrative officer of a clinical laboratory, blood bank, mobile unit, or other facility shall report as follows.

(1) If the laboratory examination was requested by a physician, notice shall be sent to the local health authority for the

jurisdiction where the physician's office is located, to the department's regional director for the jurisdiction where the physician's office is located if no local health authority exists, or to the department's central office when the regional director or local health authority are unknown to the laboratory.

(2) If the laboratory examination was not requested by a physician, notice shall be sent to the local health authority for the jurisdiction where the laboratory is located, to the department's regional director for the jurisdiction where the laboratory is located if no local health authority has been appointed, or to the department's central office when the regional director or local health authority are unknown to the laboratory.

(c) Sexually transmitted diseases including HIV and AIDS shall be reported in accordance with §§97.132-97.135 of this title (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)).

§97.6. Reporting and Other Duties of Local Health Authorities and Regional Directors.

(a) The purpose of this section is to provide procedures for local health authorities and regional directors to report a disease to the Texas Department of Health's (department) central office.

(b) Those reportable conditions identified as public health emergencies in §97.4(a) of this title (relating to When to Report) shall be reported immediately to the department by telephone.

(c) Chancroid, *Chlamydia trachomatis* infection, gonorrhea, and syphilis shall be reported in accordance with §§97.132, 97.133, 97.134, and 97.135 of this title (relating to Sexually Transmitted Diseases including AIDS and HIV Infection).

(d) AIDS and HIV infection shall be reported in accordance with §§97.132, 97.133, and 97.134 of this title.

(e) The local health authority or the department's regional director shall collect reports of disease and transmit the following information at weekly intervals as directed by the department:

(1) for chickenpox—numerical totals by age group; and

(2) for all other reportable diseases—by name, city, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, address, and telephone number.

(f) Transmittal may be by telephone, mail, courier, or electronic transmission.

(1) If by mail or courier, the reports shall be on a form provided by the department and placed in a sealed envelope addressed to the attention of the appropriate receiving source and marked "Confidential."

(2) If by electronic transmission, including facsimile transmission by telephone, the local health authority or the department's regional director must obtain prior approval of the manner and form of the transmission from the Commissioner of Health (commissioner) or his/her designee. Any electronic transmission of the reports must provide at least the same degree of protection against unauthorized disclosure as those of mail or courier transmittal.

(g) The health authority shall notify health authorities in other jurisdictions of a case or outbreak of a communicable disease that has been reported if the case resides in another jurisdiction or there is cause to believe transmission of a disease may have occurred in another jurisdiction. The department shall assist the health authority in providing such notifications upon request. The health authority of the area where the case or outbreak is diagnosed shall report the case or outbreak to the department on the same basis as other reports.

(h) The health authority upon identification of a case or upon receipt of notification or report of disease shall take such action and measures as may be necessary to conform with the appropriate control measure standards. The health authority may upon identification of a case or upon report of a communicable disease in a child attending a public or private child-care facility or a school notify the owner or operator of the child-care facility or the school administrator. The commissioner is authorized to amend, revise, or revoke any control measure or action taken by the health authority if necessary or desirable in the administration of a regional or statewide public health program or policy.

(i) The health authority is empowered to close any public or private child-care facility, school or other place of public or private assembly when in his or her opinion such closing is necessary to protect the public health; and such school or other place of public or private assembly shall not reopen until permitted by the health authority who caused its closure.

§97.7. Diseases Requiring Exclusion from Child-care Facilities and Schools.

(a) The Texas Department of Health (department) publication titled "Communicable Disease Chart for Schools and Child Care Centers" may be used to determine the incubation period, early signs of illness, and prevention/treatment mea-

asures of communicable conditions. Copies are available on request.

(b) The owner or operator of a child-care facility, or the school administrator, shall exclude from attendance any child having or suspected of having a communicable condition. Exclusion shall continue until the readmission criteria for the conditions are met. The conditions and readmission criteria are as follows.

(1) amebiasis-exclude until treatment is initiated;

(2) campylobacteriosis-exclude until after diarrhea and fever subside.

(3) chickenpox-exclude until after seven days from onset of rash, except immunocompromised individuals who should not return until all blisters have crusted over (may be longer than seven days);

(4) common cold-exclude until fever subsides.

(5) conjunctivitis, bacterial and/or viral-exclude until written permission and/or permit is issued by a physician or local health authority;

(6) fever-exclude until fever subsides.

(7) fifth disease (erythema infectiosum)-exclude until fever subsides.

(8) gastroenteritis, viral-exclude until diarrhea subsides;

(9) giardiasis-exclude until diarrhea subsides.

(10) head lice (pediculosis)-exclude until one medicated shampoo or lotion treatment has been given;

(11) hepatitis, viral, type A-exclude until one week after onset of illness;

(12) impetigo-exclude until treatment has begun.

(13) infectious mononucleosis-exclude until physician decides or fever subsides;

(14) influenza-exclude until fever subsides;

(15) measles (rubeola)-exclude until four days after rash onset or in the case of an outbreak, unimmunized children should also be excluded for at least two weeks after last rash onset occurs.

(16) meningitis, bacterial-exclude until written permission and/or permit is issued by a physician or local health authority.

(17) meningitis, viral-exclude until fever subsides;

(18) mumps-exclude until nine days after the onset of swelling;

(19) pertussis (whooping cough)-exclude until completion of five days of antibiotic therapy;

(20) ringworm of the scalp-exclude until treatment has begun;

(21) rubella (German measles)-exclude until seven days after rash onset or in the case of an outbreak, unimmunized children should be excluded for at least three weeks after last rash onset occurs;

(22) salmonellosis-exclude until diarrhea and fever subside;

(23) scabies-exclude until treatment has begun.

(24) shigellosis-exclude until diarrhea and fever subside;

(25) streptococcal sore throat and scarlet fever-exclude until 24 hours from time antibiotic treatment was begun and fever subsided, and

(26) tuberculosis, pulmonary-exclude until antibiotic treatment has begun and a physician's certificate or health permit obtained.

(b) The owner or operator of a child-care facility, or the school administrator, shall exclude from attendance any child having or suspected of having a communicable disease designated by the Commissioner of Health (commissioner) as cause for exclusion until one of the criteria listed in subsection (c) of this section is fulfilled

(c) Any child excluded for reason of communicable disease may be readmitted, as determined by the health authority, by submitting.

(1) a certificate of the attending physician attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease's non-communicability in a child-care or school setting;

(2) a permit for readmission issued by a local health authority, or

(3) readmission criteria as established by the commissioner.

§97.11. Notification of Emergency Medical Service Employee, Firefighter, or Peace Officer of Possible Exposure to a Disease.

(a) The Communicable Disease Prevention and Control Act (Act), §81.048, requires a licensed hospital to notify a health authority in certain instances when an emergency medical service employee, a peace officer, or a firefighter may have been exposed to a communicable disease during the course of duty from a person delivered to the hospital under conditions that were favorable for transmission. The following diseases and conditions constitute

a possible exposure to the disease for the purposes of the Act, §81.048:

(1) chickenpox; diphtheria; *Haemophilus influenzae* infections, invasive; meningitis (specify type); meningococcal infections, invasive; mumps; pertussis; poliomyelitis; psittacosis; Q fever (pneumonia); rabies; rubella; and tuberculosis, if there has been an examination of the throat, oral or tracheal intubation or suctioning, or mouth-to-mouth resuscitation;

(2) acquired immune deficiency syndrome (AIDS); anthrax; brucellosis; dengue; hepatitis, viral; human immunodeficiency virus (HIV) infection; malaria; plague; syphilis; tularemia; typhus; viral hemorrhagic fevers and yellow fever, if there has been a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any significant contamination of an open wound or non-intact skin with blood or body fluids;

(3) amebiasis; campylobacteriosis; cholera; *Escherichia coli* 0157:H7; hepatitis A; salmonellosis, including typhoid fever; shigellosis; and vibrio infections, if fecal material is ingested; and

(4) measles (Rubeola), pneumonic plague; tuberculosis; and viral hemorrhagic fevers if the worker and patient are in the same room, vehicle, ambulance, or other enclosed space.

(b) A hospital shall report to the health authority the name of the transport person exposed, the date of exposure, the type of exposure, and the disease or condition to which exposure may have occurred.

§97.12. Death of a Person with Certain Communicable Diseases.

(a) If a physician has knowledge that a person had, at the time of death, a communicable disease listed in subsection (c) of this section, then the physician shall affix or cause to be affixed a tag on the body, preferably on a great toe.

(b) The tag shall be on card stock paper and shall be no smaller than five centimeters by ten centimeters. The tag shall include the words "COMMUNICABLE DISEASE-BLOOD/BODY SUBSTANCE PRECAUTIONS REQUIRED" in letters no smaller than six millimeters in height. The name of the deceased person shall be written on the tag. The tag shall remain affixed to the body until the preparation of the body for burial has been completed.

(c) Diseases that shall require tagging are acquired immune deficiency syn-

drome (AIDS); anthrax; brucellosis; cholera; Creutzfeldt-Jakob disease; hepatitis, viral; human immunodeficiency virus (HIV) infection; plague; Q fever; rabies; relapsing fever; Rocky Mountain spotted fever; syphilis; tuberculosis; tularemia; and viral hemorrhagic fevers.

(d) All persons should routinely practice standard infection control procedures when performing post-mortem care on a deceased person who is known or suspected of having a communicable disease listed in subsection (c) of this section.

§97.13. Mandatory Testing of Persons Suspected of Exposing Certain Other Persons to Reportable Diseases, Including Human Immunodeficiency Virus (HIV) Infection.

(a) Purpose. The Communicable Disease Prevention and Control Act, Health and Safety Code, §81.050, provides a mechanism by which an emergency medical service employee, paramedic, fire fighter, a correctional officer, or a law enforcement officer, who receives a bona fide exposure to a reportable disease, including HIV infection, in the course of employment or volunteer service may request the Texas Department of Health (department) or the department's designee to order testing of the person who may have exposed the worker. This section establishes guidelines to designate the criteria that constitute exposure to a reportable disease, including HIV infection. The guidelines also prescribe minimum training requirements of the department's designee who will judge if the request meets criteria establishing risk of infection with a reportable disease, including HIV infection.

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

(1) Emergency responder—An emergency medical services employee, paramedic, fire fighter, correctional officer or law enforcement officer who is employed by or volunteers for an employer with the responsibility of answering emergency calls for assistance.

(2) Requestor—Emergency responder who presents a sworn affidavit to a local health authority to request testing of a person who may have exposed him/her to an infectious disease in the course of his/her duties.

(3) Designated health official—For the purposes of implementing the Health and Safety Code, §81.050(d)-(e), the following physicians have been delegated by the department to be the designated health officials who determine if a risk of exposure to a reportable disease has occurred.

(A) the health authority for the jurisdiction in which the emergency responder is employed;

(B) if the health authority does not choose to make a determination of the risk of exposure, a licensed physician employed by the local health department who has responsibility for the control of communicable diseases in the municipality or county served by the health department;

(C) if the health authority does not choose to make determinations of the risks of exposure and there is not a separate physician employed by the county or municipal health department with responsibility for the control of communicable diseases, or for counties which do not have an appointed health authority, the regional director of the Texas Department of Health (department) region of which the county or municipality is a part; and

(D) for the Texas Department of Criminal Justice (TDCJ), the TDCJ Deputy Director of Health Services (Institutional Division) who must serve as the designated health official in determining risk of exposure to correctional officers employed by the TDCJ.

(4) Source—The person who may have exposed an emergency responder to a reportable, communicable disease during the emergency responder's course of duties.

(c) Diseases and designated conditions that constitute exposure to reportable diseases. For the purposes of the Health and Safety Code, §81.050, the diseases and designated conditions constitute exposure to a reportable disease, including HIV infection, are as follows:

(1) chickenpox; diphtheria; *Haemophilus influenzae* infections, invasive; meningitis (specify type); meningococcal infections, invasive; mumps; pertussis; poliomyelitis; psittacosis; Q fever (pneumonia); rabies; rubella; and tuberculosis if there has been an examination of the throat, oral or tracheal intubation or suctioning, or mouth-to-mouth resuscitation;

(2) acquired immune deficiency syndrome (AIDS); anthrax; brucellosis; dengue, hepatitis, viral; human immunodeficiency virus (HIV) infection; malaria; plague; syphilis; tularemia; typhus; viral hemorrhagic fevers; and yellow fever, if there has been a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any significant contamination of an open wound or non-intact skin with blood or body fluids,

(3) amebiasis; campylobacteriosis; cholera; *Escherichia coli* O157:H7; hepatitis A; salmonellosis, including typhoid fever; shigellosis; and vibrio infections, if fecal material is ingested; and

(4) measles (Rubeola); pneumonic plague; tuberculosis; and viral hemorrhagic fevers if the worker and the patient are in the same room, vehicle, ambulance or other enclosed space.

(d) Department designee. For the purposes of the Health and Safety Code, §81.050, the following guidelines prescribe requirements of the department's designee who will judge if the request for testing meets criteria establishing risk of infection with a reportable disease, including HIV infection.

(1) The health authority for the jurisdiction in which the emergency medical services employee, paramedic, fire fighter, correctional officer, or law enforcement officer, who is employed or volunteers shall review the request, presented as a sworn affidavit, and determine whether the request meets the criteria set out in subsection (c) of this section.

(2) If an exposure is judged to have occurred, the health authority will then determine whether that exposure constitutes a reasonable risk of infection to the requester. However, if the correctional officer is employed by the Texas Department of Criminal Justice (TDCJ) (Institutional Division), the Deputy Director for Health Services of that department shall judge if the request for testing meets the criteria for risk of infection. In determining risk of infection, the health authority or the TDCJ Deputy Director for Health Services shall follow guidance given in the current edition of "Control of Communicable Diseases in Man," published as an official report by the American Public Health Association.

(e) Procedures for mandatory testing. Steps necessary to mandate testing for a reportable communicable disease.

(1) Submitting a request for testing of a source. If an employed or volunteer emergency responder believes he or she may have been exposed to a reportable disease while discharging his or her duties, then he or she, within 72 hours, must have postmarked or submitted in person a sworn affidavit to his or her designated health official requesting that the source be tested for the reportable communicable disease(s) which is (are) of concern. The sworn, written affidavit of the requestor must contain:

(A) name;

(B) home address;

(C) telephone number at work;

(D) telephone number at home;

(E) the name and address of the emergency agency where he or she works or volunteers;

(F) an emergency telephone number;

(G) date and time of exposure;

(H) the circumstances of the exposure;

(I) the source's symptoms, if known (e.g. rash, fever, chills, jaundice, productive cough, diarrhea, nausea/vomiting, neurologic signs, coryza, hemorrhage, other);

(J) transport designation of the source; and

(K) if known, the source's name, address, preliminary diagnosis, and probable present location.

(2) Responsibilities of the requestor. If the requestor believes he or she may have been exposed to a reportable disease and that, if infection occurs, he/she may file for worker's compensation, then the requestor must obtain an appropriate medical test which demonstrates susceptibility to the infection of concern. This test must be obtained within ten days of the alleged exposure. The requestor should also be aware that he or she may be liable for any court costs if the source person refuses to be tested for infection with a reportable disease and the requestor takes the matter to court and loses.

(3) Determination of exposure. The designated health official must decide within three working days of receipt of the sworn affidavit if an exposure likely to lead to an infection has occurred. The designated health official must also consult the most recent edition of Control of Communicable Diseases in Man, published by the American Public Health Association, and should also consult any other reference which may provide additional relevant information.

(4) Relating the determination of exposure.

(A) Ruling of a non-exposure. If the designated health official determines that an exposure likely to lead to an infection with a reportable disease did not occur, then he or she must so inform the requestor by letter. The letter must contain a brief explanation of the basis of the decision. The designated health official may also notify the requestor by telephone, but this does not preclude the need for a written response.

(B) Ruling of an exposure.

(i) If the designated health official determines that the conditions of exposure were such that there was a reasonable chance that infection may have occurred, then he or she must notify the requestor by registered/certified mail and request that the requestor consult the designated health official. If the situation is such that control or treatment measures are immediately advisable, then the designated health official must also make a reasonable effort to notify the requestor of what actions need to be taken.

(ii) During the consultation with the designated health official, the requestor must receive the following information both verbally and in writing:

(I) the disease(s) which may have been transmitted during the exposure;

(II) the tests that are available to detect infection;

(III) where and when to obtain testing;

(IV) the prophylactic measures which are appropriate; and

(V) signs and symptoms of infection.

(iii) If the requestor may have been exposed to HIV virus, then approved pretest counseling must be provided. The designated health official must state that he or she will proceed to locate the source and request the source to undergo testing. The designated health official must also state that if the source refuses to be tested, then the designated health official will consult with the requestor to determine if he or she wishes to pursue the matter into court. The designated health official must warn the requestor that if the matter is taken to court and the court rules that testing of the source is not required, then the requestor may be liable for court costs.

(5) Disagreement with designated health official's ruling. If the re-

requestor does not agree with the determination of the designated health official, and wants to pursue the matter further then the requestor must submit a copy of his or her original sworn affidavit to the Commissioner of Health (commissioner) for an independent assessment. The petition must be within seven days of the written notification by the designated health official. The decision of the commissioner is final. If the commissioner decides that the conditions of the exposure were such that there existed a reasonable chance of exposure to a reportable disease, then the designated health official in whose jurisdiction the exposure occurred must continue action to obtain testing of the source

(6) Notification of the source

(A) Once the designated health official determines that an exposure with risk of transmission of a reportable disease has occurred, the designated health official must within three working days attempt to locate and notify the source or the source's legal guardian. Notification must be by hand-delivered letter which will ask the source or the source's legal guardian to contact the designated health official but will not relate the reasons for the request. The designated health official must personally converse with the source or the source's legal guardian regarding the potential transmission of a reportable disease to an emergency responder.

(B) If the source is hospitalized, incarcerated, or otherwise unable to personally consult with the designated health official, then a health professional trained in relating health information (e.g. registered or licensed vocational nurse, disease intervention specialist, epidemiologist) must relate verbally and in writing the request for information regarding the source's current status related to certain reportable diseases.

(C) At least three attempts must be made to deliver the notice to the source or source's legal guardian. If after three attempts, the notice has not been delivered then the designated health official will mail the notice by registered mail to the last known address of the source or source's legal guardian.

(7) Information provided to source

(A) Once contacted, the designated health official must relate to the source or source's legal guardian (both verbally and in writing in a language the source can understand) that:

(i) an emergency responder has had contact with the source in a manner that transmission of disease may have occurred;

(ii) this person is now requesting information on the possible contagiousness of the source with a disease(s) reportable by law;

(iii) the source or source's legal guardian is asked to present laboratory or other medically valid evidence that he or she did or did not have the disease(s) at the time of exposure, and

(iv) that the source or source's legal guardian is required to present this information or evidence that an appropriate specimen has been submitted for testing within 14 days of receipt of a written request for testing

(I) The request must describe the type of test required (e.g. blood for antigen or antibody, culture) and where such a test and appropriate counseling can be obtained.

(II) The request must also state that if the source or source's legal guardian chooses not to use public health facilities for testing, then he or she is liable for any costs incurred from testing.

(B) The test results or proof that the test specimen had been taken must be in the form of a signed and dated statement from a physician or laboratory stating the specimen has been collected and the approximate date that the laboratory or other results would be ready. The proof of specimen collection must be returned to the designated health official within 17 days after receipt of the written request for testing from the designated health official. If the source or source's legal guardian already has proof of laboratory results which demonstrate that the source was or could not have been infectious at the time of the exposure to the source, then the previous results substitute for new testing

(C) A source or the source's legal guardian who states that the source has been tested in the past and was positive for HIV or chronic hepatitis B but is unable to produce valid written results (anonymous test sites, special screens, lost records) must be asked to be retested. If they refuse, then this information must be relayed to the requestor.

(8) Source objection to determination of exposure. If the source or the source's legal guardian objects to the designated health official's decision that he or she was involved in potentially exposing an emergency responder to a reportable disease, then he or she must present a copy of his or her original sworn affidavit to the

commissioner for an independent assessment. The decision of the commissioner is final.

(9) Test results. The source or the source's legal guardian has the responsibility of presenting the test result(s) to the health authority within five days of receipt. The results must show that the tested specimen was collected from the source, the date of collection, the type of test which was conducted, and the results of the test. The results must have the original signature of the physician who ordered, performed, or was responsible for the testing.

(10) Notification of the requestor. When the test results from the source are obtained, the designated health official must arrange for an interview with the requestor. During the interview the designated health official must provide verbally and in writing the results of any testing on the source. If warranted by the test results, the designated health official must also provide recommendations for medical follow-up.

(11) Refusal to be tested. If the source refuses to be tested, a statement to that effect must be signed by the source or the source's legal guardian. If the source or the source's legal guardian refuses to sign a statement or does not comply with the written request to be tested within the allotted 14-day time interval after notification, then the designated health official will ask for a written statement from the requestor stating that the matter should or should not be referred to the district court. The written request must state that the requestor understands he or she may be liable for court costs if the court does not rule in favor of mandated testing of the source. The designated health official will then refer the request to the prosecuting attorney who represents the state in district court. The prosecuting attorney will request a hearing on the order.

(12) Court proceedings. The source has the right to an attorney at the hearing and the court will appoint an attorney for a person who cannot afford legal representation. The source or source's legal guardian cannot waive the right to an attorney unless he or she has consulted with an attorney. The court will then review the order and determine whether exposure occurred and represents a probable risk of infection. Evidence may be introduced by the attorney for the state or the attorney for the source. The court will then order testing and appropriate counseling or refuse to issue the order. If the court does not find reasonable cause to have the person tested, then the court may charge court costs to the requestor.

(13) Results of court ordered tests. If a test is ordered, the designated health official must make arrangements for appropriate counseling, specimen collection, testing and maintenance of confidential

ality of the source. The designated health official has the responsibility of notifying both the requestor and the source or source's legal guardian of the results of the testing and of any follow-up treatment and/or counseling. The designated health official must develop a protocol to code test specimens to ensure that identifying information concerning the source is destroyed as soon as testing is complete.

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 23, 1994.

TRD-9436574

Susan K. Steeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Effective date: March 16, 1994

Proposal publication date: October 8, 1993

For further information, please call: (512) 458-7463

Sexually Transmitted Diseases

• 25 TAC §§97.131-97.136

The repeals are adopted under the Health and Safety Code, Chapter 81; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

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Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)

• 25 TAC §§97.131-97.144

The new sections are adopted under the Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 81, which provides the Board of Health with the authority to adopt rules concerning the reporting of communicable diseases; and §12.001,

which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§97.131. Definitions. The following words and terms when used in these sections shall have the following meanings unless the context clearly indicates otherwise:

AIDS—Acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service. The publication designating the most current definition may be requested from: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7504 or 1-800-252-8239.

HIV—Human immunodeficiency virus.

HIV infection—Infection with HIV confirmed by one of the following laboratory procedures:

(A) a serum specimen that is repeatedly reactive for HIV antibody by a licensed screening test (e.g. enzyme-linked immunosorbent assay (ELISA)) and the same or an additional serum specimen that is positive by subsequent test (e.g. Western blot, immunofluorescence assay);

(B) a positive test for serum HIV antigen;

(C) a positive lymphocyte culture confirmed by HIV-specific antigen test (not just reverse transcriptase detection); or

(D) an in situ hybridization technique using a deoxyribonucleic acid (DNA) probe (e.g. polymerase chain replication (PCR)).

Sexually transmitted disease—An infection, with or without symptoms or clinical manifestations, that is or may be transmitted from one person to another during or as a result of sexual relations of whatever kind between two persons, and that produces or might produce a disease in or otherwise impair the health of either person or might cause an infection or disease in a fetus in utero or a newborn. AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis are sexually transmitted diseases.

§97.132. Who Shall Report Sexually Transmitted Diseases.

(a) The following shall provide information on cases of chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis:

(1) A physician or dentist shall report each patient that is diagnosed or treated for chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis. A physician or dentist may designate an employee of the clinic or physician's/dentist's office to serve as the reporting officer. A physician or dentist who can assure that a designated or appointed person is regularly reporting every occurrence of these diseases in their clinic or office does not have to submit a duplicate report.

(2) The chief administrative officer of a hospital, a medical facility or a penal institution shall report each patient who is medically attended at the facility and is diagnosed with chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis. The chief administrative officer may designate an employee of their institution to serve as the reporting officer. A chief administrative officer who can assure that a designated or appointed person is regularly reporting every occurrence of these diseases in their institution does not have to submit a duplicate report. Hospital laboratories may report through the reporting officer or independently in accordance with the hospital's policies and procedures.

(3) Any person in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of a blood specimen or any specimen derived from a human body that yields microscopic, cultural, serological or any other evidence of chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis shall report according to §97.133 of this title (relating to Reporting Information for Sexually Transmitted Diseases).

(4) School authorities as described in §97.2(e) of this title (relating to Who Shall Report) who are not medical directors meeting the criteria described in this section are exempt from reporting chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis.

(b) The following shall report cases of HIV infection and AIDS cases.

(1) A physician or dentist shall report each patient that is diagnosed or treated for HIV infection or AIDS. A physician or dentist may designate an employee of the clinic or physician's/dentist's office to serve as the reporting officer. A physician or dentist who can assure that a designated or appointed person from the clinic or office is regularly reporting every occurrence of these diseases in their clinic or office does not have to submit a duplicate report.

(2) The chief administrative officer of a hospital, a medical facility or a penal institution shall report each patient who is medically attended at the facility and

is diagnosed with HIV infection or AIDS. The chief administrative officer may designate an employee of their institution to serve as the reporting officer. A chief administrative officer who can assure that a designated or appointed person from their institution is regularly reporting every occurrence of these diseases in their institution does not have to submit a duplicate report. Hospital laboratories may report through the reporting officer or independently in accordance with the hospital's policies and procedures.

(3) Any person in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of a blood specimen or any specimen derived from a human body that yields microscopic, cultural, serological or any other evidence of HIV infection or AIDS shall report according to §97.133 of this title.

(4) The medical director or other physician responsible for the medical oversight of an HIV counseling and testing site or a community-based organization shall report each patient that is diagnosed with HIV infection or acquired immune deficiency syndrome. The medical director or other physician may designate an employee of the counseling and testing site or community-based organization to serve as the reporting officer. A medical director or other physician who can assure that a designated or appointed person from their HIV counseling and testing site or community-based organization is regularly reporting according to §97.133 of this title every occurrence of these diseases in the organization or counseling and testing site does not have to submit a duplicate report.

(5) School authorities as described in §97.2(e) of this title who are not medical directors meeting the criteria described in this section are exempt from reporting HIV infection, AIDS.

(6) Failure to report a reportable disease is a Class B misdemeanor under the Texas Health and Safety Code, §81.049.

§97.133. Reporting Information for Sexually Transmitted Diseases.

(a) The following information, at a minimum, shall be reported for chancroid and/or syphilis.

(1) laboratories: name, address, city, county and zip code of residence, date of birth (month, day, year), sex, race/ethnicity, type of test(s) performed, result of the test(s), date test(s) were performed, physician's name, physician's/clinic's address and telephone number. Only positive tests shall be reported; and

(2) others as described in §97.132 of this title (relating to Who Shall Report Sexually Transmitted Diseases): name, address, city, county and zip code of residence, date of birth (month, day, year), sex, race/ethnicity, stage of diagnosis (syphilis only), pertinent laboratory results, treatment provided, physician's name, physician's/clinic's address and telephone number.

(b) The following information, at a minimum, shall be reported for gonorrhea and/or *Chlamydia trachomatis* infection:

(1) Laboratories: name, city, county and zip code of residence, age, date of birth (month, day, year), sex, race/ethnicity, type of test(s) performed, result of the test(s), date test(s) were performed, physician's name, physician's/clinic's address, physician's/clinic's telephone number. Only positive tests shall be reported.

(2) Others as described in §97.132 of this title: city, county and zip code of residence, age, date of birth (month, day, year), sex, race/ethnicity, diagnosis, physician's name, physician's/clinic's address, physician's/clinic's telephone number if the following conditions are met:

(A) the patient is twelve years of age or older;

(B) there is no in vivo or in vitro evidence of resistance of the causative organism to therapeutic levels of penicillin or other drugs designated by the Commissioner or his/her designee;

(C) the disease is an uncomplicated infection of the urethra, pharynx, cervix, uterus, and/or rectum; and

(D) if the conditions specified in subparagraphs (A)-(C) of this paragraph are not met then the information reported on each case shall be as follows: name, address, city, county and zip code of residence, date of birth (month, day, year), sex, race/ethnicity, stage of diagnosis (syphilis only), pertinent laboratory results, treatment provided, physician's name, physician's/clinic's address and telephone number

(c) For HIV infection in adults and children 13 years of age and older the following information shall be reported within 30 days:

(1) laboratories: type of test(s) performed, result of the test(s), date test(s) were performed, last four digits of the patient's social security number, date of birth (month, day, year), sex, race/ethnicity, city, county, and zip code of residence, physician's name, clinic address and telephone

number. Only positive tests shall be reported; and

(2) others as described in §97.132 of this title: date of test, last four digits of the patient's social security number, date of birth (month, day, year), sex, race/ethnicity, city, county, and zip code of residence, physician's name, clinic address, and telephone number.

(d) For HIV infection in children under 13 years of age the following information, at a minimum, shall be reported within 30 days:

(1) laboratories: type of test(s) performed, result of the test(s), date test(s) were performed, date of birth (month, day, year), sex, race/ethnicity, name, city, county, and zip code of residence, physician's name, clinic address and telephone number. Only positive tests shall be reported

(2) others as described in §97.132 of this title: date of test, date of birth (month, day, year), sex, race/ethnicity, name, city, county, and zip code of residence, physician's name, clinic address and telephone number.

(e) For acquired immune deficiency syndrome the following information, at a minimum, shall be reported within 30 days:

(1) laboratories: CD4+ T-lymphocyte count of less than 200 cells/microLiter or a CD4+ T-lymphocyte percentage of less than 14%, date of test, date of birth (month, day, year), sex, race/ethnicity, name, city, county and zip code of residence, physician's name, clinic address and telephone number; and

(2) others as described in §97.132 of this title: date of birth (month, day, year), sex, race/ethnicity, name, city, county and zip code of residence, AIDS defining condition(s) (if present), mode of exposure (if known), CD4+ T-lymphocyte count, physician's name, clinic's address and telephone number.

§97.134. How To Report Sexually Transmitted Diseases

(a) Reporting forms and/or information from all entities required to report should be sent to the local health department director where the physician's office, hospital, laboratory or medical facility is located or if there is none, the reports should be forwarded to the regional director in the region where the physician's office, hospital, laboratory, or medical facility is located.

(b) If any individual or entity is unsure where to report any of the diseases mentioned in this title the reports shall be placed in a sealed envelope addressed to the appropriate program as follows:

(1) For chancroid, syphilis, gonorrhea, *Chlamydia trachomatis* infection: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756 and the envelope shall be marked "Confidential." The envelope shall be delivered with the seal unbroken to the HIV/STD Epidemiology Division office for opening and processing of the contents.

(2) For HIV infection, acquired immune deficiency syndrome: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756 and the envelope shall be marked "Confidential." The envelope shall be delivered with the seal unbroken to the HIV/STD Epidemiology Division office for opening and processing of the contents. Postage paid envelopes may be obtained by contacting the HIV/STD Epidemiology Division at (512) 458-7504. Envelopes are provided without charge.

(c) Reporting forms can be obtained from local health departments, regional offices, and the Texas Department of Health offices in Austin.

(1) Forms to report chancroid, *Chlamydia trachomatis* infection, gonorrhea, or syphilis may be requested by mail or by telephone from: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7225 or 1-800-252-8239. Forms shall be provided without charge to individuals required to report.

(2) Forms to report HIV infection and acquired immune deficiency syndrome may be requested by mail or by telephone from: Texas Department of Health, HIV/STD Epidemiology Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7504 or 1-800-252-8239. Forms shall be provided without charge to individuals required to report.

(d) Laboratories shall submit information weekly. If during any calendar quarter, tests for chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis are performed and all test results are negative, the person in charge of reporting for the laboratory shall submit a statement to this effect on or before January 5, April 5, July 5, and October 5 following that calendar quarter.

(e) A local health director or regional director may authorize one or more employees under his/her supervision to receive the report from the physician by telephone and to complete the form on behalf of the physician; use of this alternative, if authorized, is at the option of the reporting physician. The local health department director or regional director shall implement a method for verifying the identity of the telephone caller when that person is unfamiliar to the employee.

(f) A local health department director or regional director shall forward to the department at least weekly all reports of cases received by him/her. Transmittal may be by mail, courier, or electronic transmission.

(g) If reporting by electronic transmission, including facsimile transmission by telephone, the same degree of protection of the information against unauthorized disclosure shall be provided as those of reporting by mail or courier transmittal. The department shall, before authorizing such transmittal, establish guidelines for establishing and conducting such transmission.

§97.135. Serologic Testing for Syphilis During Pregnancy and at Delivery.

(a) Every physician or other person permitted by law to attend a pregnant woman during gestation or at the delivery of the infant resulting from such pregnancy shall, for each woman so attended, take or cause to be taken a sample of the blood of the woman at the time of first examination and visit and submit such sample to a laboratory certified by the Clinical Laboratory Improvement Amendments of 1988 (CLIA-88). If the first examination and visit of the pregnant woman is within 24 hours of delivery of the infant, then this sample of blood will also satisfy the requirements of subsection (b) of this section.

(b) Within 24 hours of delivery, the physician or other person in attendance shall take or cause to be taken a sample of blood from the mother of the infant and submit the sample to a laboratory certified by the Clinical Laboratory Improvement Amendments of 1988 (CLIA-88).

(c) A person attending the delivery of an infant or fetus who is not authorized by law or regulation to draw blood may obtain the specimen of blood for testing from the umbilical cord attached to the placenta after separation from the infant; otherwise, this person shall arrange for collection of the specimen within 24 hours of delivery by a person authorized to do so.

(d) Every physician or other person required to report births or fetal deaths shall state on each birth or fetal death certificate whether a blood test for syphilis was performed during the pregnancy and on the maternal blood or the umbilical cord blood of the newborn infant.

§97.137. Exposure of Health-Care Personnel to Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV) Infection.

(a) Health-care personnel are at risk of exposure to HIV or AIDS if the personnel are in contact with blood or other body

fluids (amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions) or any body fluid visibly contaminated with blood through percutaneous inoculation or contact with an open wound, nonintact skin or mucous membrane during the performance of normal job duties.

(b) Health-care personnel are at risk of exposure to HIV or AIDS during a medical procedure if the personnel have their mucous membranes or skin in contact with any body fluid or tissue (other than patient's intact skin) and if the procedure to be performed is an invasive procedure that involves surgical entry into tissues, cavities, or organs or the repair of major traumatic injuries, including angiographic, bronchoscopic, endoscopic, and obstetrical procedures.

(c) Emphasis must be placed on preventing the transmission of HIV or AIDS and not on testing for its presence. Health-care personnel should follow the guidance given in the publication titled "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers," United States Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia, February 1989.

(d) Copies of the publications listed in subsection (c) of this section are available upon request from: Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

§97.138. Guidelines for Testing Certain Indicted Persons for Certain Diseases.

(a) A court may order a person who is indicted for sexual assault or aggravated sexual assault to submit to a medical procedure or test for presence of sexually transmitted diseases or acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, or other agent of AIDS, under authority of the Code of Criminal Procedure, Article 21.31; and Texas Health and Safety Code, §81.094. The physician who is directed by the court to perform the medical procedure or test shall follow the rules in this section that prescribe the criteria for testing and that respect the rights of the victim of the alleged offense and the rights of the person accused.

(b) In order to protect the privacy of the person being tested, the court, in consultation with the health authority, shall use or arrange the use of a pseudonym for the person on all requests and reports pertaining to the procedure or test. The

pseudonym shall be distinct and known only to the physician, the health authority, the person being tested, and the court. The person performing the procedures or test shall make the results available directly to the local health authority.

(c) For AIDS, gonorrhea, HIV infection, genital infections from *Chlamydia trachomatis* infection, syphilis, and hepatitis (acute or chronic viral type B), the procedures and tests should be those specified in the Texas Department of Health's (department) publication titled "Identification and Confirmation of Reportable Diseases," (pertaining to the reporting of diseases and health conditions) which is by referenced in §97.3(a)(1) of this title (relating to What to Report). For other sexually transmitted diseases, the physician shall request instructions from the Commissioner of Health (Commissioner) or his/her designee.

(d) The health authority shall meet with the victim of the alleged offense and disclose the results of the medical procedures or test; no other person shall be present during the notification unless permitted by the victim. The local health authority shall advise the victim of the medical implications of the test results whether or not the test results are positive or negative. The health authority shall instruct the victim to receive further medical intervention by the victim's personal physician. If the victim resides outside the State of Texas, the notification may be made by telephone.

(e) The health authority shall notify the person accused of the results of the procedure or test and, if the result indicates the presence of a communicable disease, shall instruct the person accused as required by the Communicable Disease Prevention and Control Act, Texas Health and Safety Code, §81.083 or §81.109 and shall perform the appropriate duties and make the reports, as required by §97.3 of this title.

(f) After reporting of the results of the procedure or test to the victim and to the person accused, the health authority shall file an affidavit with the court attesting that he or she has executed the order. Disclosure of the test results to any persons other than the victim and the accused person is prohibited under the Code of Criminal Procedure, Article 21.31.

(g) A health authority may delegate any duty imposed by these sections to a person who is under the health authority's supervision. If a victim or a person tested under this section resides outside the jurisdiction of the local health authority, the notifications required by this section may be made by the local health authority in the jurisdiction where the person resides.

§97.139. *Fee for Providing Written Notice of a Positive Human Immunodeficiency Virus (HIV)-Related Test Result to an Applicant for Insurance.* An applicant for insurance must be given written notice of a positive HIV-related test result by a physician designated by the applicant, or in the absence of that designation, by the Texas Department of Health (department). If the department is requested to make this notification:

(1) the form designated by the department for this purpose must be used. Copies of the form and other information concerning notification by the department may be requested from: Bureau of HIV and STD Prevention, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7463; and

(2) the insurer shall pay the department a fee of \$25 to cover the cost of the department providing the written notice to the applicant for insurance

§97.140. *Counseling and Testing for State Employees Exposed to Human Immunodeficiency Virus (HIV) Infection on the Job.*

(a) Purpose. The purpose of this section is to implement the provisions of the Communicable Disease Prevention and Control Act, the Texas Health and Safety Code, §85.116, which requires the Texas Department of Health (department) to adopt rules to implement the Act.

(b) Counseling and testing.

(1) The counseling and testing should be performed in accordance with the "HIV Serologic Testing and Documentation Guidelines", dated September, 1992. Copies of the Guidelines are available for review in the HIV/STD Prevention Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies also are available on request.

(2) A state employee who may have been exposed to HIV while performing duties of state employment may not be required to be tested.

(3) HIV counseling and testing will be performed on a state employee at the expense of the state agency if:

(A) the employee documents to the agency's satisfaction that he or she may have been exposed to HIV while performing duties of employment of the agency; and

(B) the exposure was a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any signifi-

cant contamination of an open wound or non-intact skin with blood or body fluids known to transmit HIV.

(c) Worker's compensation. To qualify for workers' compensation or similar benefits or compensation, the employee must provide the state agency with a written statement of the date and circumstances of the exposure and document that, within ten days after the date of the exposure, the employee had a test result that indicated the absence of HIV infection. Further information can be obtained from "Risk Management for Texas State Agencies, Volume III, Workers' Compensation Exposures," which is available from the Risk Management Division, Texas Workers' Compensation Division, 4000 South IH-35, Southfield Building, Austin, Texas 78704.

§97.142. *Model Health Education Program/Resource Guide for HIV/AIDS Education of School-Age Children.*

(a) The Texas Department of Health has prepared the Model Education Programs required by the Texas Health and Safety Code, §§85.004, 85.005, and 85.007. It is the department publication titled, "Model Health Education Program/Resource Guide for HIV/AIDS Education of School-Age Children" dated January, 1993. The guide provides resources to develop a model health education program suitable for school-age children and is aimed at preventing the spread of the human immunodeficiency virus (HIV), which is the cause of acquired immunodeficiency syndrome (AIDS).

(b) Copies of the guide are available for review and purchase from the HIV/STD Prevention Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Regional HIV Coordinators (TDH) and regional Education Service Centers have inspection copies available.

§97.143. *Model HIV/AIDS Workplace Guidelines.*

(a) The Texas Department of Health has prepared Model Workplace Guidelines required by the Texas Health and Safety Code, §85.012. It is the department publication titled, "HIV/AIDS Model Workplace Guidelines" dated December, 1989. The guidelines consist of two parts, as follows:

(1) The first part consists of general workplace guidelines concerning persons with HIV infection and related conditions, including AIDS. All state agencies shall adopt and all private employers are encouraged to adopt HIV-related workplace guidelines that incorporate at a minimum the general workplace guidelines.

(2) The second part consists of more specific workplace guidelines which are an extension of the general workplace guidelines in paragraph (1) of this subsection. All state agencies and contractors with the state who provide direct client services and programs shall adopt and implement workplace guidelines similar to the specific workplace guidelines.

(b) Copies of the guidelines are available for review in the HIV/STD Prevention Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies also are available on request.

§97.144. *Model Policies for the Handling, Care and Treatment of HIV/AIDS-infected Persons in the Custody of or Under the Supervision of Correctional Facilities, Law Enforcement Agencies, Fire Departments, Emergency Medical Services Providers and District Probation Departments.*

(a) The Texas Department of Health has prepared the Model Policies Concerning Persons in Custody required by the Texas Health and Safety Code, §85.141. It is the department publication titled, "Model Policies for the Handling, Care and Treatment of HIV/AIDS-Infected Persons in the Custody of or Under the Supervision of Correctional Facilities, Law Enforcement Agencies, Fire Departments, Emergency Medical Services Providers and District Probation Departments" dated October, 1990. The model policies consist of three sections, as follows.

(1) The first part consists of policies concerning the provision of education for employees, inmates, and probationers; provision of information and training relating to infection control procedures; provision of infection control supplies, equipment, and training; provision of access to appropriate services; and provision of confidentiality of medical records relating to HIV infection.

(2) The second part consists of policies concerning potential exposure to HIV infection while performing job duties.

(3) The third part consists of policies concerning HIV testing, segregation, and isolation of detainees in correctional facilities or specified supervisory entities. All specified entities must develop and implement HIV/AIDS workplace policies similar to the model policies.

(b) Copies of the policies are available for review in the HIV/STD Prevention Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies also are available upon request.

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 23, 1994.

TRD-9436572

Susan K. Steeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Effective date: March 16, 1994

Proposal publication date: October 8, 1993

For further information, please call: (512) 458-7463

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 5. Property and Casualty

Subchapter E. Texas Catastrophe Property Insurance Association Building Code Advisory Committee

• 28 TAC §5.4002

The Texas Department of Insurance adopts new §5.4002, concerning the Building Code Advisory Committee, which is appointed pursuant to the Insurance Code, Article 21.49, §6A(f), to advise and make recommendations to the Commissioner of Insurance on building specifications in the plan of operation of the Texas Catastrophe Property Insurance Association (TCPIA), as set forth in §5.4001 of this title. The new section is adopted without changes to the proposed text as published in the November 26, 1993, issue of the *Texas Register* (18 TexReg 8764)

The new section is necessary to comply with the rule requirements of Texas Civil Statutes, Article 6252-33, which governs State Agency Advisory Committees. Article 6252-33 was enacted by the 73rd Texas Legislature in Senate Bill 383 and requires a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the committee, and the manner in which the committee will report to the agency. Article 6252-33, §1, defines "advisory committee" to mean a committee, council, commission, task force, or other entity in the executive branch of state government that is not a state agency, is created by or under state law, and has as its primary function the advising of a state agency. The Building Code Advisory Committee is an advisory committee appointed by the Commissioner pursuant to the Insurance Code, Article 21.49, §6A(f), to advise and make recommendations on building specifications in the TCPIA plan of operation. The Commissioner of Insurance is required to adopt rules for compliance with Article 6252-33 in order for the Building Code Advisory Committee to continue to function.

Subsection (a) of new §5.4002 states the purpose of the rule which is to specify the purpose, task, reporting requirements, membership composition, and duration of the Building Code Advisory Committee. Subsection (b) specifies the purpose of the committee which is to advise and make recommendations to the Commissioner of Insurance on building specifications in the plan of operation of the Texas Catastrophe Property Insurance Association. Subsection (c) outlines the tasks of the committee which are determined by the Commissioner of Insurance and include the writing, revising, updating, and otherwise advising the Commissioner on building specifications in the TCPIA plan of operation for residents of the 14 first tier counties who are provided windstorm and hail insurance through the TCPIA. Subsection (d) outlines the committee's reporting requirements. Subsection (e) specifies the membership composition of the committee, and subsection (f) provides for the duration of the appointees' membership and service on the committee.

No comments were received regarding adoption of the new section.

The new section is proposed pursuant to Texas Civil Statutes, Article 6252-33; the Insurance Code, Articles 21.49, 1.02, 1.03A, and 1.04C, and the Government Code §2001.004 et seq. Texas Civil Statutes, Article 6252-33, §5, requires a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the committee, and the manner in which the committee will report to the agency. Article 21.49, §6A(f), of the Insurance Code provides that the Commissioner of Insurance shall appoint an advisory committee to advise and make recommendations on building specifications in the plan of operation of the Texas Catastrophe Property Insurance Association. Article 21.49, §6A(f) by its terms delegates appointment authority to the State Board of Insurance, however, this authority is interpreted to be delegated to the Commissioner of Insurance under Article 1.02 of the Insurance Code, as amended by the 73rd Texas Legislature in House Bill 1461, which provides that a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Section 1.23(c) of House Bill 1461 provides that on September 1, 1993, the Board shall relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and hearings, proceedings, and rules related to these activities, such authority shall be exercised by the Board until no later than September 1, 1994. Section 1.23(d) of House Bill 1461 provides that on and after the date a Commissioner of Insurance is appointed under subsection (a) of §1.23 the Commissioner shall cooperate with the Board to assume the authority granted to the Board under subsection (c) of §1.23 and shall adopt rules as necessary to govern those activities. Section 1.23(d) further provides that as soon as possible after the appointment of the Commissioner under §1.23(a) but not later than September 1, 1994, the Commissioner shall assume the

authority granted to the Board under §1 23(c) Pursuant to Board Order Number 60574, November 29, 1993, the State Board of Insurance transferred the authority granted to the Board under §1 23(c) of House Bill 1461 to the Commissioner of Insurance, effective December 16, 1993 Article 1 03A, as enacted in House Bill 1461, provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute Article 1 04C of the Insurance Code, as enacted in House Bill 1461, requires the Commissioner of Insurance to develop and implement policies that provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the Commissioner's jurisdiction The Government Code §2001 004 et seq (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state agency

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

Issued in Austin, Texas, on February 18, 1994

TRD-9436499 Linda K von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date March 11, 1994

Proposal publication date November 26, 1993

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

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 355. Research and Planning Fund

Subchapter B. Economically Distressed Areas Facility Engineering

• 31 TAC §§355.71-355.73

The Texas Water Development Board (the board) adopts amendments to §355 71 and §355 73, without changes to the proposed text as published in the January 14, 1994, issue of the *Texas Register* (19 TexReg 259)

Section 355 71 is amended to include criteria to determine the percentage of board funding for the cost of facility planning Under the current section, the board will routinely fund up to 75% of the cost of the facility planning unless the board determines that the applicant is entitled to hardship status, in which case the board would fund 100% of the facility planning The circumstances which entitle

a community to hardship status have heretofore been undefined The new subsection would remove the hardship distinction and set forth the criteria which the board will consider in determining the percentage of funds the board will make available to all applicants for facility planning

No comments were received regarding adoption of the amendments

The board also adopts an amendment to §355 73, which will permit the executive administrator the authority to require the preparation of an environmental review consistent with §375 35, when applicable as part of the scope of work for the facility engineering plans The facility engineering plan is the first step toward acquiring financial assistance from the economically distressed areas program for the construction of water supply or wastewater treatment facilities The economically distressed areas program has acquired federal funds and in order for eligible applicants to use the federal funds the environmental review process identified in §375 35 is required The amendment would allow the executive administrator to require the environmental review required in §375 35 in the event the applicant may be eligible for federal funds

No comments were received regarding adoption of the amendments

The amendments are adopted pursuant to Texas Water Code, §6 101 and §15 403, which require the Board to adopt rules to carry out the purposes of the Texas Water Code and the Texas Water Assistance Program

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

Issued in Austin, Texas, on February 22, 1994

TRD-9436548 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date March 15, 1994

Proposal publication date January 14, 1994

For further information, please call (512) 463-7981

◆ ◆ ◆
TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 9. Property Tax Administration

Subchapter C. Appraisal District Administration

• 34 TAC §9.404

The Comptroller of Public Accounts adopts an amendment to §9 404, concerning application for exemption of goods exported from Texas ("freeport exemption"), without changes to the proposed text as published in

the December 21, 1993, issue of the *Texas Register* (18 TexReg 9832).

Section 9 404 sets out the contents of the exemption application and adopts the exemption application form by reference The amendment is necessary because Senate Bill 1487, 73rd Legislature, 1993, amended the Tax Code, §11 251, providing the exemption for goods exported from Texas The amendment to §11 251 states that property that meets the requirements of the Texas Constitution, Article VIII, §§1-(a)(1) and (2), and that is transported outside of the state 175 days or fewer after the date the person who owns it on January 1 acquired or imported it into the state qualifies as freeport goods regardless of whether the person owning the goods on January 1 transported them outside of the state

The proposed amendment revises the information required in the application form to provide that the property owner may claim the exemption regardless of whether the owner is the person who transported the goods outside of the state The rule adopts an amended application form by reference

No comments were received regarding adoption of the amendment

The amendment is adopted under the Tax Code, §11 43(f), which requires the comptroller to prescribe the contents and form for each kind of property tax exemption The amendment implements the Tax Code, §11 251 and §11 43(a)

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 22, 1994

TRD-9436568 Martin E Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date March 16, 1994

Proposal publication date December 21, 1993

For further information, please call (512) 463 4028

◆ ◆ ◆
• 34 TAC §9.407

The Comptroller of Public Accounts adopts new §9 407, concerning an application for exemption for cotton stored in a warehouse, without changes to the proposed text as published in the December 21, 1993, issue of the *Texas Register* (18 TexReg 9835)

The new section sets out the contents of the exemption application, which incorporate the requirements of the Tax Code, §11 251 and §11 436, effective January 1, 1994 The section is necessary because Senate Bill 1487, 73rd Legislature, 1993, created the new exemption for cotton stored in a warehouse

The new rule specifies the language and order of the information in the application form The form is similar to the one for goods

exported from Texas ("freeport exemption"), reflecting the requirements of the Tax Code, §11.251. The rule adopts the application form by reference.

No comments were received regarding adoption of the amendment.

The new section is adopted under the Tax Code, §11.43(f), which requires the comptroller to prescribe the contents and form for each kind of property tax exemption. The new section implements the Tax Code, §11.436 and §11.43(a).

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 22, 1994

TRD-9436567 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 16, 1994

Proposal publication date December 21, 1993

For further information, please call (512) 463-4028

Subchapter H. Tax Record Requirements

• 34 TAC §9.3015

The Comptroller of Public Accounts adopts an amendment to §93015, concerning the report of decreased value forms, with changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9265). The change occurred in subsection (b)(1) and clarifies the report's filing deadline.

Section 93015 sets out the contents of the forms for the report of decreased value by any property owner. The amendment is necessary because House Bill 1016, 73rd Legislature, 1993, changed the deadline to file a report of decreased value from "before April 1" to "before April 15." The proposed amendment reflects the new filing deadline for renditions and property reports.

One comment was received concerning the filing date for the report of decreased value. The comptroller changed the rule's language to clarify the report's filing deadline.

The amendment is adopted under the Tax Code, §5.07, which requires the comptroller to prescribe the contents of all forms necessary for the administration of the property tax system, and the Tax Code, §22.24, which permits the comptroller to prescribe the contents of renditions and reports of property value. The amendment implements the Tax Code, §23.03 and §22.23.

§9.3015. *Report of Decreased Value Forms* (Tax Code, §23.03 and §22.23).

(a) All appraisal offices shall prepare and make available forms for the report of decreased value by any property owner.

(b) All forms for the report of decreased value by any property owner shall provide for the following information:

(1) a statement indicating that the report form is to be filed by the property owner after January 1 and before April 15,

(2) the year for which the report of decreased value is filed;

(3) the name of any taxing units to which the report of decreased value is filed;

(4) the identification of the property owner filing the report of decreased value (name and address);

(5) the legal description of the property involved in the filing of the report of decreased value and its location;

(6) the name and address of a person to contact for additional information,

(7) the date of the report of decreased value;

(8) the signature of the property owner, or the authorized officer or agent, filing the report of decreased value; and

(9) a statement that the report of decreased value is confidential and not open to public inspection, except for those instances set forth in the Texas Property Tax Code, §22.27(b).

(c) In order to determine the appraised value of property that is the subject of a completed and timely filed report of decreased value, the report form will provide for the following necessary information:

(1) a statement indicating the nature and cause of decreased value of the property subject to the report; and

(2) a statement indicating that the property owner may state his or her opinion about the market value of the property subject to the report.

(d) All forms for the report of decreased value by any property owner shall require the property owner to state that the information contained in the form is true and correct.

(e) All forms for the report of decreased value by any property owner shall make provision for the following information on the back of the form:

(1) the name of the person from the tax office who reviews the property to verify any change in value;

(2) the date the person from the tax office views the property subject to the report or, in the case of an oil and gas property, reviews the appraisal of the property, and

(3) the determination of any decrease in appraised value and its cause and nature by the person from the tax office who views the property to verify any change in value.

(f) Appraisal offices failing to establish a form for the report of decreased value as required in this section may be judged to be in compliance upon a showing to the board that a form for the report of decreased value substantially equivalent to that required in this section has been established.

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 22, 1994.

TRD-9436569 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 16, 1994

Proposal publication date December 14, 1993

For further information, please call (512) 463-4028

• 34 TAC §9.3038

The Comptroller of Public Accounts adopts an amendment §93038, concerning the current, delinquent, and special valuation roll-back tax bills or statements, without changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9269).

Section 93038 sets forth the requirements for the contents of tax bills and statements. The amendment is necessary because Senate Bill 878, 73rd Legislature, 1993, creates a new method under which the owner of a special inventory as defined by the Tax Code, §23.12A, pays a tax levied against the inventory. The bill also requires relevant taxing units to itemize separately the taxes levied against special inventories on the tax bills prepared for the owners of special inventory. This bill becomes effective January 1, 1994. The proposed amendment requires that taxing units itemize separately the tax levied against a special inventory on the current and delinquent tax bills.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §5.07, which requires the comptroller to prescribe the contents of all forms necessary for the administration of the property tax system, and the Tax Code, §31.01, which permits the comptroller to require certain information on the tax bill. The bill implements the Tax Code, §23.12A.

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 22, 1994.

TRD-9436570

Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 16, 1994

Proposal publication date: December 14, 1993

For further information, please call: (512) 463-4028



Subchapter I. Validation Procedures

• 34 TAC §9.4027

The Comptroller of Public Accounts adopts new §9.4027, concerning appraisal of special inventory consisting of motor vehicles and other applicable inventory required to register with the Texas Department of Transportation

through the county tax assessor-collector, without changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9274).

The new section clarifies the requirements of the Tax Code, §23.12A and §23.12B, effective January 1, 1994. The section is necessary because of the passage of Senate Bill 878, 73rd Legislature, 1993, which created a new appraisal method for the owners of special inventory. The comptroller is directed to create a special inventory tax statement, which the owner of the special inventory must file monthly with the chief appraiser for each unit sold. The owner must also file on or before February 1 of each year, a special inventory declaration with the chief appraiser, with a copy to the county tax assessor-collector.

The rule clarifies the definition of "most recent" in describing county aggregate tax rate, as provided for in the definition of "unit property tax value factor" in the Tax Code, §23.12B(10). This addition is necessary for the implementation of the requirements for the new appraisal of special inventory

No comments were received regarding adoption of the amendment.

The new section is adopted under the Tax Code, §11.43(f), which requires the comptroller to prescribe the contents and form for each kind of property tax exemption. The bill implements the Tax Code, §23.12A and §23.12B

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 22, 1994

TRD-9436566

Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 16, 1994

Proposal publication date: December 14, 1993

For further information, please call: (512) 463-4028



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.)

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The Texas Department of Insurance at a public meeting held at 9:00 a.m., February 22, 1994, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted the surety bond form filed by the City of Austin, Texas, entitled "Professional Fund-Raiser's Surety Bond." The form was filed in the Chief Clerk's Office on February 2, 1994.

The Professional Fund-Raiser's Surety Bond (Bond) is required by provisions of Chapter 8-5 of the Code of the City of Austin, Texas of 1992 (Code). The Bond ensures charitable organizations that the named professional fund-raiser, as principal, shall be bound to faithfully perform all obligations and requirements imposed under the provisions of the Code, and supporting regulations. The term of the bond shall be for the entire period of the professional fund-raiser's license issued by the city clerk.

The full text of the surety bond form filing (Reference Number 0-0294-02), was published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 981).

The Texas Department of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15, and 5.97.

The full text of the surety bond form entitled "Professional Fund-Raiser's Surety Bond," as adopted by the Texas Department of Insurance is filed with the Chief Clerk under (Ref-

erence Number 0-0294-02) and is incorporated by reference by Commissioner Order Number 94-0187.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure Act and Texas Register Act.

The Texas Department of Insurance hereby certifies that the adopted form filing referenced herein has been reviewed by legal counsel and found to be within this agency's authority to adopt.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436581

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective: March 16, 1994

Filed February 23, 1994



OPEN MEETINGS

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

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

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

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

Texas Department of Agriculture

Monday, March 7, 1994, 9:00 a.m.

Texas Department of Agriculture, Room 924A, 1700 North Congress Avenue

Austin

According to the complete agenda, the Texas Department of Agriculture will hold a public hearing to receive public comment on the Texas Department of Agriculture's proposed new organic certification standards 4 Texas Administrative Code §§18.1-18.17 as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 687) and the proposed repeal of 4 Texas Administrative Code old Chapter 18, as also published in the February 1, 1994 issue of the *Texas Register* (19 TexReg 686).

Contact: Brent Wiseman, P.O. Box 12847, Austin, Texas 78711, (512) 475-1641.

Filed: February 22, 1994, 10:41 a.m.

TRD-9436533

Wednesday, March 9, 1994, 2:00 p.m.

Texas Department of Agriculture, Suite 118, 1720 Regal Row

Dallas

According to the complete agenda, the Texas Department of Agriculture will hold a public hearing to receive public comment on the Texas Department of Agriculture's proposed new organic certification standards 4 Texas Administrative Code §§18.1-18.17 as published in the February 1, 1994,

issue of the *Texas Register* (19 TexReg 687) and the proposed repeal of 4 Texas Administrative Code old Chapter 18, as also published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 686).

Contact: Brent Wiseman, P.O. Box 12847, Austin, Texas 78711, (512) 475-1641.

Filed: February 22, 1994, 10:41 a.m.

TRD-9436534

Texas Commission on Children and Youth

Thursday, March 3, 1994, 9:00 a.m.

2400 San Bernardo, Laredo Civic Center
Laredo

According to the complete agenda, the Texas Commission on Children and Youth will discuss organizational matters; expert testimony; public testimony, lunch; public testimony continues; and adjourn

Contact: Ginny McKay, P.O. Box 13106, Austin, Texas 78711, (512) 305-9056.

Filed: February 23, 1994, 4:26 p.m.

TRD-9436630

Coastal Coordination Council

Thursday, March 3, 1994, 8:30 a.m.

1700 North Congress Avenue, Stephen F Austin Building, Room 118

Austin

According to the complete agenda, the Coastal Coordination Council will call to order and opening remarks; approval of minutes of the January 28, 1994, meeting, public comment period; discussion of the Texas Coastal Management Program (CMP) development schedule; approval of draft rule for CMP goals and policies for publication in the *Texas Register*; approval of draft rule for state, local, and federal consistency review for publication in the *Texas Register*; approval of draft rule for special area management planning for publication in the *Texas Register*; and adjournment

Contact: Janet L. Fatheree, 1700 North Congress Avenue, Room 617, Austin, Texas 78701, (512) 463-5385.

Filed: February 23, 1994, 3:33 p.m.

TRD-9436625

Texas State Board of Examiners of Professional Counselors

Monday, March 7, 1994, 2:30 p.m.

420 Decker Drive, Suite 156

Irving

According to the complete agenda, the Complaints Committee will discuss and possibly act on: request by DST, and pending complaints.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512)

834-6628. For ADA assistance, contact Richard Butler (512) 458-7695 or T. D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: February 23, 1994, 3:32 p.m.

TRD-9436620

◆ ◆ ◆
Texas Commission for the Deaf and Hearing Impaired

Saturday, March 5, 1994, 9:00 a.m.

1102 South Congress Avenue, Building T-2
Austin

According to the complete agenda, the Board for Evaluation of Interpreters (BEI) will roll call, call to order; approval of January 28th minutes, public comments; chairperson's report, BEI staff report, TSID report; calendar update, criteria for evaluators, regrades, election of officers, executive session, a review of applicant test materials, certification, revocation, recertification, old business, and new business

Contact: Loyee Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: February 22, 1994, 4:34 p.m.

TRD-9436558

◆ ◆ ◆
Advisory Commission on State Emergency Communications

Wednesday, March 2, 1994, 10:00 a.m.

John H Reagan Building, Room 101, 15th Street and North Congress Avenue

Austin

Emergency meeting

According to the agenda summary, the Poison Control Coordinating Committee will call the meeting to order; approve minutes of February 2, 1994, meeting; old business; report on actions taken on grant rules by the 9-1-1 Commission, report on actions taken on grant rules by the Board of Health, discussion and consideration of proposed changes to grant rules by PCCC, discussion and consideration of role of poison control centers within their region, new business report on monies collected and deposited, report on short and long term goals, discussion of letters of agency; and adjourn

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 327-1911 at least two working days prior to the meeting.

Reason for Emergency: To take action on proposed grant rules prior to ACSEC commission meeting on March 23, 1994.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 23, 1994, 11:18 a.m.

TRD-9436601

◆ ◆ ◆
Employees Retirement System of Texas

Friday, March 4, 1994, 9:30 a.m.

Texas Parks and Wildlife Department, 4200 Smith School Road

Austin

According to the agenda summary, the Group Benefits Advisory Committee will call to order; recognition of visitors and guests; approval of minutes from previous meeting; announcements and updates, ERS update; standing subcommittee reports; other related benefits business; and adjournment.

Filed: James W. Sarver, 18th and Brazos, Austin, Texas 78701, (512) 867-3217.

Filed: February 22, 1994, 4:05 p.m.

TRD-9436552

◆ ◆ ◆
Texas Employment Commission

Tuesday, March 1, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

Emergency Revised Agenda

According to the agenda summary, the Texas Employment Commission will discuss consideration of and action on business plan for TEC print shop consolidation

Reason for emergency: Required to respond timely to filing deadline

Contact: C. Ed David, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: February 22, 1994, 2:00 p.m.

TRD-9436546

◆ ◆ ◆
Texas Sustainable Energy Development Council

Tuesday, March 8, 1994, 1:30 p.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

According to the complete agenda, the Texas Sustainable Energy Development Council will call to order; consider requests for expansion of council membership; discuss opportunity for Energy Foundation cost-share in consulting contracts; discuss guidelines for cosponsoring educational activities; discuss other administrative business related to staff and next steps of the council; and adjourn.

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: February 23, 1994, 3:33 p.m.

TRD-9436624

◆ ◆ ◆
Texas Department of Health

Thursday, March 3, 1994, 10:00 a.m.

Texas Department of Health, Room M-652, 1100 West 49th Street

Austin

According to the complete agenda, the joint meeting of the Health Service Systems Advisory Committee and Community Advisory Committee will discuss and possibly act on: Chronically Ill and Disabled Children's program update and budget issues, Texas Department of Health program service plans, children living in nursing homes; Title V planning process; Early and Periodic Screening, Diagnosis, and Treatment program activities; new projects, and the chairman's report

Contact: Paula Russell, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-3046 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 23, 1994, 3:32 p.m.

TRD-9436619

Wednesday, March 9, 1994, 10:00 a.m.

Texas Department of Health, Room M-736, 1100 West 49th Street

Austin

According to the complete agenda, the HIV/AIDS Coordinating Council will discuss approval of the minutes of November 5, 1993, and discuss and possibly act on: review of information included in packets, comments on recommendations on establishing expert review panels; examples of annual reports; overview of council meeting format, subcommittee reports, client services, regulation, client/provider education, youth education, information and referral and consolidation of state efforts, subcommittee assignments, and set dates for future meetings.

Contact: Linda Moore, M.S., R.N., 1100 West 49th Street, Austin, Texas 78756, (512) 458-6403. 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 23, 1994, 3:32 p.m.

TRD-9436618

◆ ◆ ◆
**Health and Human Services
Commission**

Thursday, March 3, 1994, 1:30 p.m.

105 West 15th Street, Reagan Building

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 Willems, 4807 Spicewood Springs Road, Building Four, Austin, Texas, (512) 502-3256.

Filed: February 23, 1994, 3:49 p.m.

TRD-9436628

◆ ◆ ◆
**Health Professions Council
(HPC)**

Thursday, March 3, 1994, 10:00 a.m.

8505 Cross Park Drive, Suite 110

Austin

According to the complete agenda, the Interim Committee on Budget and Planning will commence in open session to hear update on discussions with Legislative Budget Board and Governor's Office regarding fund of HPC; review and consider approval of proposed fiscal year 1994-1995 objectives, review and consider approval of proposed fiscal year 1994-1995 budget, and discuss objectives and fiscal matters

Contact: Fred S Brinkley, Jr., R.Ph., M.B.A., 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4595, (512) 832-0661

Filed: February 22, 1994, 3:09 p.m.

TRD-9436550

◆ ◆ ◆
Texas Historical Commission

Friday, March 18, 1994, 9:30 a.m.

Reagan Building, Room 106, 105 West 15th Street

Austin

According to the agenda summary, the Texas Antiquities Committee will approve minutes of previous meeting of December 17, 1993; rulemaking actions, Chapter 41, Rules of practice and procedures (a)-(d); update on Sunset review process; designation of 27 state archaeological landmarks in Comal, Hood, Randall, Armstrong, Limestone, Bosque, Leon, Bexar, Nueces, Tarrant, Harris, and Travis Counties, nomination of State Archaeological Landmarks in Bexar, Briscoe, and Hunt Counties, hear the State Marine Archaeologist's report; listen to public comments; and hear staff reports

Contact: Lillie Thompson, P.O. Box 12276, Austin, Texas 78711, (512) 463-1858

Filed: February 23, 1994, 3:26 p.m.

TRD-9436614

◆ ◆ ◆
**Texas Department of Human
Services**

Thursday, March 3, 1994, 11:00 a.m.

701 West 51st Street, Fifth Floor, West Tower, Conference Room 5W

Austin

According to the complete agenda, the Client Self-Support Services Advisory Council convenes to call to order, approval of minutes, chairman's comments, deputy commission comments; Senate Bill 714 re mandatory participation in the Summer Food Service Program by qualifying public schools, update on JOBS state plan, strategic plan, and adjourn

Contact: Toni Lemm, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4147

Filed: February 22, 1994, 4:14 p.m.

TRD-9436554

◆ ◆ ◆
**State Independent Living
Council**

Sunday, March 6, 1994, 1:00 p.m.

Doubletree Hotel, 6505 IH-35 North

Austin

According to the complete agenda, the Independent Living State Plan Committee will call to order, public comments, review of agenda, report on February 17, 1994, committee meeting, continuation of review of last year's state plan and related issues, work on plan development, funding/allocation issues related to state plan, next steps, including process for sharing work, progress, and issues with full SILC at March 7-8, 1994, meeting, and discussion of subcommittees to continue work on state plan

Contact: Larry M. Correu, 8610 Broadway, Suite 420, San Antonio, Texas 78217, (210) 805-0295.

Filed: February 22, 1994, 3:28 p.m.

TRD-9436551

◆ ◆ ◆
**Texas Juvenile Probation
Commission**

Thursday, March 3, 1994, 4:00 p.m.

2015 South IH-35

Austin

According to the complete agenda, the Texas Juvenile Probation Commission subcommittee will call to order; approval of January, 24, 1994 minutes, discussion items-model programs on truancy and delinquency prevention survey, review of existing models, resolutions funding of alternative educational programs for expelled youth, education in detention facilities, funding of education in detention facilities, draft model policy guidelines, information items: upcoming full joint board meeting, Commission on Children and Youth hearings, update on the U.S. Department of Correctional Education, other related issues, follow-up actions, and adjournment.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001

Filed: February 23, 1994, 3:34 p.m.

TRD-9436627

◆ ◆ ◆
**Texas State Board of Licen-
sure for Professional Medi-
cal Physicists**

Friday, March 4, 1994, 1:00 p.m.

University of Texas Health Science Center, Room 422-A, 7703 Floyd Curl Drive

San Antonio

According to the complete agenda, the Credentials Committee will discuss and possibly act on applications under Title 22, Texas Administrative Code, Section 601.6

Contact: Jeanette A Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655 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 23, 1994, 3:32 p.m.

TRD-9436617

Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Wednesday, March 2, 1994, 2:00 p.m.

301 Congress Avenue, Suite 500, Board Room

Austin

Rescheduled from Tuesday, March 1, 1994, 2 00 p.m.

According to the complete agenda, the Audit Committee will discuss consideration and possible action on response to State auditor's report; and next meeting date.

This meeting will be conducted by telephone conference. The meeting is open to the public and those interested in attending should appear at the stated time, at the above location, which has teleconferencing facilities.

Contact: C S. LaShelle, 301 Congress Avenue, #500, Austin, Texas, (512) 476-5101

Filed: February 22, 1994, 10 41 a.m.

TRD-9436536

Texas State Board of Medical Examiners

Wednesday, March 2, 1994, 1:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Meeting

According to the complete agenda, the Board Member Orientation will discuss history/general overview, travel/insurance, licensure; board meetings/rules; and enforcement/investigations/ISC

Reason for emergency Recent appointment of new board members

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:56 p.m.

TRD-9436635

Thursday, March 3, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Reciprocal Endorsement Committee will review December, 1993, SPEX statistics; endorsement applicants to be considered for permanent licensure, and review endorsement applicants referred to Endorsement Committee by the executive director.

Executive session under the authority of the Open Meetings Act, Section 551. 071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:56 p.m.

TRD-9436636

Thursday, March 3, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Examination Committee will call to order; roll call; review of examination applicants; discussion of examination rules; review of the December 1993 FLEX/Jurisprudence examination results; review of examination applicants complete for consideration of licensure; and executive session under the authority of the Open Meets Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes, to review applicant files for licensure.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:56 p.m.

TRD-9436637

Thursday, March 3, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Disciplinary Process Review Committee will approve minutes from previous meeting, review enforcement reports, review policy regarding cancellation of licenses for nonpayment of fees, discuss administrative penalties, discuss public inquiries concerning investigations, discussion proposed, Agreed Orders relating to the unlicensed practice of medicine, discuss guidelines/rules relating to termination and modification requests, and go into executive session to review files

Executive session under the authority of the Open Meetings Act, Section 551. 071 of the Government Code, as related to Article 4495b, 2.07(b), 4.05(d), 5. 06(s)(1), and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436638

Thursday, March 3, 1994, 3:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Executive Committee will call to order; roll call; request for reinstatement-Robert Eugene Coats, Jr., D.O., Arlington, Texas; discussion of third party HMOs and their involvement in the practice of medicine; and adjourn.

Executive session under the authority of the Open Meetings Act, Section 551. 071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes, regarding pending litigation.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436639

Thursday, March 3, 1994, 4:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Standing Orders Committee will call to order; roll call; introduction of appointed members of the Texas State Board of Acupuncture Examiners; consideration of possible changes on Physician Certificates of Registration; discussion of letters provided by Justine Strand, PA-C, concerning distribution of pharmaceutical samples; general counsel to clarify Standing Orders Committee's involvement with the Acupuncture Board; and Texas State Board of Acupuncture Examiners to propose rules.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436640

Friday, March 4, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Finance Committee will call to order; roll call; review financial reports; review previous revenue generating ideas; and adjourn.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436641

Friday, March 4, 9:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Public Information Committee will review the

American Journal video; discuss the physician complaints notification; review and discuss committee goals; review public awareness budget; hear an update from previous meetings regarding media presentations, press kits, and trade shows; and discuss suggestions for future meetings.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436642

Friday, March 4, 1994, 10:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Long Range Planning Committee will discuss the board's strategic plan and setting committee goals.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:57 p.m.

TRD-9436643

Friday-Saturday, March 4-5, 1994, 1:30 p.m. and 8:30 a.m. respectively

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Texas State Board of Medical Examiners will discuss a request for reinstatement, probation appearances, public hearing on proposed rule changes, approval of minutes, agreed orders, termination/modification request orders, approval of voting delegate to Federation meeting, executive director's report, and discussion of advertising 1-800 number of physician's office.

Executive sessions under authority of the Open Meetings Act, Section 551.071 of the Government Code, and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes, regarding pending litigation

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:58 p.m.

TRD-9436645

Friday, March 4, 1994, 3:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Ad Hoc Committee for Ethical Issues will finalize the policy statement related to physicians and sexual relationships with patients, and discuss future policy statements

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: February 23, 1994, 4:58 p.m.

TRD-9436644

Texas Natural Resource Conservation Commission

Monday, March 21, 1994, 10:00 a.m.

Stephen F. Austin State Office Building, Room 1149B, 1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a hearing on applications to amend Certificate of Convenience and Necessity Numbers 11682 (water) and 20582 (sewer) by East Cedar Creek Fresh Water Supply District. The applicant also proposes decertification of the City of Mabank's water CCN Number 11026. The proposed service area is located approximately 14 miles northwest of downtown Athens, Texas. Docket Numbers 30228-C (water) and 30229-C (sewer). The hearing is also to include the following requests for cease and desist orders: East Cedar Creek FWSD (CCN Number 11682) against the City of Mabank (CCN Number 11026), designated as Docket Number 9967-D; The City of Mabank (CCN Number 11026) against East Cedar Creek FWSD (CCN Number 11682), designated as Docket Number 30209-D. Both requests involve water utility service in a disputed service area in Henderson County, Texas.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875

Filed: February 24, 1994, 9:16 a.m.

TRD-9436652

Thursday, March 24, 1994, 10:00 a.m.

Building B-Room 201A, 12124 Park 35 Circle

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a hearing on the following applications of Certificates of Convenience and Necessity: Big Bend Water Company, Inc. to provide water utility service in Brewster County, Texas, in an area located approximately 70 miles south of downtown Alpine, Texas. (Docket Number 30166-C) Study Butte Water Supply Corporation to provide water utility service in Brewster County, Texas, in an area located approximately 70 miles south of downtown Alpine, Texas. The total area being requested by Study Butte WSC includes approximately 17,280 acres and 263 potential customers. (Docket Number 30254-C).

Contact: Tommy Broyles, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: February 24, 1994, 9:16 a.m.

TRD-9436650

Texas Board of Pardons and Paroles

Monday-Wednesday, March 7-9, 1994, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, The Parole Board Panel(s) of the Board of Pardons and Paroles composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releaseses subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: February 23, 1994, 2:19 p.m.

TRD-9436605

Monday-Friday, March 7-11, 1994, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, The Parole Board Panel(s) of the Board of Pardons and Paroles composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releaseses subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: February 23, 1994, 2:19 p.m.

TRD-9436607

Thursday, March 10, 1994, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates

and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 23, 1994, 2:19 p.m.

TRD-9436604

Thursday-Friday, March 10-11, 1994, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, The Parole Board Panel(s) of the Board of Pardons and Paroles composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: February 23, 1994, 2:19 p.m.

TRD-9436606

Thursday-Friday, March 10-11, 1994, 1:00 p.m. and 9:00 a.m. respectively

Route 5, Box 258-A

Gatesville

According to the agenda summary, The Parole Board Panel(s) of the Board of Pardons and Paroles composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: February 23, 1994, 2:19 p.m.

TRD-9436608

Public Utility Commission of Texas

Monday, April 11, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 10962-Application of Southwestern Bell Telephone Company to revise access service tariff to provide access Open Network Architecture (ONA) service and to revise intrastate digital link service tariff.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 23, 1994, 4:26 p.m.

TRD-9436631

The Texas A&M University System, Board of Regents

Thursday, February 24, 1994, 2:30 p.m.

Texas A&M University, MSC Annex, Board of Regents Meeting Room, Clark Street

College Station

Emergency Revised Agenda

According to the complete agenda, the Board of Regents (Telephonic Meeting) made an emergency addition to the agenda: authorization for the Interim President of Texas A&M University to negotiate with and do all acts necessary for the University to become a member of the Big Eight Conference; and to do all acts necessary to terminate the University's membership in the Southwest Conference.

Reason for emergency: The university has been informed that the Big Eight desires to know of its intentions regarding further negotiations by February 25, 1994. This information was received following the commencement of the 72-hours notice period for purposes of the Open Meetings Act. This matter is a reasonably unforeseeable situation requiring immediate action by the Board of Regents.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: February 24, 1994, 9:04 a.m.

TRD-9436660

The Texas State University System

Tuesday, March 1, 1994, 11:00 a.m.

(Telephone Conference Call Meeting) Speakerphone Available in Hobby Building, Tower III, Suite 810, 333 Guadalupe Street

Austin

According to the complete agenda, the Board of Regents will consider sale of building use fee and combined fee revenue funding bonds and award of two contracts for repairs and modifications of the High Rise Residence Halls, all at Angelo State University (where appropriate and permitted by law, executive sessions may be held for the above listed subjects).

Contact: Lamar Urbanovsky, Hobby Building, Tower III, Suite 810, 333 Guadalupe Street, Austin, Texas 78701-3942, (512) 463-1808.

Filed: February 23, 1994, 11:45 a.m.

TRD-9436602

Texas Tech University

Friday, February 25, 1994, 10:30 a.m.

Administration Building Campus, Board Suite

Lubbock

According to the complete agenda, the Board of Regents discussed contractual negotiations pertaining to Intercollegiate Athletic Conference Alignment.

Note: This telephone conference call meeting is necessary due to it being difficult or impossible to convene a quorum in one location to address matters requiring immediate action.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 78409, (806) 742-2161.

Filed: February 22, 1994, 10:29 a.m.

TRD-9436582

University of Texas Health Center at Tyler

Thursday, March 3, 1994, 11:30 a.m.

Biomedical Research Building, Room 116, UTHCT, Highway 155 at 271

Tyler

According to the complete agenda, the Animal Research Committee will discuss approval of minutes; chair report; veterinarian's report; old business-Protocol #120: Regulation of Extrinsic Activation of Blood Coagulation and Protocol #115: Review of Pilot Studies and Protocol; new business-Protocol #121: Collection of Rabbit Neutrophils, Protocol #122: Collection of Rat Neutrophils, Addenda #31Y: DNA Recombination and Replication in Mycobacteria, Addenda #115A: Adding personnel; and adjournment.

Contact: Joe Godwin, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7756.

Filed: February 23, 1994, 3:08 p.m.

TRD-9436613

◆ ◆ ◆
University of Texas System

Friday, February 25, 1994, 11:30 a.m.

Ashbel Smith Hall, Regents' Meeting Room, Ninth Floor, 201 West Seventh Street

Austin

Emergency Meeting

According to the complete agenda, the Board of Regents of the University of Texas System will have an emergency meeting with regard to: U.T. Austin: consideration of a revised conference alignment for the men's and women's intercollegiate athletics programs.

Reason for emergency: As evidenced by media coverage, very recent developments and negotiations regarding the future of intercollegiate athletics at U.T. Austin require an emergency meeting.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328.

Filed: February 23, 1994, 3:08 p.m.

TRD-9436612

◆ ◆ ◆
Regional Meetings

Meetings Filed February 22, 1994

The Central Appraisal District of Nolan County Board of Directors met at the Nolan County Courthouse, Third Floor, 100 East Third Street, Sweetwater, Texas, February 25, 1994, at 3:00 p.m. Information may be obtained from Lloyd Harris, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9436549.

The Coryell City Water Supply District Board of Directors met at Our Place Restaurant, McGregor, Texas, February 24, 1994, at 7:00 p.m. for an emergency meeting. Information may be obtained from Helen Swift, Route 2, Box 126, Gatesville, Texas 76528, (817) 865-6089. TRD-9436535.

The Education Service Center, Region XIII Board of Directors will meet at ESC, Region XIII-Board Room #205, 5701 Springdale Road, Austin, March 2, 1994, at Noon. Information may be obtained from Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1500. TRD-9436537.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, February 25, 1994, at Noon, for an emergency agenda meeting.

Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9436553.

The Middle Rio Grande Development Council Criminal Justice Advisory Committee met at the City Council Chambers, Corner of Getty and Main, Uvalde, February 23, 1994, at 10:00 a.m. for an emergency meeting. Information may be obtained from Ramon S. Johnston, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9436540.

The Northeast Texas Municipal Water District Board of Directors met at Highway 250 South, Hughes Springs, February 28, 1994, at 10:00 a.m. Information may be obtained from J.W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9436545.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron Street, Rockdale, February 28, 1994, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9436539.

◆ ◆ ◆
Meetings Filed February 23, 1994

The Angelina and Neches River Authority Board of Directors-Called Lake Eastex Meeting will meet at the Norman Center, 526 East Commerce Street, Jacksonville, March 2, 1994, at 2:30 p.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795 or Fax (409) 632-2564. TRD-9436603.

Austin-Travis County MHMR Center (Emergency Revised Agenda) Board of Trustees met at 1430 Collier Street, Board Room, Austin, February 24, 1994 at 8:00 a.m. The reason for emergency was an item added to agenda that needs immediate Board action. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9436632.

The Central Appraisal District of Taylor County Board of Directors met at 1534 South Treadway, Abilene, February 28, 1994, at 4:00 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9436633.

The Comal Appraisal District Board of Directors met at 178 East Mill Street, #102, New Braunfels, February 28, 1994, at 5:30 p.m. Information may be obtained from Lynn E Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9436609.

The Dallas Central Appraisal District Board of Directors (Regular Meeting) will meet at 2949 North Stemmons Freeway,

Second Floor Community Room, Dallas, March 2, 1994, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9436597.

The Greater Austin-San Antonio Cooridor Council, Inc. Executive Council Meeting met at the Cooridor Council Offices, 304 C.M. Allen Parkway, San Marcos, February 25, 1994, at 9:00 a.m. Information may be obtained from Emma Vasquez, P.O. Box 1618, San Marcos, Texas 78667-1618, (512) 245-2535. TRD-9436600.

The Greater Austin-San Antonio Cooridor Council, Inc. Board of Directors Meeting met at the Cooridor Council Offices, 304 C.M. Allen Parkway, San Marcos, February 25, 1994, at 10:00 a.m. Information may be obtained from Emma Vasquez, P.O. Box 1618, San Marcos, Texas 78667-1618, (512) 245-2535. TRD-9436599.

The Johnson County Rural Water Supply Corporation Annual Membership Meeting will meet at the Cleburne Civic Center, 1501 West Henderson, Cleburne, March 1, 1994, at 7:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9436623.

The Johnson County Rural Water Supply Corporation Special Board of Directors Meeting will meet at the Cleburne Civic Center, 1501 West Henderson, Cleburne, March 1, 1994, at 7:00 p.m. (immediately following membership meeting). Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9436623.

The Leon County Central Appraisal District Board of Directors met at Leon County Central Appraisal District Office, Centerville, February 28, 1994, at 7:00 p.m. Information may be obtained from Donald G. Gillum, P.O. Box 536 Centerville, Texas 75833, (903) 536-2252. TRD-9436626.

The West Central Texas Council of Governments Private Industry Council will meet 1025 EN Tenth Street, Abilene, March 7, 1994, at 10:00 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9436634.

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Meetings Filed February 24, 1994

The Hays County Appraisal District Appraisal Review Board met at 21001 North IH-35, Kyle, February 28, 1994, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle,

Texas 78640, (512) 754-7400. TRD-9436657.

The South Texas Private Industry Council, Inc. will meet at 901 Kennedy Street, Zapata, March 2, 1994, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9436656.



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 Commission on Alcohol and Drug Abuse

Consultant Services Contract Award

The following consultant contract (#517-4-1377) award for conducting an evaluation study is filed under the provisions of Texas Civil Statutes, Article 6252-11c

The consultant request was published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9325).

The consultant proposal is to conduct an evaluation of the short- and long-term effectiveness of the in-prison therapeutic community (ITC) substance abuse treatment and transitional care for the drug offender population. The treatment process of the ITC and transitional care will also be examined as part of this contract.

The consulting firm for this study is: Texas Christian University, Institute of Behavioral Research, P.O. Box 32880, Fort Worth, Texas 76129.

The total value of the contract is \$99,899 and the contract period starts February 1, 1994, and ends August 31, 1994.

Issued in Austin, Texas, on February 18, 1994

TRD-9436538 David P. Tatum
Interim Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: February 22, 1994

State Banking Board

Notice of Hearing

The Hearing Officer of the State Banking Board will conduct a hearing on April 12, 1994, at 9:00 a.m., at 2601 North Lamar Boulevard, Austin, Texas, on the charter application for Bank of the West, Odessa, Texas. The application is a conversion from the Bank of the West, N.A., Odessa, Texas, to a state-chartered bank. The banking services currently provided by the Bank of the West, N.A., will continue to be provided by the Bank of the West. Upon reasonable notice, the public may inspect and copy all portions of the application, other than those made confidential by law, at the Texas Department of Banking, Third Floor, 2601 North Lamar Boulevard, Austin, Texas 78705, during regular business hours, Monday-Friday, excluding holidays, 8:00 a.m. to 5:00 p.m.

Anyone wishing to speak at the hearing, to make written comments, or to protest the application, should file any written comments or protest or given written notice of their intention to speak on or before April 4, 1994. Copies

of written comments, protests, and written notice of intention to speak at the hearing should be sent United States mail, postage prepaid, to the applicant's representative: Jennifer Settle, 711 Louisiana Street, Suite 2900, Houston, Texas 77002-2781.

If no protests are received by April 4, 1994, the Board may cancel the hearing without further public notice and consider the application on the basis of the written record. The Board may also postpone or otherwise reschedule the hearing without further public notice. Therefore, anyone planning to attend should first verify scheduling information. Anyone planning to attend who may need special accommodations due to disabilities should notify the Board at least three days prior to the hearing so that appropriate arrangements may be made. The Texas Department of Banking may be reached by telephone at (512) 475-1300 or by mail at the address given above.

Issued in Austin, Texas, on February 17, 1994.

TRD-9436477 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: February 18, 1994

Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by the United Trust Company, Austin, Texas, the hearing previously scheduled for Monday, February 21, 1994, has been cancelled.

Issued in Austin, Texas, on February 17, 1994.

TRD-9436517 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: February 22, 1994

Comptroller of Public Accounts

Notice of Request for Proposals

Notice of Request for Proposals Pursuant to Chapter 2254, Subchapter B of the Government Code, the Comptroller of Public Accounts (Comptroller) announces its Request for Proposals (RFP) for consultant services to assist the Comptroller in the development of a system architecture plan for the proposed Consolidated Tax System of Texas (CONXT). The purpose of the RFP is to obtain proposals regarding the review and development of findings, alternatives, and final recommendations to the Comptroller relating to a proposed system architecture design. The successful proposer will be required to review

existing Comptroller system hardware and software, CONTACT system requirements, and other computer system applications which will remain upon implementation of CONTACT. The successful proposer will be expected to begin performance of the contract on or about April 13, 1994.

Contact Parties interested in submitting a proposal should contact the Comptroller of Public Accounts, Senior Legal Counsel's Office, 111 East 17th Street, Room G26, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pick-up at the above referenced address on Tuesday, March 1, 1994, between 2:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal business hours thereafter.

Closing Date. Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. (CZT), on Thursday, March 31, 1994. Proposals received after this time and date will not be considered.

Award Procedure. All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the deputy comptroller, who will make a recommendation to the Comptroller. The Comptroller of Public Accounts will make the final decision. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller of Public Accounts reserves the right to accept or reject any or all proposals submitted. The Comptroller is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller to pay for any costs incurred prior to the execution of a contract.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436594 Tres Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed February 23, 1994

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Notice of Withdrawal of Request for Proposals

Pursuant to Chapter 2254, Subchapter B of the Government Code, the Comptroller of Public Accounts (the Comptroller) determined on February 22, 1994, that it is in the best interest of the state to withdraw the Request for Proposals for consultant services to assist the Comptroller of a system architecture plan for the proposed Consolidated Tax System of Texas (CONTACT). The RFP will be reissued.

The anticipated schedule for the RFP was included in the Notice of Request for Proposals published in the January 7, 1994, (19 TexReg 182)

Issued in Austin, Texas, on February 23, 1994.

TRD-9436595 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed February 23, 1994

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Texas Education Agency Request for Application

Request for Application #701-94-012. This request for application (RFA) is filed under Public Law 97-300 JTPA and, as amended by Public Law 102-367, the JTPA reform amendments.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications (RFA# 701-94-012) from service delivery area (SDA) grant recipients and/or JTPA administrative entities, local school districts, cooperatives of eligible applicants, education service centers, public colleges, and public universities in Texas to provide JTPA 8.0% program services to eligible participants.

Description. The TEA will fund projects for the delivery of services that provide school-to-work transition; literacy and lifelong learning; and statewide coordinated approaches to education and training services, including model programs to train, place, and retain women in nontraditional employment.

Dates of Projects. The 8.0% Education Coordination Project will be implemented during federal year program 1994-1995. Applicants should plan for a project starting date of no earlier than July 1, 1994, and an ending date of no later than June 30, 1995.

Project Amount. Funding will be provided for approximately 30 projects. Each project will receive an average of \$200,000 for the 1994-1995 program year. This project is funded 50% from JTPA education coordination and grants funds and 50% from local non-JTPA sources. Matching funds may be cash and/or in-kind contributions.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the request for application as evidenced by a formal review process. The TEA will base its selection on, among other things, demonstrated competence and qualifications of the applicant. The TEA reserves the right to select from the highest ranking applications those that address all requirements in the request for application.

The TEA is under no obligation to execute a resulting grant, provide funds, or endorse any application that is submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before the execution of a grant. The issuance of this RFA in no way obligates TEA to award a grant or to pay any costs incurred in the preparation of a response.

Requesting the Application. A copy of the complete request for application (RFA# 701-94-012) may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to RFA# 701-94-012 in your request.

Further Information. For clarifying information about the request for application, contact Dr. L. G. Ferguson, Division of Career and Technology Education, Texas Education Agency, (512) 305-9228.

Deadline for Receipt of Applications. Application must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Monday, April 18, 1994, to be considered for funding.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436576 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 23, 1994

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General Services Commission

Notice of Public Hearing on Proposed Rules

The General Services Commission will hold a public hearing on March 8, 1994, beginning at 9:00 a.m., in Room 402, Central Services Building, 1711 San Jacinto, Austin, Texas. The purpose of the hearing is to receive public comments on proposed rules 1 Texas Administrative Code, §§111.61-111.71 concerning costs open records. These proposed rules were published in the February 2, 1994, issue of the *Texas Register* (19 TexReg 680).

For further information, please call Judith Porras at (512) 463-3583.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436596 Judith Monaco Porras
General Counsel
General Services Commission

Filed: February 23, 1994

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Texas Department of Health

Announcement of Public Hearing on Rules

The Texas Department of Health will conduct a public hearing on proposed rules (Early Periodic Screening and Diagnostic Treatment, and Purchased Health) published in the February 15, 1994, issue of the *Texas Register* (19 TexReg 1083). The hearing will be held at 10:00 a.m. on Monday, March 7, 1994, at the Texas Department of Health, Room T-607, 1100 West 49th Street. For further information call Lisa R. Walker, M.D., Director, Children's Health Division, Texas Department of Health, (512) 458-7111 extension 3019.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436571 Susan K Steeg
General Counsel
Texas Department of Health

Filed: February 23, 1994

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Heart of Texas Council of Governments

Title IIB Summer Youth Services

The Heart of Texas Council of Governments (HOTCOG) invites proposals for Contract Year 1994 contract awards under the Title IIB Program of the Job Training Partnership Act (JTPA). The contracts to be awarded will serve economically disadvantaged youth in the HOTCOG region, which is comprised of the following counties: Bosque, Falls, Freestone, Hill, Limestone, and McLennan.

Title IIB Summer Youth Services (June 1, 1994-August 31, 1994). Proposals will be considered for outreach/re-

cruitment, eligibility assessment, work experience and classroom training.

No local match requirements exist for these JTPA funds.

Request for Proposals can be obtained at HOTCOG, 300 Franklin Avenue, Waco, Texas 76701 (Attention: Chief Financial Officer) or by calling (817) 756-7822, between 8:00 a.m. and 5:00 p.m., Monday-Friday. Responses must be received by HOTCOG no later than 4:30 p.m., Monday, March 14, 1994. HOTCOG reserves the right to reject any or all proposals received in response to this RFP.

Issued in Waco, Texas, on February 10, 1994.

TRD-9436522 Leon A. Willhite
Executive Director
Heart of Texas Council of Governments

Filed: February 22, 1994

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Texas Department of Housing and Community Affairs

Summary of the Texas Community Development Program 1994 Proposed Final Statement

Purpose/Activities/Applicants.

The purpose of the Texas Community Development Program (TCDP) is the development of viable communities by providing decent housing, a suitable living environment, and by expanding economic opportunities, principally for persons of low- and moderate-income. All proposed activities under the program must meet one of the following objectives: benefit persons of low- and moderate-income; aid in the elimination of slums and blight; or meet other community development needs of a particular urgency.

Eligible applicants for the program are units of general government (e.g., cities and counties) that are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant (CDBG) Program.

Allocation.

Assistance under the Texas Community Development Program is proposed to be available through six funding categories: Community Development Fund; *Young v. Cisneros* Fund; Texas Capital Fund (economic development); Colonia Fund; Planning/Capacity Building Fund; and Disaster Relief/Urgent Need Fund. The following information is a brief description of each funding category:

1. Community Development Fund—will be available on a biannual basis for program year (PY) 1994 and 1995 for public facilities and housing assistance with regional allocations to each of the 24 planning regions across the state. All project activities must meet the eligibility requirements set forth in the Community Development Fund Application Guide. Funds will be awarded through a biannual competition.

2. *Young v. Cisneros* Fund—this fund is being proposed for PY 1994 to address the required activities contained in the desegregation plans and plan amendments filed by HUD on February 3, 1994, with the court presiding over the *Young v. Cisneros* lawsuit. Only applicants with projects that include required activities in the 36 counties involved

in the lawsuit will be eligible for assistance. Funds will be available on a biannual basis for PY 1994 and 1995.

3. Texas Capital Fund—will be available on a continual basis for economic development funding to consider projects which will generally create or retain permanent employment opportunities, primarily for low- and moderate-income persons. Requests from an eligible applicant may be used for eligible activities, including the following: a grant for infrastructure improvements to assist a for-profit entity or a non-profit entity; a loan to a for-profit entity or a non-profit entity; a grant to the eligible applicant for its use, or to be used by a public or private non-profit entity, to acquire real property or acquire, construct, reconstruct, or rehabilitate public facilities to assist a for-profit or a non-profit entity; a grant to an eligible applicant to acquire, construct or rehabilitate real estate and to provide public improvements in support of a non-profit incubator sponsor; a loan to a for-profit small or minority business, including microenterprise projects, a grant for infrastructure improvements to assist Texas Main Street Program designated municipalities; provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project that meets one of the national program objectives, and provision of assistance to nonentitlement federally designated empowerment zones and enterprise communities.

4. Colonia Fund—will be available biannually for PY 1994 and 1995 on a competitive basis. Eligible applicants are generally counties within 150 miles of the Texas-Mexico border. Proposed project areas must be located in severely distressed unincorporated areas which meet the definition as a "colonia" under this fund. The following information describes the three eligible activities:

a. Colonia Construction Fund—Eligible county applicants may submit one application for the following eligible activities:

(1) Assessments for Public Improvements—payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low- and moderate-income to recover the capital cost for improvements to water and/or sewer facilities.

(2) Other Improvements—other activities eligible under Section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias.

b. Colonia Planning Fund—payment of the costs associated with most aspects of planning for community development and housing activities; costs for the provision of information and technical assistance to residents of the area in which the activities are located and appropriate nonprofit organizations and public agencies acting on behalf of the residents; and costs for preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, and legal/financial services.

c. Colonia Demonstration Fund—No applications will be accepted for PY 1994; PY 1993 applicants that did not receive a Colonia Demonstration Fund grant in PY 1993 will be considered for funding using the same funding recommendation in PY 1994. The purpose of the fund is to provide comprehensive improvements to a colonia, including water, sewer, housing rehabilitation, street paving, a community center, recreational facilities and public ser-

vices. Two projects will be selected to receive up to \$1 million per grant.

5. Planning/Capacity Building Fund—will be available biannually for PY 1994 and 1995 through a statewide competition for local governmental units to develop strategies, to build/improve local capacity, and/or to prepare other needed planning elements.

5. Disaster Relief/Urgent Need Fund—will be available as needed for eligible activities that relieve emergency situations where either: the Governor has made a state disaster declaration or has requested a federal disaster declaration; or activities addressing water or sewer urgent needs that have resulted in either death, illness, injury, or pose an imminent threat to life or health within the applicant's jurisdiction. The urgent need conditions must be certified as such by the appropriate state regulatory agency. It is important to note that the distribution of funds will be coordinated with other state and federal agencies.

According to the U.S. Department of Housing and Urban Development (HUD), the proposed 1994 allocation to the state of Texas is \$81,886,000. The allocation will be distributed as follows: Community Development Fund, \$52,483,820 (64.09%); *Young v. Cisneros* Fund, \$1,000,000 (1.22%); Texas Capital Fund, \$14,305,000 (17.47%); Colonia Fund—Construction, \$5,640,000 (6.89%); Planning, \$548,600 (.67%); Demonstration, \$2,000,000 (2.44%); Planning/Capacity Building Fund, \$806,000 (.99%); Disaster Relief/Urgent Need Fund, \$2,546,000 (3.11%); Technical Assistance, \$818,860 (1%); and Administration, \$1,737,720 (2.12%)

Review Process.

Each of the state's 24 Regional Review Committees (RRC) shall consist of 12 members appointed by the Governor for two-year staggered terms. Each RRC shall review and score all Community Development Fund applications within its region and may comment on applications for the other funds. In addition, the State Community Development Review Committee, which is comprised of 12 members also appointed by the Governor for two-year terms, will review recommendations for the Community Development Fund and Planning/Capacity Building Fund for consistency and adherence with Department policies regarding appeals procedures as identified in procedures for the programs.

Performance Requirements/Project Selection Criteria.

A locality must meet the following requirements in order to submit an application, under any fund, to the Texas Community Development Program: demonstrate the ability to administer the proposed project, demonstrate the financial management capacity to operate and maintain any improvements resulting from the project; levy a local sales or property tax; demonstrate satisfactory performance on prior TCDP contracts; and resolve any and all outstanding compliance and audit findings. In addition, each locality that applies for assistance through the program and has existing TCDP contracts must have shown the ability to expend funds in a timely manner in accordance with established guidelines.

All applications considered through the Community Development Fund, *Young v. Cisneros* Fund, Colonia Fund, and Planning/Capacity Building Fund will be evaluated and rated in accordance with a numerical point system based on the following major criteria groups: community distress factors of the applicant; project impact/design, and other considerations. The final assignment of points for an

application will be the total points received in the three criteria groups. In addition, each of these four funds will use benefit to low- and moderate-income persons as a threshold factor.

A complete copy of the proposed final statement is available upon request. Please write or call Vicki Gossett, Texas Department of Housing and Community Affairs, Texas Community Development Program, P.O. Box 13941, Austin, Texas 78711-3941, (512) 475-3909.

Comments will be accepted at the above address through March 25, 1994.

Issued in Austin, Texas, on February 18, 1994.

TRD-9436585 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: February 23, 1994

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Texas Department of Human Services
Public Notice of Open Solicitation

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility in Real County, County 193, identified in the January 4, 1994, issue of the *Texas Register* (19 TexReg 117). This county is also listed in this public notice. Potential contractors desiring to construct a 90-bed nursing facility in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Certification, Enrollment, and Billing Services, Long-Term Care-

Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5 p.m., April 1, 1994, the last day of the open solicitation period. Potential contractors will be allowed 90 days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors must demonstrate an intent and ability to begin construction of a facility and to complete contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation. First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §19.2004(q) are not met. The signed agreement must also require the potential contractor to provide, within 10 working days after the date of selection, a surety bond or other financial guarantee acceptable to TDHS ensuring payment in the event of default. If the 180-day deadline is not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are an additional 5.0% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Architectural Section of TDHS. Each application must be complete at the time of its receipt. TDHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Occupancy rates for identified threshold counties are listed below:

County Number	County Name	Number of Months Over	JUL	AUG	SEP	OCT	NOV	DEC
193	Real	6	94.8	95.1	98.6	98.7	95.0	90.9

Issued in Austin, Texas, on February 22, 1994.

TRD-9436563 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Human Services

Filed: February 22, 1994

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Texas Department of Insurance
Company License

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for name change in Texas for Crown America Life Insurance Company, a foreign life, accident, and health company. The proposed new name is Keyport America Life Insurance Company. The home office is in Providence, Rhode Island.

Application for admission in Texas for Maryland Netherlands Credit Insurance Company, a foreign fire and casualty company. The home office is in Baltimore, Maryland.

Application for admission in Texas for MHN, Inc., a domestic health maintenance organization. The home office is in Irving, Texas.

Application for name change in Texas for The Millers Casualty Insurance Company of Texas, a domestic fire and casualty company. The proposed new name is The Millers Casualty Insurance Company. The home office is in Fort Worth, Texas.

Application for name change in Texas for The Millers Mutual Fire Insurance Company of Texas, a domestic fire and casualty company. The proposed new name is The Millers Mutual Fire Insurance Company. The home office is in Fort Worth, Texas.

Issued in Austin, Texas, on February 23, 1994.

TRD-9436559 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: February 23, 1994

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**Texas Natural Resource Conservation
Commission**

**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 ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed 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 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.

Horsepen Bayou Municipal Utility District, in care of Vinson and Elkins, L. L.P., 2700 First City Tower, 1001 Fannin, Houston, Texas 77002-6760 has applied to the Texas Natural Resource Conservation Commission for a minor amendment to Permit Number 12128-01 in order to decrease the flow from a volume not to exceed 1,700,000 gallons per day average to a volume not to exceed 950,000 gallons per day average from the Concord Bridge Wastewater Treatment Facilities. The proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The plant site is approximately 1-3/4 miles south of FM Road 529 (Spencer Road) and 1/2-mile west of Addicks-Fairbanks Road in Harris County, Texas.

Issued in Austin, Texas, on February 18, 1994.

TRD-9436476 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: February 18, 1994

Notice of Public Hearings

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); 30 Texas Administrative Code (TAC) §103.11(4); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning revisions to its rules and the SIP.

The TNRCC proposes new §115.901, an amendment to §115.910, and new §§115.911-115.916; concerning Alternate Means of Control, and new §115.920 and §115.923; concerning Early Reductions. The amendment to §115.910 establishes procedures for requesting the Executive Director's approval of an Alternate Means of Control and the new §115.920 establishes procedures for a six-year exemption under the Early Reductions program. In lieu of complying with control requirements in Chapter 115, relating to Control of Air Pollution from Volatile Organic Compounds, both the Alternate Means of Control rule and Early Reductions rule provide for alternate emission reductions greater than or equal to reductions specified in Chapter 115.

A public hearing on the proposal will be held on March 31, 1994, at 10:00 a. m. at the TNRCC Central Office, Room 201S, Building E, 12118 North IH-35, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through April 1, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on April 1, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin. Please mail written comments to Monica Pesek, Regulation Development Section, Air Quality Planning Division, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Monica Pesek at (512) 239-1971.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on February 17, 1994.

TRD-9436583 Mary Ruth Holder
Director, Legal Services
Texas Natural Resource Conservation
Commission

Filed: February 23, 1994

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); 30 Texas Administrative Code, §103.11(4); 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIPs), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning a revision to the SIP.

The TNRCC proposes a revision to the Sulfur Dioxide (SO₂) SIP for Harris County and authorization for use of Agreed Orders to legally limit SO₂ allowable emissions for 22 grandfathered (non-permitted) facilities. The new SO₂ limits and modeled demonstration of attainment included in the SIP will present the need for EPA to designate Harris County as nonattainment for SO₂.

A public hearing on the proposal will be held March 31, 1993 at 11:00 a.m. at the Houston-Galveston Area Council, Conference Room B, Second Floor, 3555 Timmons Lane, Houston. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through April 8, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on April 8, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the revision are available at the central office of the TNRCC located at 12113 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. Please mail written comments to John Jolly, Regulation Development Section, Air Quality Planning, P.O. Box 13087, Austin, Texas 78711-3087. For further information, contact John Jolly at (512) 239-1491.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on February 22, 1994.

TRD-9436582 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: February 23, 1994

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); 30 Texas Administrative Code (TAC) §103.11(4); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning revisions to its rules and the SIP.

The TNRCC proposes amendments to §116.110, concerning Applicability; §116.115, concerning Special Provi-

sions; §116.116, concerning Amendments and Alterations; §116.132, concerning Public Notice Format; and §116.133, concerning Sign Posting Requirements. The proposed changes have been developed to comply with the statutory requirements in the Texas Clean Air Act (TCAA), §382.056 and §382.0513, regarding bilingual public notification for permit applications and permit general conditions, respectively.

The TNRCC also proposes an amendment to §101.1, concerning Definitions. New definitions for the terms "account" and "sulfuric acid mist" will be added to the list of definitions.

A public hearing on the proposal will be held on March 29, 1994 at 10:00 a. m. at the TNRCC Central Office, Room 201S, Building E, 12118 North IH-35, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through April 8, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on April 8, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin. Please mail written comments to Gary McArthur, Regulation Development Section, Air Quality Planning Division, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Gary McArthur at (512) 239-1917.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on February 16, 1994.

TRD-9436584 Mary Ruth Holder
Director, Legal Services
Texas Natural Resource Conservation
Commission

Filed: February 23, 1994

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); 30 Texas Administrative Code (TAC) §103.11(4); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC) will conduct public hearings to receive testimony concerning a revision to its rules and the SIP.

The TNRCC proposes the repeal of §117.570 and the addition of new §117.570 in Chapter 117 regarding Control of Air Pollution from Nitrogen Compounds. The proposed changes have been developed in response to a requirement by the EPA and the 1990 Federal Clean Air Act (FCAA) Amendments for states to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (No_x) in the following ozone

nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

The proposed new §117.570, concerning Trading, establishes a NO_x RACT trading program which provides a cost-effective alternative method of complying with the NO_x emission specifications of this chapter. Under the trading program, an owner or operator may reduce the amount of NO_x emission reductions otherwise required under this chapter by obtaining an emission reduction credit which may be generated by another company in the same ozone non-attainment area. With the proposal of new §117.570, the TNRCC staff has determined that it would be appropriate to propose concurrently the repeal of existing §117.570, which was adopted as a "placeholder" until specific rules could be proposed.

Public hearings on the proposal will be held on March 30, 1994 at 7:00 p.m. at the John Gray Institute, 855 Florida Avenue, Beaumont, and on March 31, 1994 at 1:30 p.m. at the Houston-Galveston Area Council, 3555 Timmons Lane, Conference Room B, Second Floor, Houston. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearings and will be available to answer questions informally.

Written comments not presented at the hearings may be submitted to the TNRCC central office in Austin through April 8, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on April 8, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at the TNRCC regional office in Houston at 5555 West Loop, Suite 300, Bellaire. Please mail written comments to Randy Hamilton, Regulation Development Section, Air Quality Planning Division, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Randy Hamilton at (512) 239-1514.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on February 17, 1994.

TRD-9436585 Mary Ruth Holder
Director, Legal Services
Texas Natural Resource Conservation
Commission

Filed. February 23, 1994

Texas Low-Level Radioactive Waste Disposal Authority

Notice of License Application Information Meeting

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 Hudseph 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 Blanco, Texas (915) 369-3391.

Authority staff will be available to answer questions concerning this license application on Tuesday, March 8, 1994, from 8:00 a.m. to 12:00 p.m. in their offices at 7701 North Lamar Boulevard, Suite 300, Austin, Texas (512) 451-5292.

For more information, please contact Adriana Riojas, Public Information Officer, at (512) 451-5292.

Issued in Austin, Texas, on February 18, 1994.

TRD-9436516 Lee H Mathews
Deputy General Manager and Legal
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: February 22, 1994

Teacher Retirement System of Texas Report of Balance Sheet, Actuarial Valuation, and Unfunded Liabilities

The Texas Government Code, §825.108, requires the Teacher Retirement System of Texas (TRS) to publish a report in the *Texas Register* no later than March 1 of each year. The report must contain the balance sheet of the retirement system as of August 31, of the preceding fiscal year and an actuarial valuation of the system's assets and liabilities, including the extent to which the system's liabilities are unfunded.

TRS is publishing the following report as required by statute.

Wyatt

January 10, 1994

**Board of Trustees
Teacher Retirement System of Texas
1000 Red River Street
Austin, TX 78701-2698**

Summary of Actuarial Report Requested by State Auditor

The State Auditor's office has requested that we summarize the results of the actuarial valuation of the Teacher Retirement System of Texas as of August 31, 1993. The actuarial valuation report reveals that the Teacher Retirement System of Texas is an actuarially sound system based on the current actuarial assumptions and that the present actuarial value of assets (\$35.2 billion) plus the contributions required by the law in the future will be sufficient to meet the payments to the present active and retired members and their beneficiaries.

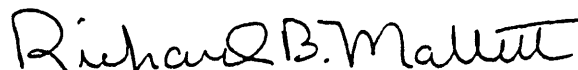
The actuarial assumptions and methods used in this valuation are those adopted by the Board based on the 1990 Experience Study:

1. Mortality for the retired members is based on the 1983 Group Annuity Mortality Table for males with a two-year setback in age and the 1983 Group Annuity Mortality Table for females with a one-year setback in age. An extensive study of actual mortality experience of retired members under the System indicates that these mortality tables are appropriate.
2. Mortality for active members is based on a table constructed from the actual experience of the Teacher Retirement System of Texas.
3. Disability, retirement, and withdrawal rates are based on actual experience of the Teacher Retirement System of Texas. Retirement and withdrawal rates take a select and ultimate form.
4. An investment return assumption of 8%, compounded annually, is used with regard to computations for retired persons and for active members. An interest rate of 8.38%, compounded annually, is used with regard to the 1975 Legislative increase for retired members; a rate of 9.56%, compounded annually, is used with regard to the 1977 Legislative increase; a rate of 10.30%, compounded annually, is used with regard to the 1979 Legislative increase; a rate of 14.32%, compounded annually, is used with regard to that portion of the two 1981 Legislative increases which was not funded by reserves released from the Retired Reserve Account.

5. The salary scale for projecting future salaries is based on the actual 1985-1990 experience of the Teacher Retirement System of Texas and consists of a step-rate/promotional salary scale table plus a general salary increase assumption of 5-3/4%.
6. The actuarial value of assets is determined under a market over book adjusted asset valuation method which recognizes unrealized appreciation in equity market values over a five-year rolling period.
7. Funding of the unfunded actuarial accrued liability is based on the excess of assumed future State contributions over the amount of such contributions required to fund the normal cost of benefits provided by the System. Basing the normal cost for the System on a study of all new entrants hired in the period from 1985 through 1990, the normal cost is 12.46% of payroll (6.40% by members plus 6.06% by the State), which is 1.25% of payroll less than the total contributions being paid by the members and by the State. It is assumed that the excess amount of 1.25% of payroll contributed by the State will be utilized to fund the unfunded actuarial accrued liability of \$3.440 billion (as shown on the actuarial balance sheet) over a period of 25.1 years in the future, assuming that payroll grows at an aggregate compound rate of 6% per year. All funding calculations assume that the State contribution rate will remain at 7.31%.

Based on the above assumptions and the actuarial results shown in the report, it is our opinion that the Teacher Retirement System of Texas is actuarially sound and if the payroll in the future increases at the rate of 6%, compounded annually, the unfunded actuarial accrued liability of \$3.440 billion will be amortized over a period of 25.1 years in the future.

Respectfully submitted,



Richard B. Mallett, FSA
Actuary



W. Michael Carter, FSA
Actuary

mt
Enclosures

Actuarial balance sheet showing present and prior year assets and liabilities after actuarial adjustments to Retired Reserve Account.

ACTUARIAL ASSETS

	August 31,	
	1993	1992
	(1)	(2)
I. Present Assets At Actuarial Value:		
1. Retired reserved account (actuarially determined)	\$ 13,574,432,820	\$ 11,695,096,324
2. 1975 benefit increase reserve subaccount	(9,195,542)	(4,115,600)
3. 1977 benefit increase reserve subaccount	63,696,346	64,257,384
4. 1979 benefit increase reserve subaccount	49,661,554	49,281,341
5. 1981 benefit increase reserve subaccount	179,660,741	175,046,397
6. Member savings account	8,279,076,259	7,505,149,619
7. State contribution account	6,778,350,267	6,662,978,603
8. Expense accounts and miscellaneous	160,787,387	59,225,391
9. Total present assets	\$ 29,076,469,832	\$ 26,206,919,959
10. Adjustment to book value due to actuarial asset valuation method	6,102,218,598	4,994,305,249
11. Total actuarial value of present assets	\$ 35,178,688,430	\$ 31,201,225,208
II. Prospective Assets:		
12. Present value of future contributions by present members	\$ 10,576,333,810	\$ 9,492,420,806
13. Present value of future normal costs contributed by the State	10,014,466,077	8,988,135,950
14. Unfunded actuarial accrued liability	3,440,297,245	3,441,424,033
15. Total prospective assets	\$ 24,031,097,131	\$ 21,921,980,789
16. TOTAL ACTUARIAL ASSETS	\$ 59,209,785,561	\$ 53,123,205,997

Actuarial balance sheet showing present and prior year assets and liabilities after actuarial adjustments to Retired Reserve Account.

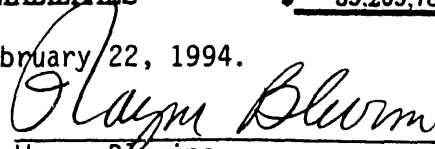
ACTUARIAL LIABILITIES

	August 31,	
	1993	1992
	(1)	(2)
III. Present Value Of Benefits Presently Being Paid:		
17. Benefits other than Legislative increases for retired members		
a. Service retirement benefits	\$ 12,719,882,159	\$ 10,928,906,584
b. Disability retirement benefits	449,153,094	418,774,044
c. Death benefits	298,453,339	275,706,804
d. Present survivor benefits	106,944,228	71,708,892
e. Total basic reserves	<u>\$ 13,574,432,820</u>	<u>\$ 11,695,096,324</u>
18. Benefits provided retired members by 1975 Legislative increase		
a. Service retirement benefits	\$ 19,586,400	\$ 23,653,728
b. Disability retirement benefits	462,000	541,824
c. Death benefits	1,171,200	1,487,580
d. Total 1975 increase reserves	<u>\$ 21,219,600</u>	<u>\$ 25,683,132</u>
19. Benefits provided retired members by 1977 Legislative increase		
a. Service retirement benefits	\$ 27,623,340	\$ 32,063,652
b. Disability retirement benefits	909,408	1,017,648
c. Death benefits	1,414,392	1,729,308
d. Total 1977 increase reserves	<u>\$ 29,947,140</u>	<u>\$ 34,810,608</u>
20. Benefits provided retired members by 1979 Legislative increase		
a. Service retirement benefits	\$ 18,092,832	\$ 21,684,588
b. Disability retirement benefits	441,756	510,804
c. Death benefits	1,008,012	1,277,040
d. Total 1979 increase reserves	<u>\$ 19,542,600</u>	<u>\$ 23,472,432</u>
21. Benefits provided retired members by 1981 Legislative increases		
a. Service retirement benefits	\$ 95,289,936	\$ 105,430,440
b. Disability retirement benefits	2,569,692	2,800,368
c. Death benefits	3,090,300	3,580,776
d. Total 1981 increase reserves	<u>\$ 100,949,928</u>	<u>\$ 111,811,584</u>
22. Total present value of benefits presently being paid	<u>\$ 13,746,092,088</u>	<u>\$ 11,890,874,080</u>

Actuarial balance sheet showing present and prior year assets and liabilities after actuarial adjustments to Retired Reserve Account.

	August 31,	
	1993 (1)	1992 (2)
IV. <u>Present Value Of Benefits Payable In The Future To Present Active Members:</u>		
23. Service retirement benefits	\$ 40,400,778,138	\$ 36,959,095,853
24. Disability retirement benefits		
a. Disability prior to vesting	3,625,147	3,212,245
b. Disability after vesting	<u>1,376,492,921</u>	<u>1,247,243,813</u>
c. Total disability benefits	\$ 1,380,118,068	\$ 1,250,456,058
25. Refunds of contributions on withdrawal	1,920,980,631	1,710,737,137
26. Death and survivor benefits		
a. Two times pay	224,172,590	201,947,628
b. Refund of contributions	4,136,809	3,726,112
c. Five year annuity	132,981,000	121,189,183
d. Life annuity	437,794,368	398,706,712
e. Survivor benefit	<u>22,860,080</u>	<u>19,876,009</u>
f. Total death benefits	\$ 821,944,847	\$ 745,445,644
27. Total active member liabilities	\$ 44,523,821,684	\$ 40,665,734,692
V. <u>Present Value Of Benefits Payable In The Future To Present Inactive Members:</u>		
28. Terminated vested participants		
a. Retirement benefits	\$ 55,914,818	\$ 52,132,153
b. Death benefits	<u>1,628,920</u>	<u>1,533,564</u>
c. Total term vest benefits	\$ 57,543,738	\$ 53,665,717
29. Refunds of contributions to terminated non-vested members	6,247,821	8,189,033
30. Future survivor benefits payable on behalf of present annuitants	456,033,456	434,047,565
31. Reserve for ERS/TRS transfer	<u>229,105,400</u>	<u>0</u>
32. Total inactive liabilities	\$ 748,930,415	\$ 495,902,315
VI. <u>Other Liabilities And Reserves:</u>		
33. Reserve for expenses, benefits, and accounts payable	<u>\$ 190,941,374</u>	<u>\$ 70,694,910</u>
34. Total Other Liabilities	\$ 190,941,374	\$ 70,694,910
35. TOTAL ACTUARIAL LIABILITIES	<u>\$ 59,209,785,561</u>	<u>\$ 53,123,205,997</u>

Issued in Austin, Texas on February 22, 1994.


Wayne Blevins
Executive Director
Teacher Retirement System of Texas

Issued in Austin, Texas, on February 22, 1994.

TRD-9436593 Rebecca M McLamore
Assistant General Counsel
Teacher Retirement System of Texas

Filed: February 23, 1994



The University of Texas System Notices of Consultant Contract Award

The University of Texas Medical Branch at Galveston (UTMB) is pleased to announce the award of RFP Number 3-5, DRG Case-Mix Review and Analysis, to Hyatt, Imler, Ott and Blout (HIOB), pursuant to the provisions of Texas Civil Statutes, Article 6252-11C.

HIOB's principle address is 100 Ashford Center North, Suite 200, Atlanta, Georgia 30338-4844. The amount of the contract is \$385,000. The project is scheduled to be completed by February 31, 1995.

HIOB will be responsible for completing the project phase(s) which make up a comprehensive program including; a one-year DRG case distribution analysis to assess case-mix patterns; review billed DRG's for Medicare and Medicaid (excluding OB and Newborn) to identify opportunities for increased reimbursement and increased case-mix; and perform case-mix analysis to identify other opportunities to increase case-mix through appropriate resource, utilization, documentation issues, and quality issues

HIOB will be responsible to implement the recommended corrective action and provide follow-up visits and validate achievement of projected/expected outcomes

Issued in Austin, Texas, on February 22, 1994.

TRD-9436544 Arthur H Dilly
Executive Secretary to the Board
The University of Texas System

Filed February 22, 1994



The University of Texas Medical Branch at Galveston (UTMB) is pleased to announce the award of RFP Number 4-9, Employer Commute Option Program, to ETR Associates, Inc., pursuant to the provisions of Texas Civil Statutes, Article 6252-11C

ETR's principle address is 550 Westcott, Suite 385, Houston, Texas 77007. The amount of the contract is \$59,575. The project is scheduled to be completed by May 31, 1996

ETR will be responsible for developing an Employer Commute Option (ECO) Program that will enable UTMB to meet the required average passenger occupancy (APO) target of 141. Federal and State guidelines require the employers of over 400 employees have a compliance plan submitted by May 15, 1994 and that compliance be demonstrated by May 15, 1996. Further guidelines require that a maintenance plan be developed and that compliance continue to be demonstrated no less than once every two years

Issued in Austin, Texas, on February 22, 1994.

TRD-9436543 Arthur H Dilly
Executive Secretary to the Board
The University of Texas System

Filed: February 22, 1994



The University of Texas Medical Branch at Galveston (UTMB) is pleased to announce the award of RFP Number 4-10, Utility Cost Allocation Study, to KPMG Peat Marwick, pursuant to the provisions of Texas Civil Statutes, Article 6252-11C.

Peat Marwick's principle address is 2300 ARCO Tower, 707 17th Street, Denver, Colorado 80202. The amount of the contract is \$255,000. The project is scheduled to be completed by August 13, 1994

Peat Marwick will be responsible for conducting and completing a Utility Cost Allocation Study, in compliance with OMB Circular A-21. UTMB's objective for this project is to utilize the data obtained from the Study to negotiate an indirect overhead rate with the Department of Health and Human Services (DHHS) that will be applied to Federal Contracts and Grants for fiscal years 1995 and beyond

Peat Marwick will be responsible for completing all the requirements for this project and shall be available to assist in the indirect overhead cost negotiations with DHHS.

Issued in Austin, Texas, on February 22, 1994

TRD-9436541 Arthur H Dilly
Executive Secretary to the Board
The University of Texas System

Filed February 22, 1994



The University of Texas Medical Branch at Galveston (UTMB) is pleased to announce the award of RFP Number 4-8, Library Cost Analysis Study, to KPMG Peat Marwick, pursuant to the provisions of Texas Civil Statutes, Article 6252-11C

Peat Marwick's principle address is 2300 ARCO Tower, 707 17th Street, Denver, Colorado 80202. The amount of the contract is \$64,000. The project is scheduled to be completed by March 31, 1995.

Peat Marwick will be responsible for conducting and completing a Library Cost Analysis Study, in compliance with OMB Circular A-21. UTMB's objective for this project is to utilize the data obtained from the Study to negotiate an indirect overhead rate with the Department of Health and Human Services (DHHS) that will be applied to Federal Contracts and Grants for fiscal years 1995 and beyond.

Peat Marwick will be responsible for completing all the requirements for this project and shall be available to assist in the indirect overhead cost negotiations with DHHS.

Issued in Austin, Texas, on February 22, 1994

TRD-9436542

Arthur H. Dilly
Executive Secretary to the Board
The University of Texas System

Filed: February 22, 1994

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Texas Youth Commission
Monitor Program Levels of Care and
Review Youth Levels of Care

The Texas Youth Commission (TYC) is requesting written proposals for a service contract to Monitor Program Levels of Care and Review Youth Levels of Care.

Description The Monitor Program Levels of Care and Review Youth Levels of Care will provide facility LOC program monitoring, and initial verification and subsequent review of the level of care needed by children.

Eligible applicants include corporations, private non-profit agencies, private for profit agencies or individuals. The Texas Youth Commission encourages historically under-utilized businesses as defined in Article V, §106 of the

current Appropriations Act (Acts 1992, 72nd Legislature, First Called Session, 1991) to respond to this request for proposal Bids must be received no later than 5:00 p.m. Central Standard Time on March 21, 1994.

Evaluation and Selection. Proposals will be evaluated and selections based on the program description of services, applicant qualifications and past experience, reasonableness and competitiveness of cost and resources demonstrating ability of applicant to commence immediate services.

Contact Person. Bid packets and information may be obtained from Paula Morelock, Chief of Community Placement, Texas Youth Commission, P.O. Box 4260, Austin, Texas 78765, (512) 483-5093.

Closing Date The closing date for receipt of proposals is March 21, 1994, at 5:00 p.m. Central Standard Time.

Issued in Austin, Texas, on February 14, 1994.

TRD-9436457

Steve Robinson
Executive Director
Texas Youth Commission

Filed February 18, 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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