

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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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

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40 TAC §3.704.....950, 1820

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

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

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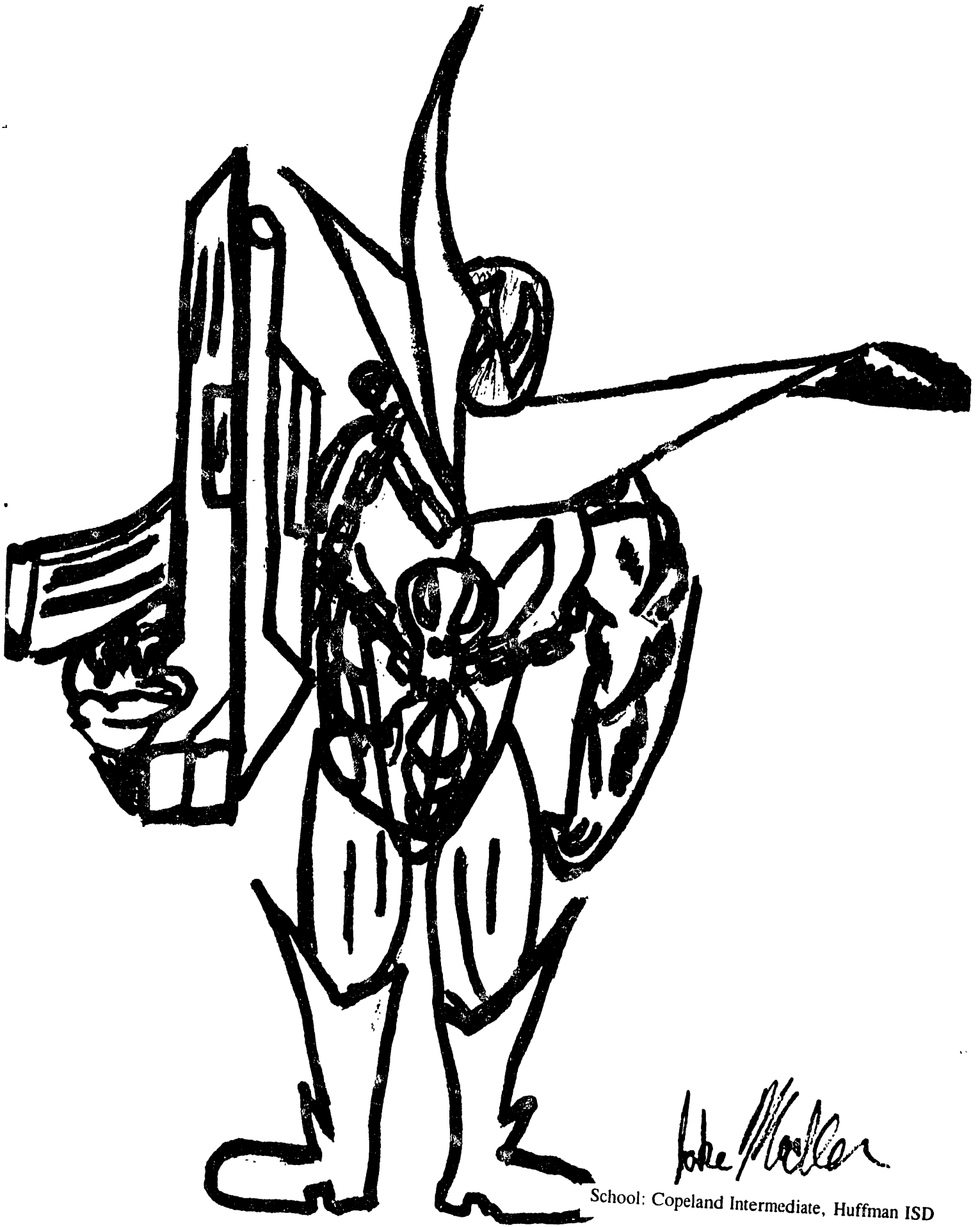
Name: Erica Gutierrez
Grade: 5
School: Copeland Intermediate, Huffman ISD

Erica Gutierrez



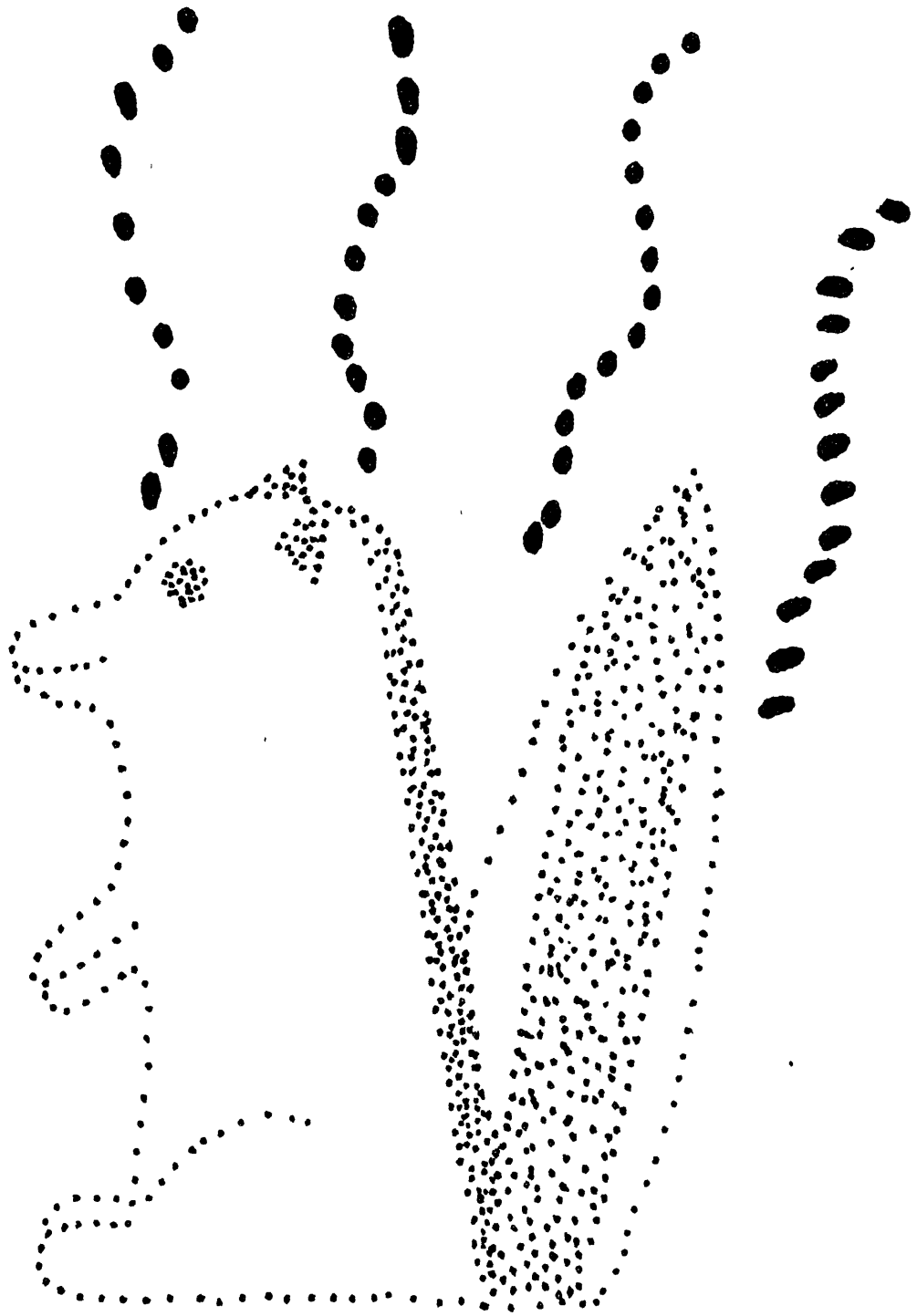
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Justin
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John Miller

School: Copeland Intermediate, Huffman ISD



Jennifer Durbin

Name: Jenifer Durbin
Grade: 4
School: Copeland Intermediate, Huffman ISD



Name: Kevin J. King
Grade: 11
School: Klein High School, Klein ISD

THE GOVERNOR

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

Appointments Made February 17, 1994

To serve as chair of the **Governing Board of the International Trade Commission** for a term at the pleasure of the Governor, J. David Bamberger of San Antonio. Mr. Bamberger will be replacing J McDonald Williams of Dallas as chair.

To be a member of the **Governing Board of the International Trade Commission** for a term to expire February 1, 1997: J. David Bamberger, 3500 Oakgate Drive, #402, San Antonio, Texas 78230 Mr Bamberger will be filling the unexpired term of J McDonald Williams of Dallas, who resigned

To be a member of the **Advisory Commission on State Emergency Communications** for a term to expire September 1, 1999: Patrick A Craven, 12800 Lazy Oak Cove, Buda, Texas 78610. Mr Craven is being reappointed

To be a member of the **Texas Commission on Human Rights** for a term to expire September 24, 1999. Lynn Ellen Rubinett, 802 Highland Avenue, Austin, Texas 78703 Ms Rubinett will be replacing Laura Zuniga of El Paso, whose term expired

To be members of the **Statewide Health Coordinating Council** pursuant to House Bill 1510, 73rd Legislature, for terms to expire August 31, 1995. Annabel Barker, 605 West 15th Street, Big Spring, Texas 79720; Nick U Curry, M.D., 4538 Byers, #12, Fort Worth, Texas 76107, Linda C Lopez, R.N., 11215 Whisper Sound, San Antonio, Texas 78230, Theresa Ruffing, 5512 Oak Wood Cove, #181, Austun, Texas 78731 and deSaussure M Trevino, Route 3, Box 167, Pharr, Texas 78577

To be members of the **Statewide Health Coordinating Council** for terms to expire August 31, 1997 Joan Wood Biggerstaff, 2502 Rockbrook, Plano, Texas 75074, Dana S Fitzsimmons, 6621 Fannin Street, Mail Code 1-2510, Houston, Texas 77030; Dr

John P Howe, III, M.D., 7703 Floyd Curl Drive, San Antonio, Texas 78284; Betty J (Gilley) Shunn, 3101 Chalon, Nacogdoches, Texas 75961, and Francisco J. Velazquez, 206 Honeysuckle Lane, San Antonio, Texas 78213

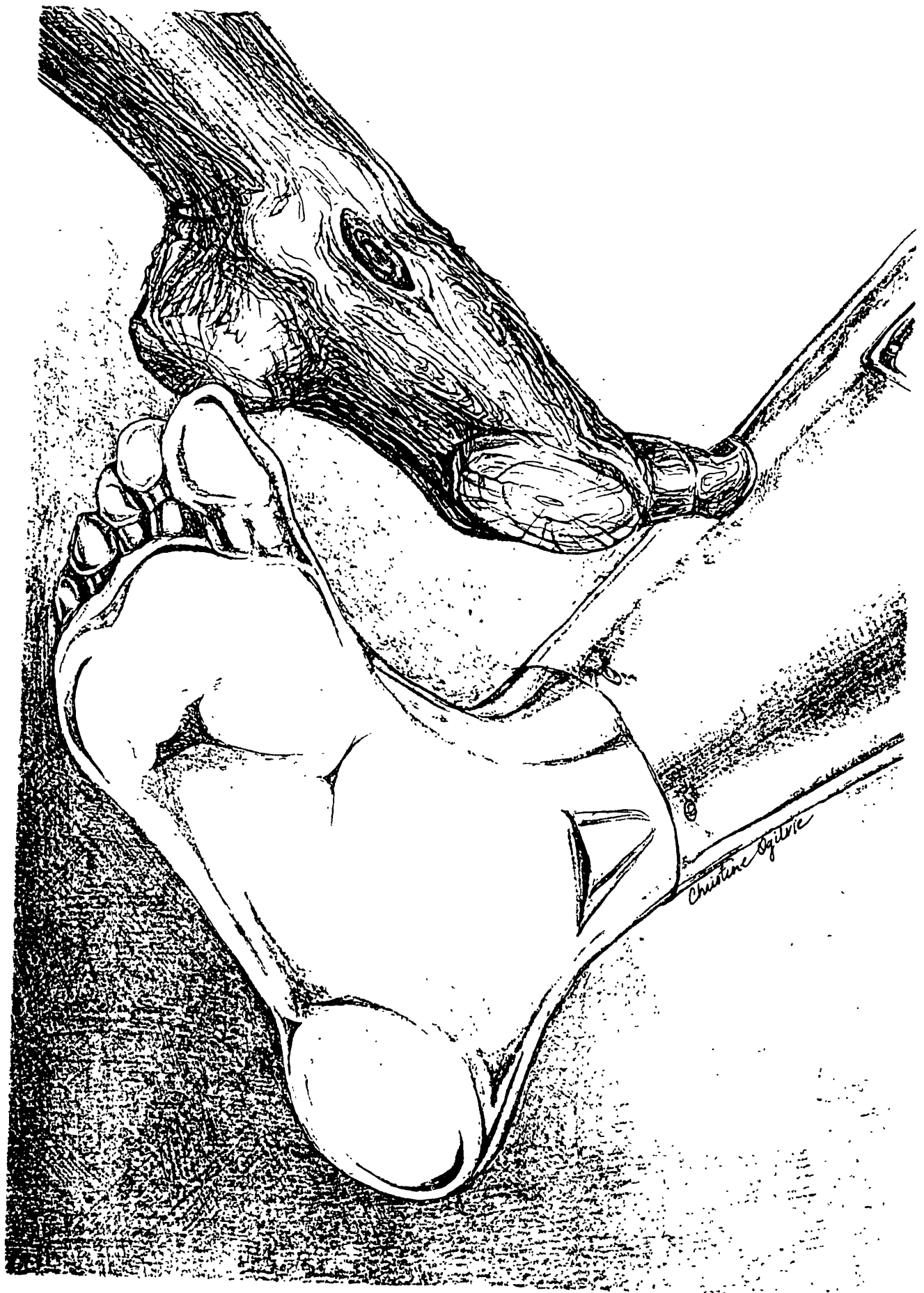
To be members of the **Statewide Health Coordinating Council** for terms to expire August 31, 1999 Barbara Ann Gonzalez, R.N., 1611 Morningside Drive, Alice, Texas 78332, Ann Kitchen, 1406 Alameda, Austin, Texas 78704, Man-Ja Lee, R.N., 205 Witt Road, Little Elm, Texas 75068, Polly L McFadden, 7040E Portugal, El Paso, Texas 79912; and Shirley McManigal, 5402 86th Street, Lubbock, Texas 79424

Issued in Austin, Texas, on February 24, 1994

TRD-9436654

Ann W Richards
Governor of Texas





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

Executive Order

AWR 94-15

WHEREAS, community service and volunteerism are at the heart of this state's spirit and strength; and

WHEREAS, encouraging citizens, organizations, and institutions to help solve our most critical problems by volunteering their time, effort, energy, and service enhances the long-term prosperity of Texas and promotes the capabilities of its people; and

WHEREAS, providing the opportunity to perform hands-on community service helps young people develop a sense of connection with their community and become more responsible citizens, and

WHEREAS, Congress passed and the President signed the National and Community Service Trust Act of 1993 to reward youth service with education grants; and

WHEREAS, there is a need for a comprehensive and coordinated effort to maximize available resources and foster the best volunteer service opportunities from which all Texans will benefit;

NOW, THEREFORE, I, Ann W. Richards, Governor of the State of Texas, by virtue of the power vested in me, do hereby create Texas State Commission on National Community Service, hereinafter referred to as the Commission.

The Commission is charged with the following responsibilities:

1. Encouraging community service and volunteer participation as a means of community and state problem-solving,
2. Promoting and supporting voluntary citizen involvement in government and private programs throughout the state;
3. Developing a comprehensive national and community service plan for the state that shall be updated annually; and
4. Serving as the state's liaison to the Corporation for National and Community Service and applying for funding under the National and Community Service Trust Act.

The total number of voting members on the Commission shall be at least 15, but not more than 25. The members of the Commission shall be appointed by the Governor and shall serve at the pleasure of the Governor. Not more than 50% plus one of the members of the Commission shall be from the same political party. The voting members of the Commission who are officers or employees of the state not exceed 25% of the total membership of the Commission. The voting members of the Commission shall select the Commission's chairperson by majority vote. The Commission shall include the following voting members and such other voting members as the Governor may appoint:

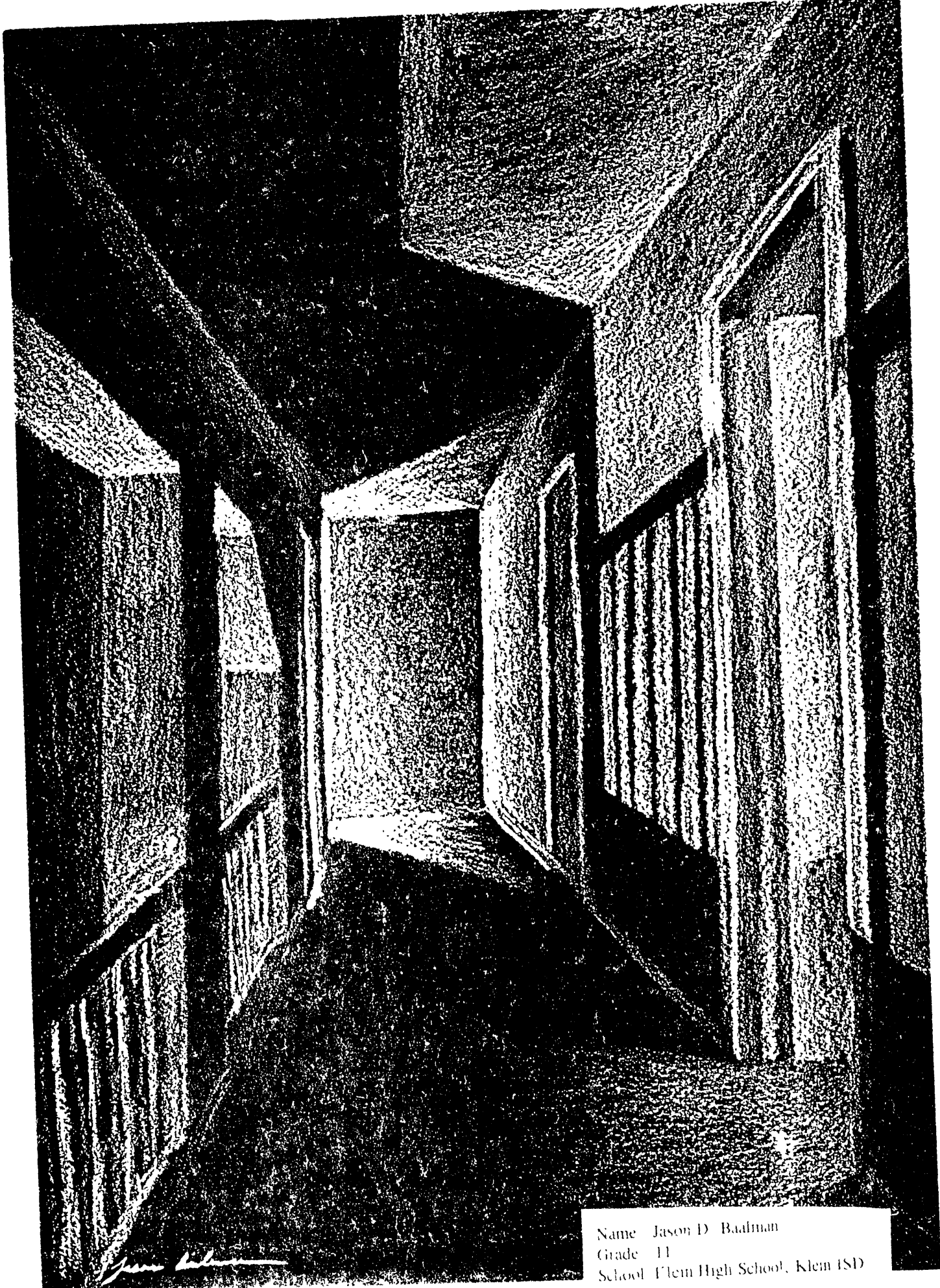
1. an individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth;
2. an individual with expertise in promoting the involvement of older adults in service and volunteerism;
3. a representative of community-based organizations within the state,
4. the head of the state educational agency;
5. a representative of local governments in the state,
6. a representative of local labor unions in the state,
7. a representative of business;
8. an individual between the ages of 16 and 25 who is a participant or supervisor in a service program; and
9. a representative of a national service program.

A member of the Commission is not entitled to compensation, but is entitled to reimbursement from the General Services Commission for travel expenses incurred in performing the duties of the Commission as provided for members of state boards and commissions in the General Appropriations Act.

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

TRD-9436655 Ann W. Richards
 Governor of Texas





Jason D. Badman

Name Jason D. Badman
Grade 11
School Klein High School, Klein ISD

EMERGENCY RULES

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 75. Investigations

Criminal Conviction Checks of Employees in Certain Facilities Serving the Elderly or Disabled

• 40 TAC §§75.1001, §75.1002

The Texas Department of Human Services is renewing the effectiveness of the emergency adoption of repealed, §75.1001 and §75.1002, for a 60-day period effective March 4, 1994. The text of repealed, §75.1001 and §75.1002, was originally published in the November 9, 1993, issue of the *Texas Register* (18 TexReg 8047)

Issued in Austin, Texas, on February 25, 1994

TRD-9436736 Nancy Murphy
Section Manager Document Control
Texas Department of Human Services

Effective date March 4, 1994

Expiration date. May 3, 1994

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



Chapter 76. Criminal History Check of Employees in Facility for Care of the Aged and Persons with Disabilities

Policy and Procedures

• 40 TAC §§76.101-75.108

The Texas Department of Human Services is renewing the effectiveness of the emergency adoption of new §§75.101-75.108 for a 60-day period effective March 4, 1994. The text of new §§75.101-75.108, was originally published in the November 9, 1993, issue of the *Texas Register* (18 TexReg 8047)

Issued in Austin, Texas, on February 25, 1994

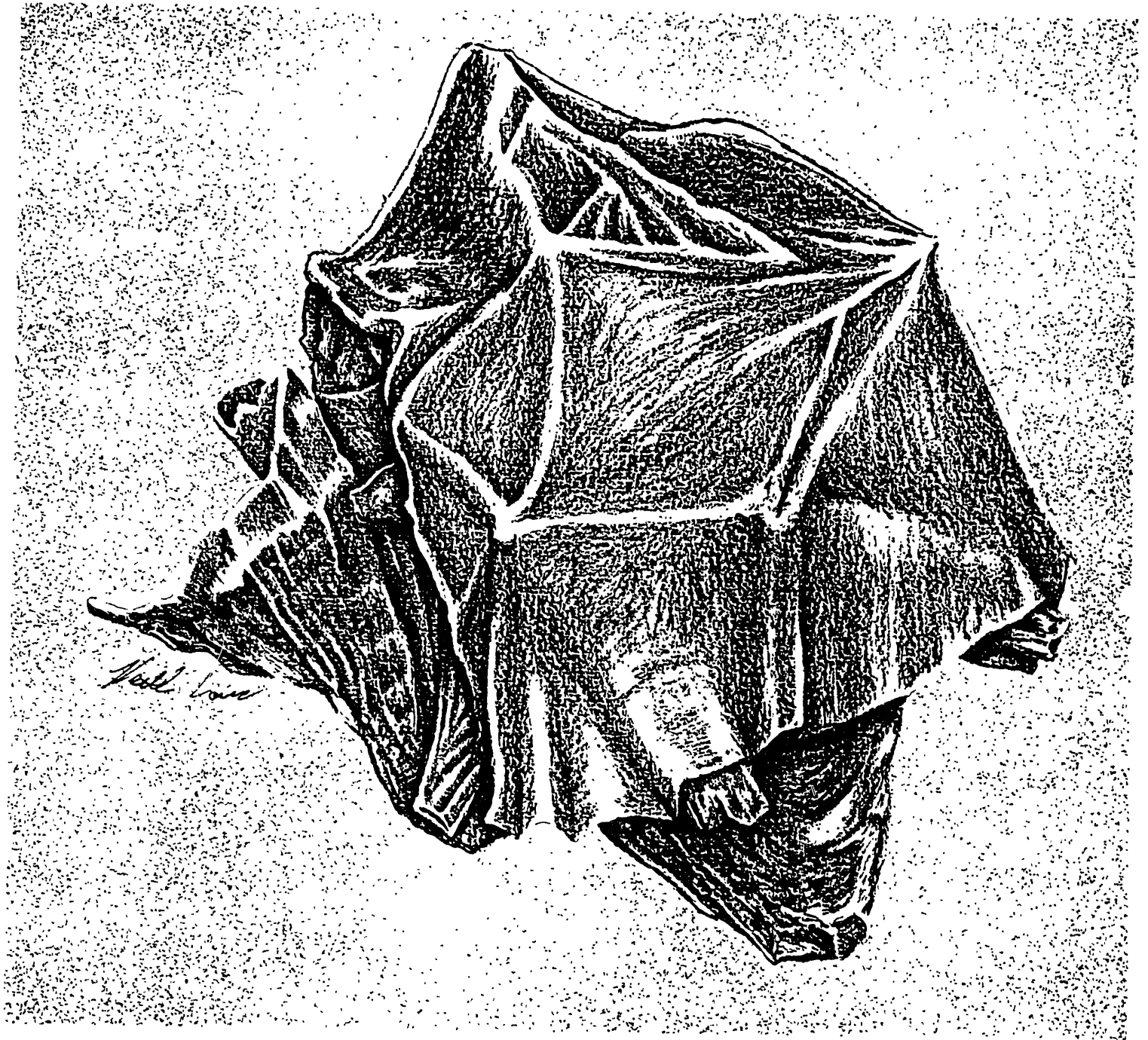
TRD-9436735 Nancy Murphy
Section Manager Document Control
Texas Department of Human Services

Effective date March 4, 1994

Expiration date May 3, 1994

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





Name: Keith A. Crowe
Grade: 12
School: Klein High School, Klein ISD

PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

Part V. General Services Commission

Chapter 113. Central Purchasing Division

Purchasing

• 1 TAC §113.2, §113.20

The General Services Commission proposes an amendment to §113.2, concerning definitions, and new §113.20, concerning group purchasing programs. The new section allows institutions of higher education to purchase through group purchasing programs that offer discount prices. The section also establishes procedures to be followed so that the commission may determine compliance with state laws and commission rules regarding purchasing with historically underutilized businesses (HUBs).

Pat Martin, director for purchasing, has determined that there will be fiscal implications as a result of enforcing or administering the sections. There will be no additional costs to state and local governments for the first five-year period the amendments are in effect. It is anticipated that costs to state and local governments will be reduced as a result of administering the new section; however, precise savings cannot be determined at this time.

Ms. Martin also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of administering the amendments will be greater flexibility and increased discounts for institutions of higher education in the purchase of materials, supplies and equipment. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Judith M. Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment and new section are proposed under Texas Civil Statutes, Article

601b, §3.061, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of the section.

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

Group purchasing programs—A purchasing program that offers discount prices to institutions of higher education.

§113.20. Group Purchasing Programs

(a) An institution of higher education, as defined by the Education Code, §61.003, may purchase of materials, supplies or equipment through group purchasing programs in accordance with this section.

(b) Before making a particular purchase through a group purchasing program, a requesting institution must notify the commission in writing that the purchase is being considered. The notification must be signed by the chief purchasing officer for the institution. The notification must include a complete description of the purchase, the vendor's name, quantity and price information, the terms and conditions of the contract, and any other information required by the commission.

(c) If the commission determines that a lower price is available through the commission, it will so inform the requesting institution within ten working days after receipt of the notification. Upon receipt of information that a lower price is available, the institution may utilize established purchasing procedures for the purchase.

(d) An institution that participates in a group purchasing program must maintain, and compile monthly, information relating to the institution's use, and the use by each operating division of the institution, of historically underutilized businesses, including information regarding subcontractors and suppliers. Institutions shall require a contractor or supplier to whom the institution has awarded a contract to report to the

institution the identity and the amount paid to each historically underutilized business to whom the contractor or supplier has awarded a subcontract for the purchase of supplies, materials or equipment.

(e) An institution that participates in group purchasing programs must submit a report to the commission, not later than March 15 of each year regarding the previous six-month period and September 15 of each year regarding the preceding fiscal year, of purchases from historically underutilized businesses that are made through the group purchasing programs

(f) An institution participating in group purchasing programs shall adhere to the same ethical standards required of commission employees as set forth in §111.4 of this title (relating to Ethical Standards).

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-9436647

Judith Monaco Porras
General Counsel
General Services
Commission

Earliest possible date of adoption April 4, 1994

For further information, please call: (512) 463-3583

Surplus Property Sales

• 1 TAC §113.73

The General Services Commission proposes an amendment to §113.73, concerning sale of surplus firearms. This action is proposed to address concerns raised by internal audit, namely, to ensure that the sale of surplus firearms is not made to persons with criminal backgrounds

Sal Valdez, director, Intergovernmental Programs Division, has determined that for the first five-year period the amendment is in effect there will be no fiscal implication for state or local government as a result of enforcing or administering the section.

Mr. Valdez also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be the improvement of safeguards for disposal of surplus firearms.

Comments on the proposal may be submitted to Judith M. Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*. There is no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rule as proposed.

The amendment is proposed under Texas Civil Statutes, Article 601, §9.09, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of Article 9.

§113.73 Sale and Disposition of Surplus and Salvage Property.

(a)-(d) (No change)

(e) Methods of disposing of surplus or salvage property. If no entity described in section (c) of this section desires to receive any property reported as surplus or salvage, the commission may dispose of the property by sealed bids or auction, or delegate to the state agency having possession of the property the authority to sell the property on a competitive bid basis. The commission will maintain a mailing list of companies or individuals who have indicated a desire to bid on surplus or salvage property and have made application. Names may be deleted from the mailing list for failure to bid, failure to make payment for or remove from state property in a timely manner, items on which they were the successful bidder, or failure to renew the mailing list application. Once a bidder has been removed, he may not be reinstated to the bid list except after presentation of a formal request for reinstatement to the Director for Purchasing which results in a favorable recommendation for reinstatement. The commission or the agency shall assess and collect from the purchaser a 2.5% fee over and above the proceeds from the sale of the property to recover the costs associated with the sale of the property. [The purchaser of a surplus firearm other than a shotgun or rifle, must not be less than 21 years of age.] **The purchaser of a surplus firearm must be a licensed firearms dealer.**

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

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

Issued in Austin, Texas, on February 22, 1994

TRD-9436646

Judith M. Porras
General Counsel
General Services
Commission

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 463-3583

◆ ◆ ◆
Chapter 121.
Telecommunications Services
Division

• 1 TAC §121.5, §121.9

The General Services Commission proposes amendments to §121.5 and §121.9, concerning the General Services Commission retention of telephone records. These amendments are proposed to require the commission to retain long distance telephone call detail, and to remove requirements for retaining local call detail.

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

Mr. Poulard also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of administering the amendments will be a reduction of agencies' record retention costs, and clearer rules that define the commission's responsibility to retain long distance telephone call detail for all agencies. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rules as proposed.

Comments on the proposal may be submitted to Judith M. Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of the Article.

§121.5 TEX-AN Billing Process

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

(c) The Telecommunications Services Division will accumulate all charges for TEX-AN service and bill the using agencies on a monthly or other regular basis. The bill will include the following:

(1) charges for long distance services based on a proration by each using agency of total network costs to provide each service. Prorations shall be based on the total usage of each service in minutes and the costs for circuits needed to access the services. An agency may install at its own expense automatic numbering equipment or similar function equipment to obtain amplified data for internal distribution

of TEX-AN call usage for select locations. In any case, the actual billing for TEX-AN long distance service by the commission and payment will be on the basis of usage and other costs which may be attributed to the provision of each service. Measures shall also be taken to assure that all costs associated with providing service to nonstate entities are recovered from each nonstate entity through the monthly billing system. All long distance call detail records are maintained by the commission for all TEX-AN using agencies for a period of 4 years. Agencies should not retain duplicates, but may destroy the copy of call detail records provided periodically for billing purposes after the agency has verified and paid its bill. [30 days after the date the interagency transaction vouchers are mailed; thereafter, the records are destroyed. Agencies who find it necessary to request duplicates of bills must therefore send their requests to the Telecommunications Services Division prior to expiration of the 30-day retention period.]

(2)-(5) (No change.)

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

§121.9. Centralized Capitol Complex Telephone System

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

(c) The Telecommunications Services Division of the Commission will accumulate all charges for services and equipment provided on the centralized telephone system and bill the using agencies on a monthly basis. An overhead charge for the operation of the system by the Commission shall be prorated to the using agencies on an actual cost basis. **Local call detail records are not required for centralized capitol complex telephone service billing, and no such records are maintained by the commission.** [The using agency is the owner and custodian of all call detail records accompanying the monthly centralized telephone service bill and the Commission shall not release such records for any purpose without the written permission of the using agency.]

(d)-(h) (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 22, 1994.

TRD-9436648

Judith Monaco Porras
General Counsel
General Services
Commission

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 463-3583

TITLE 7. BANKING AND SECURITIES

Part IV. Texas Savings and Loan Department

Chapter 63. Fees and Charges

• 7 TAC §63.14

The Texas Savings and Loan Department proposes an amendment to §63.14, concerning the fee for conversion to a Federal charter. The language change has been proposed to apply to conversion into a state or national bank, or a federal savings association.

James L. Pledger, Commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of the proposed amendment of the rule.

Mr. Pledger also has determined that for each year of the first five years there will be no significant public benefit anticipated as a result of amending the rule. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the rule as amended is zero. James L. Pledger, Commissioner, has determined that the proposed amendment of the rule will have no local employment impact.

Comments on the proposal may be submitted to James L. Pledger, Commissioner, Texas Savings and Loan Department, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

The amendment is proposed under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same.

§63.14. Fee for Conversion Into Another Financial Institution. [to Federal Charter]

The commissioner shall collect a filing fee of \$5,000 for each application filed pursuant to Chapter 69 of this title (relating to Reorganization, Merger, Consolidation, Acquisitions and Conversions) for conversion into a state or national bank, a federal savings and loan association, or a federal savings bank [to a federal] charter.

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 25, 1994.

TRD-9436742

James L. Pledger
Commissioner
Texas Savings and Loan
Department

Earliest possible date of adoption. April 4, 1994

For further information, please call (512) 475-1350

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.13

The State Securities Board proposes an amendment to § 109.13, concerning employee plan advertising, to correct an inconsistency in the rule.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the elimination of inconsistent language contained in the rule. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms, classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

The proposed amendment affects Texas Civil Statutes, Article 581-5.1

§109.13 Limited Offering Exemptions.

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

(f) Employee Plan Advertising. No public solicitation or advertisement under §5 I occurs by the [sale or] distribution to eligible employees, officers, or directors of the employer or its subsidiaries, parents or subsidiaries of such parents, of a prospectus filed under the Securities Act of 1933 with the Securities and Exchange Commission for the plan or any other material required or permitted to be distributed by the Securities Act of 1933 in connection with such plan when the securities under the plan are sold or distributed in a transaction otherwise meeting the requirements of §5 I(b).

(g)-(l) (No change.)

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

Issued in Austin, Texas, on February 24, 1994.

TRD-9436686

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call. (512) 305-8300

• 7 TAC §109.17

The State Securities Board proposes an amendment to §109.17. The amendment adds Texas chartered limited banking associations to the list of financial institutions recognized in the Securities Act, §5.L, predicated on the assurance that these entities, organized pursuant to the provisions of House Bill 1212, 73rd Legislature, 1993, will be regulated in the same manner as are traditional banking entities.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt has also determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be the elimination of unnecessary duplicative regulation. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

The proposed amendment affects Texas Civil Statutes, Article 581-5.L

§109.17. [Savings] Banks under The Securities Act, §5L.

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

(c) The phrase "any bank organized and subject to regulation ... under the laws of any State or territory of the United States" shall include any Texas state chartered limited banking association.

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 24, 1994.

TRD-9436687 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

◆ ◆ ◆
Chapter 117. Administrative
Guidelines for Registration
of Real Estate Programs

• 7 TAC §§117.1-117.5

The State Securities Board proposes amendments to §§117.1-117.5, concerning administrative guidelines for real estate programs. The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators' Association, Inc. (NASAA) real estate guidelines. Other changes have been made to correct typographical errors in the existing guidelines.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be continued uniformly with other states in applying standards for registration of real estate program offerings. The revised suitability standards of the proposed amendments will serve to better protect investors in real estate programs. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

The proposed amendments affect Texas Civil Statutes, Article 581-7.

§117.1. Introduction.

(a) (No change.)

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

(1)-(13) (No change.)

(14) Construction fee—A fee or other remuneration for acting as general contractor and/or construction manager to construct improvements, supervise, and coordinate projects or to provide major repairs or rehabilitation on a program's property.

(15)-(19) (No change.)

(20) Investment in properties—The amount of capital contributions used to make or invest in mortgage loans or the amount actually paid or allocated to the purchase, development, construction, or improvement of properties acquired by the program, (including the purchase of properties, working capital reserves allocable thereto (except that working capital reserves in excess of 5.0% shall not be included), and other cash payments such as interest and taxes but excluding front-end fees.)

(21)-(31) (No change.)

(32) Prospectus—Shall have the meaning given to that term by the Securities Act of 1933, §2(10), including a preliminary prospectus ; [.] provided, however, that such term as used herein shall also include an offering circular as described in the Securities Act of 1933, Rule 256, or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.

(33)-(37) (No change.)

§117.2. Requirements of Sponsors.

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

(f) Terminated sponsor.

(1) (No change.)

(2) The method of payment to the terminated sponsor must be fair, [.] and must protect the solvency and liquidity of the partnership. Where the termination is voluntary, the method of payment will be deemed presumptively fair where it provides for a non-interest [noninterest] bearing unsecured promissory note with principal payable, if at all, from distributions which the terminated sponsor otherwise would have received under the partnership agreement had the sponsor not terminated. Where the termination is involuntary, the method of payment will be deemed presumptively fair where it provides for an interest bearing promissory note coming due in no less than 5 years with equal installments each year.

§117.3. Suitability of Participants [the Participant].

(a) General Policy. [Standards to be imposed. Given the limited transferability, the relative lack of liquidity, and the degree of risk associated with an investment in real estate programs, the sponsor and its

selling representatives should be cautious concerning the persons to whom such securities are marketed. Suitability standards for investors will, therefore, be imposed which are reasonable in view of the foregoing and of the type of program to be offered. Sponsors will be required to set forth in the prospectus the investment objectives of the program, a description of the type of person who could benefit from the program, and the suitability standards to be applied in marketing it.]

(1) The sponsor shall establish minimum income and net worth standards for persons who purchase program interests.

(2) The sponsor shall propose minimum income and net worth [suitability] standards which are reasonable given the type of program and the risks associated with the purchase of program interests. Programs with greater investor risk shall have minimum standards with a substantial net worth requirement. The [proposed by the sponsor will be reviewed for fairness by the] Securities Commissioner shall evaluate [in processing the application. In determining how restrictive] the standards proposed by the sponsor when the program's application for registration is reviewed. In evaluating the proposed standards, the Securities Commissioner may consider the following: [must be, special attention will be given to the existence of such factors as]

(A) the program's use of [high] leverage; [.]

(B) tax implications; [.]

(C) mandatory deferred payments ; [.]

(D) assessments;

(E) balloon payment financing; [.]

(F) [excessive] investments in unimproved land ; [.] and]

(G) potential variances in [uncertain or no] cash distributions; [flow from program property. Programs which involve more than ordinary investor risk should emphasize suitability standards involving substantial net worth of the investor.]

(H) potential participants;

(I) relationship between potential participants and the sponsor;

(J) liquidity of program interests;

(K) performance of sponsor's prior programs;

(L) financial condition of the sponsor;

(M) potential transactions between the program and the sponsor; and

(N) any other relevant factors.

(b) Income and Net Worth Standards.

(1) For programs other than programs with mandatory deferred payments, unless the Securities Commissioner determines that the risks associated with the program would require lower or higher standards, each participant shall have:

(A) a minimum annual gross income of \$45,000 and a minimum net worth of \$45,000; or

(B) a minimum net worth of \$150,000.

(2) For programs with mandatory deferred payments, unless the Securities Commissioner determines that the risks associated with the program would require lower or higher standards, each participant shall have:

(A) a minimum annual gross income of \$60,000 and a minimum net worth of \$60,000; or

(B) a minimum net worth of \$225,000.

(3) Net worth shall be determined exclusive of home, home furnishings, and automobiles.

(4) In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the program interests if the donor or grantor is the fiduciary.

(5) The sponsor shall set forth in the final prospectus:

(A) the investment objectives of the program;

(B) a description of the type of person who might benefit from an investment in the program; and

(C) the minimum standards imposed on each participant in the program.

(c)[(b)] Determination that Sale [Sales] to Participant is Suitable and Appropriate [Persons].

(1) The sponsor and each person selling program interests on behalf of the sponsor or program shall make every reasonable effort to determine [assure] that the purchase of [those persons being offered or sold the] program interests is a [are] suitable and [, considering the standards set forth as required in subsection (a) of this section, and the program interests are] appropriate [for the customers'] investment for each participant. [objectives and financial situation The sponsor or his representatives shall ascertain that the investor can reasonably benefit from the program, and the following shall be evidence thereof:]

[(1) the investor has the capacity to understand the fundamental aspects of the program, which capacity may be evidenced by the following:

[(A) the nature of employment experience;

[(B) educational level achieved;

[(C) access to advice from qualified sources, such as attorney, accountant, and tax adviser;

[(D) prior experience with investments of a similar nature.]

(2) In making this determination, the sponsor or each person selling program interests on behalf of the sponsor or program [his representatives] shall ascertain that the prospective participant [investor has apparent understanding]:

(A) meets the minimum income and net worth standard established for the program;

(B) can reasonably benefit from the program based on the prospective participant's overall investment objectives and portfolio structure;

(C) is able to bear the economic risk of the investment based on the

prospective participant's overall financial situation; and

(D) has apparent understanding of:

(i) [(A) of] the fundamental risks [and possible financial hazards] of the investment;

(ii) the risk that the participant may lose the entire investment;

(iii) [(B) of] the lack of liquidity of program interests [this investment];

(iv) the restrictions on transferability of program interests;

(v)[(C)] the background and qualifications of the sponsor or persons responsible for directing and managing the program [that the investment will be directed and managed by the sponsor]; and

(vi) [(D) of] the tax consequences of the investment.

(3) The sponsor or each person selling program interests on behalf of the sponsor or program will make this determination on the basis of information it has obtained from a prospective participant. Relevant information for this purpose will include at least the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective participant, as well as any other pertinent factors. [the participant can reasonably benefit from the program in view of his overall investment objectives and portfolio structure.]

(4) The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain records of the information used to determine that an investment in program interests is suitable and appropriate for each participant. The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain these records for at least 6 years. [the participant is able to bear the economic risk of the investment. For purposes of determining the ability to bear the economic risk, unless the Securities Commissioner approves a lower suitability standard, participants shall have a minimum annual gross income of \$45,000 and a net worth of \$45,000, or in the alternative, a net worth of \$150,000. As provided in subsection (a) of this section higher suitability standards may be required. In the case of sales to fiduciary accounts, the suitability standards shall be met by the fiduciary, or by the fiduciary account, or by a donor who directly or indirectly supplies the funds to purchase the program interests. Net worth

shall be determined exclusive of home, home furnishings, and automobiles.]

(5) The sponsor shall disclose in the final prospectus the responsibility of the sponsor and each person selling program interests on behalf of the sponsor or program to make every reasonable effort to determine that the purchase of program interests is a suitable and appropriate investment for each participant, based on information provided by the participant regarding the participant's financial situation and investment objectives.

[(c) Maintenance of Records. The sponsor shall maintain a record of the information obtained to indicate that a participant meets the suitability standards employed in connection with the offer and sale of its interests and a representation of the participant that he is purchasing for his own account or, in lieu of such representation, information indicating that the participants for whose account the purchase is made meet such suitability standards. Such information may be obtained from the participant through the use of a form which sets forth the prescribed suitability standards in full and which includes a statement to be signed by the participant in which he represents that he meets such suitability standards and is purchasing for his own account. However, where the offering is underwritten or sold by a broker-dealer, the sponsor shall obtain a commitment from the broker-dealer to maintain the same record of information required of the sponsor.]

(d) Subscription Agreements.

(1) The Securities Commissioner may require that each participant complete and sign a written subscription agreement.

(2) The sponsor may require that each participant make certain factual representations in the subscription agreement, including the following:

(A) The participant meets the minimum income and net worth standards established for the program.

(B) The participant is purchasing the program interests for his or her own account.

(C) The participant has received a copy of the prospectus.

(D) The participant acknowledges that the investment is not liquid.

(3) The participant must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the

participant may not grant any person a power of attorney to make such representations on his or her behalf.

(4) The sponsor and each person selling program interests on behalf of the sponsor or program shall not require a participant to make representations in the subscription agreement which are subjective or unreasonable and which:

(A) might cause the participant to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

(B) would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the participant.

(5) Prohibited representations include, but are not limited to the following:

(A) The participant understands or comprehends the risks associated with an investment in the program.

(B) The investment is a suitable one for the participant.

(C) The participant has read the prospectus.

(D) In deciding to invest in the program, the participant has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

(6) The sponsor may place the content of the prohibited representations in the subscription agreement in the form of disclosures to the participant. The sponsor may not place these disclosures in the participant representation section of the subscription agreement.

(e) Completion of Sale.

(1) The sponsor or any person selling program interests on behalf of the sponsor or program may not complete a sale of program interests to a participant until at least five business days after the date the participant receives a final prospectus.

(2) The sponsor or the person designated by the sponsor shall send each participant a confirmation of his or her purchase.

(f) Minimum Investment. The Securities Commissioner may require a minimum initial and subsequent cash investment amount.

§117.4. Fees-Compensation-Expenses.

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

(c) Investment in properties.

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

(4) For programs whose total capital contributions do not exceed \$2 million, the Securities Commissioner may reduce the required amount of investment in properties to that permitted by paragraph (2)(B) of this subsection, notwithstanding the level of indebtedness encumbering the program's properties. To calculate the percent of financing of program properties in paragraph (2) of this subsection, divide the amount of financing by the purchase price of the property, excluding front-end fees. The quotient is multiplied by .1625% to determine the percentage to be deducted from 80%. The following are examples of application of the formula using capital contributions of \$1 million in each case:

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

(5) Notwithstanding the language in paragraph (4) of this subsection, the \$2 million limitation is intended to be a benchmark figure and may be adjusted upward or downward by the Securities Commissioner based on the marketplace in his or her jurisdiction.

(d)-(j) (No change.)

§117.5. Conflicts of Interest and Investment Restrictions.

(a)-(m) (No change.)

(n) Program indebtedness.

(1) (No change.)

(2) For programs which own properties financed by [:

[(A)] loans insured or guaranteed by the full faith and credit of the United States government, or of a state or local government, or by an agency or instrumentality of any of them, and/or

[(B)] loans received from any of the foregoing entities, the following requisites apply. Following [following] the termination of the offering the total amount of indebtedness incurred by the program shall at no time exceed the sum of 100% of the aggregate purchase price of all properties which have not been refinanced, and 100% of the aggregate fair market value of all refinanced properties as determined by the lender as of the date of refinancing.

(3)-(4) (No change.)

(o) (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 24, 1994.

TRD-9436688

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

◆ ◆ ◆
**Chapter 121. Administrative
Guidelines for Registration
of Oil and Gas Programs.**

• 7 TAC §§121.3, 121.4, 121.10

The State Securities Board proposes amendments to §§121.3, 121.4, and 121.10, concerning administrative guidelines for oil and gas programs. The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators' Association, Inc. (NASAA) oil and gas guidelines. Other changes have been made to correct minor typographical errors in the existing guidelines.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr Northcutt also has determined that for each year of the first five years the rules are in effect the public benefits anticipated as a result of enforcing the rules will be continued uniformly with other states in applying standards for registration of oil and gas program offerings. The revised suitability standards of the proposed amendments will serve to better protect investors in oil and gas programs. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes

The proposed amendments affect Texas Civil Statutes, Article 581-7

§121.3. Selling of Units and Sales Material

- (a) (No change.)
- (b) Sales material.
 - (1) (No change.)

(2) Sales literature. Sales literature, including without limitation, books, pamphlets, movies, slides, article reprints, and television and radio commercials, sales presentations (including prepared presentations to prospective participants at group meetings) and all other advertising used in the offer or sale of units shall conform in all applicable aspects to filing, disclosure and adequacy requirements currently imposed on the sale of corporate securities under applicable regulations. When periodic or other reports, except those required by and filed with the Securities and Exchange Commission, furnished to participants in prior programs are furnished to prospective participants in a program not yet sold, such reports will be treated as sales literature subject to the preceding requirements. Statements made in sales literature may not conflict with, or significantly modify, risk factors or other statements made in the prospectus. Sales literature shall not be so excessive in size or amount as to detract from the prospectus, nor shall any sales literature be used by securities broker-dealers or agents unless such literature has been approved by the sponsor in writing and incorporates, if the Securities Commissioner so requests, disclosure of the participant suitability standards imposed by §121.4 of this title (relating to Suitability of Participants [the Participant]).

(3)-(4) (No change.)

§121.4. Suitability of Participants [the Participant].

(a) General Policy [Standards].

(1) The sponsor shall establish minimum income and net worth standards for persons who purchase program interests. [In view of the limited transferability, the relative lack of liquidity, the high risk of loss, and the specific tax orientation of many oil and gas programs, suitability standards, which are reasonably related to the risks to be undertaken, will be required for the participants, and they must be set forth both in the prospectus and in a written instrument to be executed by each participant.]

(2) The sponsor shall propose minimum income and net worth standards which are reasonable given the type of program and the risks associated with the purchase of program interests. Programs with greater investor risk shall have minimum standards with a substantial net worth requirement. The Securities Commissioner shall evaluate the standards proposed by the sponsor when the program's application for registration is reviewed. In evaluating the proposed standards, the Securities Commissioner may consider the following: [The sponsor and each person selling

program interests on behalf of the sponsor or program shall make every reasonable effort to assure that those persons being offered or sold the program interests are appropriate in light of the suitability standards set forth as follows and the investment is consistent with the customers' investment objectives and financial situations. In the case of sales to fiduciary accounts, the suitability standards may be met by the account or by each beneficiary of the account. Where the fiduciary is the donor of the funds for investment in the program, the suitability standards may be met by the fiduciary.]

- (A) the program's use of leverage;
- (B) tax implications;
- (C) mandatory deferred payments;
- (D) assessments;
- (E) potential variances in cash distributions;
- (F) potential participants;
- (G) relationship between potential participants and the sponsor;
- (H) liquidity of program interests;
- (I) performance of sponsor's prior programs;
- (J) financial condition of the sponsor;
- (K) potential transactions between the program and the sponsor; and
- (L) any other relevant factors.

[(3) Persons selling program units shall make every reasonable effort to assure that the participants specifically understand the following (when applicable):

- [(A) the risks involved in the offering, including the speculative nature of the investment;
- [(B) the financial hazards involved in the offering, including the risk of losing their entire investment;

[(C) the lack of liquidity of program units;

[(D) the restrictions on transferability of program units,

[(E) the background and qualifications of the sponsor and/or the manager or persons responsible for the offering,

[(F) the tax consequences of the investment, and

[(G) the unlimited liability associated with working interests or general partnership offerings]

(b) **Income and Net Worth Standards** [Suitability Standards for Drilling Programs]

(1) For income programs or programs that utilize at least 90% of capital contributions and funds borrowed (excluding organization and offering expenses) in providing completion financing, debt financing, or making other types of oil and gas investments, unless [purposes of determining the participant's ability to bear the various risks associated with a limited partnership investment, unless the circumstances warrant and] the Securities Commissioner determines that the risks associated with the program would require lower or higher standards, each [establishes another standard, the] participant shall have:

(A) a minimum annual gross income of \$45,000 and a minimum net worth of \$45,000 [\$225,000 or more (exclusive of home, furnishings, and automobiles)], or

(B) a minimum net worth of \$150,000 [\$60,000 or more (exclusive of home, furnishings, and automobiles) and shall have had during the last tax year, or estimates that he or she shall have during the current tax year, "taxable income" as defined in the Internal Revenue Code of 1986, §63, as amended, of \$60,000 or more, without regard to the investment in the program]

(2) For drilling programs which provide the participant with statutory protection against unlimited liability, unless the Securities Commissioner determines that the risks associated with the program would require lower or higher standards, each participant shall have:

(A) a minimum annual gross income of \$60,000 and a minimum net worth of \$60,000; or

(B) a minimum net worth of \$225,000.

(3)[(2)] For drilling programs [purposes of determining the participant's ability to bear the various risks associated with an investment in a general partnership or other offering in] which do not provide the participant with [is not provided] statutory protection against unlimited liability, unless the Securities Commissioner determines that the risks associated with the program would [may] require [a] lower or higher standards, each participant shall have [suitability standard. The following higher standard will be considered presumptively reasonable]

(A) a minimum [an individual or joint] net worth [with his or her spouse] of \$225,000 [or more], without regard to the investment in the program, and a minimum annual gross income of \$100,000 for the current year and for the two previous years; or [(exclusive of home, home furnishings, and automobiles) and a combined "taxable income" as defined in the Internal Revenue Code of 1986, §63, as amended, of \$100,000 or more for the current year and for the two previous years.]

(B) a minimum [an individual or joint] net worth [with his or her spouse] in excess of \$1 million, inclusive of home, home furnishings, and automobiles; or

(C) a minimum [an individual or joint] net worth [with his or her spouse in excess] of \$500,000 [, exclusive of home, home furnishings, and automobiles] , or

(D) a minimum annual gross income [combined "gross income" as defined in the Internal Revenue Code of 1986, §61, as amended, in excess] of \$200,000 in the current year and the two previous years

(4) Unless otherwise specified, net worth shall be determined exclusive of home, home furnishings, and automobiles.

(5) In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the program interests if the donor or grantor is the fiduciary.

(6) The sponsor shall set forth in the final prospectus:

(A) the investment objectives of the program;

(B) a description of the type of person who might benefit from an investment in the program; and

(C) the minimum standards imposed on each participant in the program.

(c) **Determination that Sale to Participant is Suitable and Appropriate.** [Suitability Standards for Other Types of Programs. In the case of income programs or programs that utilize at least 90% of capital contributions and funds borrowed (excluding organization and offering expenses) in providing completion financing, debt financing, or making other types of oil and gas investments, unless circumstances warrant and the Securities Commissioner establishes another standard, the participant shall have:]

(1) The sponsor and each person selling program interests on behalf of the sponsor or program shall make every reasonable effort to determine that the purchase of program interests is a suitable and appropriate investment for each participant. [a net worth of \$150,000 or more (exclusive of home, furnishings, and automobiles), or]

(2) In making this determination, the sponsor or each person selling program interests on behalf of the sponsor or program shall ascertain that the prospective participant: [a net worth of \$45,000 (exclusive of home, furnishings, and automobiles) and a taxable income in the current year of \$45,000 or more.]

(A) meets the minimum income and net worth standard established for the program;

(B) can reasonably benefit from the program based on the prospective participant's overall investment objectives and portfolio structure;

(C) is able to bear the economic risk of the investment based on the prospective participant's overall financial situation; and

(D) has apparent understanding of:

(i) the fundamental risks of the investment;

(ii) the risk that the participant may lose the entire investment;

(iii) the lack of liquidity of program interests;

(iv) the restrictions on transferability of program interests;

(v) the background and qualifications of the sponsor or the person responsible for directing and managing the program;

(vi) the tax consequences of the investment; and

(vii) the unlimited liability associated with working interest or general partnership offerings.

(3)[(d)] The sponsor or each person selling program interests on behalf of the sponsor or program will make this determination on the basis of information it has obtained from a prospective participant. Relevant information for this purpose will include at least the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective participant, as well as any other pertinent factors. [Mitigating factors with respect to suitability standards. In the presence of mitigating factors, the Securities Commissioner may approve any offering with participant suitability standards different from those contained in subsections (b) and (c) of this section. The Securities Commissioner may take into consideration the identity of the participants, an alternative type of suitability standard to be employed, the relationship of the participants to the sponsor, the knowledgeability of the participants, the legal, business, technical and accounting advice available to and utilized by the participants, the marketability of the program units, the prior performance of the sponsor, the additional obligations and financial condition of the sponsor, and any other factors deemed relevant.]

(4) The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain records of the information used to determine that an investment in program interests is suitable and appropriate for each participant. The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain these records for at least six years.

(5) The sponsor shall disclose in the final prospectus the responsibility of the sponsor and each person selling program interests on behalf of the sponsor or program to make every reasonable effort to determine that the purchase of program interests is a suitable and appropriate investment for each participant, based on information provided by the participant regarding the participant's financial situation and investment objectives.

(d) Subscription Agreements.

(1) The Securities Commissioner may require that each participant

complete and sign a written subscription agreement.

(2) The sponsor may require that each participant make certain factual representations in the subscription agreement, including the following:

(A) The participant meets the minimum income and net worth standards established for the program.

(B) The participant is purchasing the program interests for his or her own account.

(C) The participant has received a copy of the prospectus.

(D) The participant acknowledges that the investment is not liquid.

(3) A participant must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the participant may not grant any person a power of attorney to make such representations on his or her behalf.

(4) The sponsor and each person selling program interests on behalf of the sponsor or program shall not require a participant to make representations in the subscription agreement which are subjective or unreasonable and which:

(A) might cause the participant to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

(B) would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the participant.

(5) Prohibited representations include, but are not limited to, the following:

(A) The participant understands or comprehends the risks associated with an investment in the program.

(B) The investment is a suitable one for the participant.

(C) The participant has read the prospectus.

(D) In deciding to invest in the program, the participant has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

(6) The sponsor may place the content of the prohibited representations in the subscription agreement in the form of disclosures to the participant. The sponsor may not place these disclosures in the participant representation section of the subscription agreement.

(e) Completion of Sale.

(1) The sponsor or any person selling program interests on behalf of the sponsor or program may not complete a sale of program interests to a participant until at least five business days after the date the participant receives a final prospectus.

(2) The sponsor or the person designated by the sponsor shall send each participant a confirmation of his or her purchase.

(f) [(e)] Minimum Investment. The Securities Commissioner may require a minimum initial and subsequent cash investment amount. [For a drilling program, the minimum purchase shall not be less than \$5,000, and in the event deferred payments are allowed, the initial payment by a participant shall not be less than \$5,000. For an income or production purchase program, the minimum purchase shall not be less than \$2,000 and in the event deferred payments are allowed, the initial payment by a participant shall not be less than \$2,000.]

[(f) Maintenance of suitability records. The sponsor shall maintain for a period of at least six years a record of the information obtained as evidence that a participant meets the suitability standards established in connection with the offer and sale of the program units. In addition, the sponsor must obtain a representation from each participant that he or she has purchased units for his, her or their own account or, in lieu of such representation, information indicating that the participants for whose account the purchase was made met such suitability standards. Such information may be obtained from the participant through inclusion of the statement in the written instrument described in subsection (a) of this section.]

§121.10 Prospectus Disclosure

(a) (No change)

(b) Offerings not registered with the Securities and Exchange Commission.

(1) (No change.)

(2) At the minimum and in addition to the specific disclosures required by §§121.2-121.8 of this title (relating to Requirements of Sponsor; Selling of Units and Sales Material; Suitability of Participants [the Participant], Fees, Compensation, and Expenses, Property Transactions with Affiliates and Other Restricted Activities,

Farmouts, Special Disclosure Requirements; and Rights and Obligations of Participants), the following topics shall be thoroughly covered in the prospectus:

(A)-(O) (No change.)

(3) (No change.)

(c) (No change.)

(d) Demonstration of Guideline Compliance in Program Agreement. The requirements and/or provisions of appropriate portions of the following sections shall be included in the program agreement: §121.1(b) of this title (relating to Definitions), §121.2(d), (f), (h), (i), and (j) of this title (relating to Requirements of Sponsor), §121.4(f) of this title (relating to Suitability of Participants [the Participant]), §121.5(a)-(c) of this title (relating to Fees, Compensation, and Expenses), §121.6(a)-(c) of this title (relating to Property Transactions with Affiliates and Other Restricted Activities), §121.8(a)-(g) of this title (relating to Rights and Obligations of Participants), and §121.9(b)-(g) of this title (relating to Miscellaneous Provisions).

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 24, 1994.

TRD-9436689 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

Chapter 123. Administrative Guidelines for Registration of Open-End Investment Companies.

• 7 TAC §123.3

The State Securities Board proposes an amendment to §123.3, to eliminate subsection (j) concerning the effective date of the conditional exemption for money market funds.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be the elimination of obsolete language.

Comments on the proposal may be submitted to Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed amendment implements Texas Civil Statutes, Article 581-7.

§123.3. Conditional Exemption for Money Market Funds.

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

(j) This Rule takes effect on September 1, 1979. This Rule applies only to fees received by the State Securities Board on and after September 1, 1979; fees received before that date must be applied for registration of securities under §35.E without regard to this Rule.]

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 24, 1994.

TRD-9436690 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

Chapter 133. Forms

• 7 TAC §133.31

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

The State Securities Board proposes the repeal of form §133.31, concerning the real estate guidelines cross-reference sheet. Repeal of the current form will allow for the simultaneous adoption of the newly revised real estate guideline cross-reference sheet adopted by the North American Securities Administrators' Association, Inc. (NASAA).

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Northcutt also has determined that for each year of the first five years the repeal is in effect the public benefits anticipated as a result of enforcing the repeal will be the elimination of a form that is no longer consistent with the real estate program guidelines. There will be no effect on small businesses.

There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, § 28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed repeal affects Texas Civil Statutes, Article 581-7.

§133.1. Real Estate Guidelines Cross Reference Sheet.

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 24, 1994.

TRD-9436691 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

The State Securities Board proposes new §133.31, concerning the real estate guidelines cross-reference sheet. The new form reflects the current real estate cross-reference sheet adopted by the North American Securities Administrators' Association, Inc. (NASAA).

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be that the form will enable securities analysts to more efficiently review and process applications for registration of real estate programs. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new rule is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations gov-

erning registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The new rule affects Texas Civil Statutes, Article 581-7.

§133.31. Real Estate Guidelines Cross Reference Sheet. The State Securities Board adopts by reference the real estate guidelines cross-reference sheet. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711.

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 24, 1994.

TRD-9436692 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

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• 7 TAC §133.32

The State Securities Board proposes new §133.32, concerning REIT guidelines cross-reference sheet. The new form reflects the current REIT guidelines cross-reference sheet adopted by the North American Securities Administrators' Association, Inc. (NASAA).

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be that the form will enable securities analysts to more efficiently review and process applications for registration of REIT offerings. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new rule is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The new rule affects Texas Civil Statutes, Article 581-7.

§133.32. REIT Guidelines Cross Reference Sheet. The State Securities Board adopts by reference the REIT guidelines cross-reference sheet form. The form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711.

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 24, 1994.

TRD-9436693 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

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Chapter 137. Administrative
Guidelines for Regulation of
Offers

• 7 TAC §137.3

The State Securities Board proposes an amendment to §137.3, concerning language approved for use on a preliminary prospectus to coordinate disclosures required at the state and federal level.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that disclosures required at the state level will be coordinated with disclosures required at the federal level. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed amendment affects Texas Civil Statutes, Article 581-22

§137.3. Preliminary Prospectus. The language adopted by [Rule 433 of] the Securities and Exchange Commission in paragraph (c)(8) of Rule 501 (17 Code of

Federal Regulations §229.501) meets the requirements of the Act, §22.A(4)(b), and is approved for use on preliminary prospectuses in Texas [pursuant to the Act §22.A(4)].

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 24, 1994.

TRD-9436694 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

◆ ◆ ◆
Chapter 139. Exemptions by
Rule or Order

• 7 TAC §139.14

The State Securities Board proposes an amendment to §139.14, concerning non-issuer sales. The proposed amendments would correct a cross-reference to §109.3 and remove a reference to former §139.4, concerning private resales under Securities and Exchange Commission Rule 144A. The proposed amendments would also simplify existing language.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be simplification of language, correction of cross-references and removal of obsolete references. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed amendment affects Texas Civil Statutes, Articles 581-5.T and 581-7.

§139.14. Non-Issuer Sales. The State Securities Board, pursuant to the Securities

Act, §5.T, exempts from the securities registration requirements of the Securities Act, §7, the offer and sale of any securities, provided the following conditions are met:

- (1)-(3) (No change.)
- (4) Number of sales.

(A) Except as the allowable number of sales may be increased as provided in subparagraph (B) of this paragraph, the [The] owner, together with any persons acting in concert with the owner, may make no more than 15 sales in any 12-month period under and in reliance on this section, exclusive of sales made :

- (i) to the issuer ; [, or]
- (ii) in compliance with the Act, §§5.O, 6.F, or 5.H; or
- (iii) in compliance with the following:

(I) section 109.3 of this title (relating to Sales to Financial Institutions and Certain Institutional Investors Under the Securities Act, §5.H); [§139.4 of this title (relating to Private Resales Under SEC Rule 144A);]

(II) section 139.7 of this title (relating to Sales of Securities to Non-Residents); or

(III) section 139.13 of this title (relating to Resales under SEC Rule 144 and Rule 145(d)). [, except as the allowable number of sales may be increased as provided in subparagraph (B) of this paragraph.]

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

(5) (No change.)

(6) Anti-fraud provisions. Nothing in this section relieves [is intended to or should be construed as in any way relieving] owners or persons acting on behalf of owners from the [an existing] duty to disclose to prospective investors information adequate to satisfy the anti-fraud provisions of the Act.

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 24, 1994.

TRD-9436695

Denise Voigt Crawford
Securities Commissioners
State Board of Securities

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

Chapter 141. Administrative Guidelines for Registration of Equipment Programs

• 7 TAC §141.3

The State Securities Board proposes amendments to §141.3, concerning administrative guidelines for equipment programs. The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators' Association, Inc. (NASAA) equipment program guidelines.

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule

Mr. Northcutt also has determined that for each year of the first five years the rule is in effect the public benefits anticipated as a result of enforcing the rule will be continued uniformly with other states in applying standards for registration of equipment program offerings. The revised suitability standards of the proposed amendments will serve to better protect investors in equipment programs. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed amendments affect Texas Civil Statutes, Article 581-7.

§141.3. Suitability of Participants [the Participant].

(a) General Policy. [Standards to be imposed. Given the limited transferability, the relative lack of liquidity, and the degree of risk associated with an investment in programs, the sponsor and its selling representatives should be cautious concerning the persons to whom such securities are marketed Suitability standards for participants will, therefore, be imposed which are reasonable in view of the foregoing and of the type of programs to be offered. Sponsors will be required to set forth in the prospectus the investment objectives of a

program, a description of the type of person who could benefit from the program, and suitability standards to be applied in marketing it.]

(1) The sponsor shall establish minimum income and net worth standards for persons who purchase program interests.

(2) The sponsor shall propose minimum income and net worth [The suitability] standards which are reasonable given the type of program and the risks associated with the purchase of program interests. Programs with greater investor risk shall have minimum standards with a substantial net worth requirement. The [proposed by the sponsor will be reviewed by the] Securities Commissioner shall evaluate [in processing the application. In determining how restrictive] the standards proposed by the sponsor when the program's application for registration is reviewed. In evaluating the proposed standards, the Securities Commissioner may consider the following: [must be, special attention will be given to the existence of such factors as]

(A) the program's use of [high] leverage ; [.]

(B) tax implications; [.]

(C) mandatory deferred payments;

(D) assessments;

(E) balloon payment financing; [, and]

(F) potential variances in [the uncertainty or lack of] cash distributions; [flow from program equipment. Programs which involve more than ordinary investor risk should emphasize suitability standards involving substantial net worth of the participants.]

(G) potential participants;

(H) relationship between potential participants and the sponsor;

(I) liquidity of program interests;

(J) performance of the sponsor's prior programs;

(K) financial condition of the sponsor;

(L) potential transactions between the program and the sponsor; and

(M) any other relevant factors.

(b) Income and Net Worth Standards.

(1) Unless the Securities Commissioner determines that the risks associated with the program would require lower or higher standards, each participant shall have:

(A) a minimum annual gross income of \$45,000 and a minimum net worth of \$45,000; or

(B) a minimum net worth of \$150,000.

(2) Net worth shall be determined exclusive of home, home furnishings, and automobiles.

(3) In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the program interests if the donor or grantor is the fiduciary.

(4) The sponsor shall set forth in the final prospectus:

(A) the investment objectives of the program;

(B) a description of the type of person who might benefit from an investment in the program; and

(C) the minimum standards imposed on each participant in the program.

(c)[(b)] Determination that Sale [Sales] to Participant is Suitable and Appropriate [Persons].

(1) The sponsor and each person selling program interests on behalf of the sponsor or program shall make every reasonable effort to determine [assure] that the purchase of [those persons being offered or sold the] program interests is a [are] suitable and [, in light of the standards set forth in subsection (a) of this section, and that the program interests are] appropriate [for the investors'] investment for each participant. [Objectives and financial situations Reasonable effort shall include receipt of the executed subscription agreement referred to in subsection (d) of this section prior to the sale of program

interests to the investor. The sponsor or his representative shall have reasonable grounds to believe, prior to the sale of program interests, that the investor will benefit from the program in view of the investors' overall investment objectives and portfolio structure.]

[(1) The investor shall have the capacity to understand the fundamental aspects of the program. That capacity may be evidenced by the following:

[(A) the nature of employment experience;

[(B) educational level achieved;

[(C) access to advice from qualified sources, such as attorney, accountant, and tax adviser; and

[(D) prior experience with investments of a similar nature.]

(2) In making this determination, the sponsor or each person selling program interests on behalf of the sponsor or program shall ascertain that the prospective participant: [The sponsor or his representatives shall ascertain that the investor]

(A) meets the minimum income and net worth standards established for the program;

(B) can reasonably benefit from the program based on the prospective participant's overall investment objectives and portfolio structure;

(C) is able to bear the economic risk of the investment based on the prospective participant's overall financial situation; and

(D) has apparent understanding of:

(i)[(A)] [of] the fundamental risks [and possible financial hazards] of the investment;

(ii) the risk that the participant may lose the entire investment;

(iii)[(B)] [of] the lack of liquidity of program interests [the investment];

(iv) the restrictions on transferability of program interests;

(v)[(C)] the background and qualifications of the sponsor or persons responsible for directing and managing the

program [that the investment will be directed and managed by the sponsor]; and

(vi) [(D)] [of] the tax consequences of the investment.

(3) The sponsor or each person selling program interests on behalf of the sponsor or program will make this determination on the basis of information it has obtained from a prospective participant. Relevant information for this purpose will include at least the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective participant, as well as any other pertinent factors.

(4) The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain records of the information used to determine that an investment in program interests is suitable and appropriate for each participant. The sponsor or each person selling program interests on behalf of the sponsor or program shall maintain these records for at least 6 years.

(5) The sponsor shall disclose in the final prospectus the responsibility of the sponsor and each person selling program interests on behalf of the sponsor or program to make every reasonable effort to determine that the purchase of program interests is a suitable and appropriate investment for each participant, based on information provided by the participant regarding the participant's financial situation and investment objectives.

[(c) The participant must be able to bear the economic risk of the investment. For purposes of determining the ability to bear the economic risk, unless the Securities Commissioner approves a lower suitability standard, participants shall have a minimum annual gross income of \$45,000 and a net worth of \$45,000 or, in the alternative, a net worth of \$150,000. As provided in subsection (a) of this section, higher suitability standards may be required. In the case of sales to fiduciary accounts, the participant shall mean the fiduciary account and/or the donor who directly or indirectly supplies the funds to purchase the program interests. Net worth shall be determined exclusive of home, home furnishings, and automobiles.]

(d) Subscription Agreements. [Maintenance of records. The sponsor shall maintain a record of the information obtained to indicate that a participant meets the suitability standards employed in connection with the offer and sale of program interests and a representation by the participant that the participant is purchasing for its own account or, in lieu of such representation, information indicating that the partici-

pants for whose account the purchase is made meet such suitability standards. Such information shall be obtained from the participant through the use of the subscription agreement signed by the participant which sets forth the prescribed suitability standards in full and in which the participant represents that the participant meets such suitability standards and is purchasing for its own account. However, where the offering is underwritten or sold by a broker-dealer, the sponsor shall obtain a commitment from the broker-dealer to maintain the same record of information required of the sponsor.]

(1) The Securities Commissioner may require that each participant complete and sign a written subscription agreement.

(2) The sponsor may require that each participant make certain factual representations in the subscription agreement, including the following:

(A) The participant meets the minimum income and net worth standards established for the program.

(B) The participant is purchasing the program interests for his or her own account.

(C) The participant has received a copy of the prospectus.

(D) The participant acknowledges that the investment is not liquid.

(3) The participant must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the participant may not grant any person a power of attorney to make such representations on his or her behalf.

(4) The sponsor and each person selling program interests on behalf of the sponsor or program shall not require a participant to make representations in the subscription agreement which are subjective or unreasonable and which:

(A) might cause the participant to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

(B) would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the participant.

(5) Prohibited representations include, but are not limited to the following:

(A) The participant understands or comprehends the risks associated with an investment in the program.

(B) The investment is a suitable one for the participant.

(C) The participant has read the prospectus.

(D) In deciding to invest in the program, the participant has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

(6) The sponsor may place the content of the prohibited representations in the subscription agreement in the form of disclosures to the participant. The sponsor may not place these disclosures in the participant representation section of the subscription agreement.

(e) Completion of Sale. [Minimum Investment. The Securities Commissioner may require a minimum initial cash purchase. Subsequent transfers of program interests shall be limited to not less than such initial minimum cash purchase, except for transfers by gifts, inheritance, intra-family transfers, family dissolutions, and transfers to affiliates.]

(1) The sponsor or any person selling program interests on behalf of the sponsor or program may not complete a sale of program interests to a participant until at least five business days after the date the participant receives a final prospectus.

(2) The sponsor or the person designated by the sponsor shall send each participant a confirmation of his or her purchase.

(f) Minimum Investment. The Securities Commissioner may require a minimum initial and subsequent cash investment amount.

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 24, 1994

TRD-9436696 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300



Chapter 143. Administrative Guidelines for Registration of Real Estate Investment Trusts

• 7 TAC §§143.1-143.23

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

The State Securities Board proposes the repeal of §§143.1-143.23, concerning administrative guidelines for registration of real estate investment trusts. Repeal of the current guidelines will allow for the simultaneous adoption of the newly revised real estate investment trust guidelines adopted by the North American Securities Administrators' Association, Inc. (NASAA).

Micheal Northcutt, director, Securities Registration Division, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Northcutt also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be continued uniformity with other states in applying standards for the registration of real estate investment trusts. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposed repeal affects Texas Civil Statutes, Article 581-7.

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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 24, 1994.

TRD-9436697

Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call (512) 305-8300

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• 7 TAC §§143.1-143.8

The State Securities Board proposes new §§143.1-143.8, concerning administrative guidelines for registration of real estate investment trusts. These sections reflect the current real estate investment trust guidelines adopted by the North American Securities Administrators' Association, Inc (NASAA).

Micheal Northcutt, director, Securities Registration Division, has determined that for the

first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr Northcutt also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be continued uniformity with other states in applying standards for the registration of real estate investment trusts. The standards of the proposed rules will serve to better protect investors in real estate investment trust programs. 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 Rada Lynn Potts, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167

The new rules are proposed under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The new rules affect Texas Civil Statutes, Article 581-7.

§143.1 Introduction

(a) Application.

(1) These guidelines apply to qualifications and registrations of Real Estate Investment Trusts (REITs).

(2) While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain guidelines may be modified or waived by the Securities Commissioner.

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

(1) Acquisition expenses-Expenses including but not limited to legal fees and expenses, travel and communications expenses, costs of appraisals, non-refundable option payments on property not acquired, accounting fees and expenses, title insurance, and miscellaneous expenses related to selection and acquisition of properties, whether or not acquired.

(2) Acquisition fee-The total of all fees and commissions paid by any party to any party in connection with making or investing in mortgage loans or the purchase, development or construction of property by a REIT. Included in the computation of such fees or commissions shall be any real estate commission, selection fee, development fee, construction fee, nonrecurring

management fee, loan fees or points or any fee of a similar nature, however designated. Excluded shall be development fees and construction fees paid to persons not affiliated with the sponsor in connection with the actual development and construction of a project.

(3) Administrator-Referred to as "Securities Commissioner" throughout these guidelines.

(4) Adviser-The person responsible for directing or performing the day-to-day business affairs of a REIT, including a person to which an adviser subcontracts substantially all such functions. To the extent the provisions of these guidelines are germane they shall apply to self-administered REITs.

(5) Affiliate-An affiliate of another person includes any of the following:

(A) any person directly or indirectly owning, controlling, or holding, with power to vote, 10% or more of the outstanding voting securities of such other person.

(B) any person 10% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held, with power to vote, by such other person.

(C) any person directly or indirectly controlling, controlled by, or under common control with such other person.

(D) any executive officer, director, trustee, or general partner of such other person.

(E) any legal entity for which such person acts as an executive officer, director, trustee, or general partner.

(6) Average invested assets-For any period, the average of the aggregate book value of the assets of the trust invested, directly or indirectly, in equity interests in, and loans secured by, real estate, before reserves for depreciation or bad debts or other similar non-cash reserves computed by taking the average of such values at the end of each month during such period.

(7) Competitive real estate commission-Real estate or brokerage commission paid for the purchase or sale of a property which is reasonable, customary, and competitive in light of the size, type, and location of such property.

(8) Construction fee-A fee or other remuneration for acting as general contractor and/or construction manager to

construct improvements, supervise, and coordinate projects or to provide major repairs or rehabilitation on a REIT's property.

(9) Contract price for the property—The amount actually paid or allocated to the purchase, development, construction, or improvement of a property exclusive of acquisition fees and acquisition expenses.

(10) Cross reference sheet—A compilation of the guideline sections, referenced to the page of the prospectus and declaration of trust, or other exhibits, and justification for any deviation from the guidelines. Such compilation shall comply with the provisions set forth on the cross reference sheet.

(11) Declaration of trust—The declaration of trust, by-laws, certificate, articles of incorporation or other governing instrument pursuant to which a REIT is organized.

(12) Development fee—A fee for the packaging of a REIT's property, including negotiating and approving plans, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.

(13) Independent expert—A person with no material current or prior business or personal relationship with the adviser or trustees who is engaged to a substantial extent in the business of rendering opinions regarding the value of assets of the type held by the REIT.

(14) Independent trustee(s)—The trustee(s) of a REIT who are not associated and have not been associated within the last two years, directly or indirectly, with the sponsor or adviser of the REIT.

(A) A trustee shall be deemed to be associated with the sponsor or adviser if he or she:

(i) owns an interest in the sponsor, adviser, or any of their affiliates, or

(ii) is employed by the sponsor, adviser, or any of their affiliates; or

(iii) is an officer or director of the sponsor, adviser, or any of their affiliates; or

(iv) performs services, other than as a trustee, for the REIT; or

(v) is a trustee for more than three REITs organized by the sponsor or advised the adviser; or

(vi) has any material business or professional relationship with the sponsor, adviser, or any of their affiliates.

(B) For purposes of determining whether or not the business or professional relationship is material, the gross revenue derived by the prospective independent trustee from the sponsor and adviser and affiliates shall be deemed material per se if it exceeds 5% of the prospective independent trustee's:

(i) annual gross revenue, derived from all sources, during either of the last two years; or

(ii) net worth, on a fair market value basis.

(C) An indirect relationship shall include circumstances in which a trustee's spouse, parents, children, siblings, mothers- or fathers-in-law, sons- or daughters-in-law, or brothers- or sisters-in-law is or has been associated with the sponsor, adviser, any of their affiliates, or the REIT.

(15) Initial investment—That portion of the initial capitalization of the REIT contributed by the sponsor or its affiliates pursuant to §143. 2(a) of this title (relating to Requirements of Sponsor, Adviser, Trustees, and any Affiliate).

(16) Leverage—The aggregate amount of indebtedness of a REIT for money borrowed (including purchase money mortgage loans) outstanding at any time, both secured and unsecured.

(17) Net assets—The total assets (other than intangibles) at cost before deducting depreciation or other non-cash reserves less total liabilities, calculated at least quarterly on a basis consistently applied.

(18) Net income—For any period total revenues applicable to such period, less the expenses applicable to such period other than additions to reserves for depreciation or bad debts or other similar non-cash reserves. If the adviser receives an incentive fee, net income, for purposes of calculating total operating expenses in §143.4(d) of this title (relating to Fees, Compensation, and Expenses), shall exclude the gain from the sale of the REIT's assets.

(19) Organization and offering expenses—All expenses incurred by and to be paid from the assets of the REIT in connection with and in preparing a REIT for registration and subsequently offering and distributing it to the public, including, but not limited to, total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys), expenses for printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders,

depositories, experts, expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees, accountants' and attorneys' fees.

(20) Person—Any natural persons, partnership, corporation, association, trust, limited liability company, or other legal entity.

(21) Prospectus—Shall have the meaning given to that term by the Securities Act of 1933, §2(10), including a preliminary prospectus, provided, however, that such term as used herein shall also include an offering circular as described in Rule 256 of the General Rules and Regulations under the Securities Act of 1933 or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.

(22) Real estate investment trust ("REIT")—A corporation, trust, association, or other legal entity (other than a real estate syndication) which is engaged primarily in investing in equity interests in real estate (including fee ownership and leasehold interests) or in loans secured by real estate or both.

(23) Roll-up—A transaction involving the acquisition, merger, conversion, or consolidation either directly or indirectly of the REIT and the issuance of securities of a roll-up entity. Such term does not include:

(A) a transaction involving securities of the REIT that have been for at least 12 months listed on a national securities exchange or traded through the National Association of Securities Dealers Automated Quotation National Market System, or

(B) a transaction involving the conversion to corporate, trust, or association form of only the REIT if, as a consequence of the transaction there will be no significant adverse change in any of the following:

(i) shareholders' voting rights;

(ii) the term of existence of the REIT;

(iii) sponsor or adviser compensation;

(iv) the REIT's investment objectives.

(24) Roll-up entity—A partnership, real estate investment trust, corporation, trust, or other entity that would be created or would survive after the successful completion of a proposed roll-up transaction.

(25) Shareholders—The registered holders of a REIT's shares.

(26) Shares—Shares of beneficial interest or of common stock of a REIT of the class that has the right to elect the trustees of such REIT.

(27) Specified asset REIT—A program where, at the time a securities registration is ordered effective, at least 75% of the net proceeds from the sale of shares are allocable to the purchase, construction, renovation, or improvement of individually identified assets. Reserves shall not be included in the 75%.

(28) Sponsor—Any person directly or indirectly instrumental in organizing, wholly or in part, a REIT or any person who will control, manage or participate in the management of a REIT, and any affiliate of such person. Not included is any person whose only relationship with the REIT is as that of an independent property manager of REIT assets, and whose only compensation is as such. Sponsor does not include wholly independent third parties such as attorneys, accountants, and underwriters whose only compensation is for professional services. A person may also be deemed a sponsor of the REIT by:

(A) taking the initiative, directly or indirectly, in founding or organizing the business or enterprise of the REIT; either alone or in conjunction with one or more other persons;

(B) receiving a material participation in the REIT in connection with the founding or organizing of the business of the REIT, in consideration of services or property, or both services and property;

(C) having a substantial number of relationships and contacts with the REIT;

(D) possessing significant rights to control REIT properties;

(E) receiving fees for providing services to the REIT which are paid on a basis that is not customary in the industry; or

(F) providing goods or services to the REIT on a basis which was not negotiated at arms length with the REIT.

(29) Total operating expenses—Aggregate expenses of every character paid or incurred by the REIT as determined under generally accepted accounting principles, including advisers' fees, but excluding:

(A) the expenses of raising capital such as organization and offering expenses, legal, audit, accounting, underwriting, brokerage, listing, registration and other fees, printing and other such expenses, and tax incurred in connection with the issuance, distribution, transfer, registration, and stock exchange listing of the REIT's shares;

(B) interest payments;

(C) taxes;

(D) non-cash expenditures such as depreciation, amortization, and bad debt reserves;

(E) incentive fees paid in compliance with § 143.4(f) of this title (relating to Fees, Compensation and Expenses);

(F) Acquisition fees, acquisition expenses, real estate commissions on resale of property and other expenses connected with the acquisition, disposition, and ownership of real estate interests, mortgage loans, or other property, (such as the costs of foreclosure, insurance premiums, legal services, maintenance, repair, and improvement of property).

(30) Trustee(s)—The member(s) of the board of trustees or directors or other body which manages the REIT.

(31) Unimproved real property—The real property of a REIT which has the following three characteristics:

(A) an equity interest in real property which was not acquired for the purpose of producing rental or other operating income;

(B) has no development or construction in process on such land; and

(C) no development or construction on such land is planned in good faith to commence on such land within one year.

§143.2. Requirements of Sponsor, Adviser, Trustees and any Affiliate.

(a) Minimum Capital.

(1) Prior to the initial public offering, the sponsor, or any affiliate, shall contribute to the REIT an amount not less than the lesser of:

(A) 10% of the total net assets upon completion of the offering; or

(B) \$200,000 as an initial investment.

(2) The sponsor or any affiliate may not sell this initial investment while the sponsor remains a sponsor but may transfer the shares to other affiliates.

(b) Number and Election of Trustees.

(1) The REIT shall have a minimum of three trustees, each of whom (other than a trustee elected to fill the unexpired term of another trustee) is elected by the shareholders of the REIT and who shall serve for a term of one year.

(2) Nothing in this section shall prohibit a trustee from being reelected by the shareholders.

(3) A majority of the trustees shall be independent trustees.

(4) Independent trustees shall nominate replacements for vacancies amongst the independent trustees' positions.

(5) The trustees may establish such committees they deem appropriate (provided the majority of the members of each committee are independent trustees).

(c) Duties of Trustees.

(1) At or before the first meeting of the trustees, the declaration of trust shall be reviewed and ratified by a majority vote of the trustees and of the independent trustees. The prospectus shall disclose that such ratification is required.

(2) The trustees shall establish written policies on investments and borrowing and shall monitor the administrative procedures, investment operations and performance of the REIT and the adviser to assure that such policies are carried out.

(3) A majority of the independent trustees must approve matters to which this section and subsections (a), (f) and (g) of this section, §143.4(a)-(g) of this title (relating to Fees, Compensation, and Expenses), §143.5(e), (h), and (j) of this title (relating to Conflicts of Interest and Investment Restrictions), and §143.6(a), (b)(4), and (g) of this title (relating to Rights and Obligations of Shareholders), of these guidelines apply.

(d) Experience of Trustees. A trustee shall have had a least three years of relevant experience demonstrating the knowledge and experience required to successfully acquire and manage the type of assets being acquired by the REIT. At least one of the independent trustees shall have three years of relevant real estate experience.

(e) Fiduciary Duty. The trustees and adviser of the REIT shall be deemed to

be in a fiduciary relationship to the REIT and the shareholders. The trustees of the REIT shall also have a fiduciary duty to the shareholders to supervise the relationship of the REIT with the adviser.

(f) Advisory Contract.

(1) It shall be the duty of the trustees to evaluate the performance of the adviser before entering into or renewing an advisory contract. The criteria used in such evaluation shall be reflected in the minutes of such meeting.

(2) Each contract for the services of an adviser entered into by the trustees shall have a term of no more than one year.

(3) Each advisory contract shall be terminable by a majority of the independent trustees, or the adviser on 60 days written notice without cause or penalty. In the event of the termination of such contract, the adviser will cooperate with the REIT and take all reasonable steps requested to assist the trustees in making an orderly transition of the advisory function.

(4) The qualifications of the adviser shall be set forth in the prospectus relating to the initial public offering of the shares of the REIT and the trustees shall determine that any successor adviser possesses sufficient qualifications to

(A) perform the advisory function for the REIT, and

(B) justify the compensation provided for in its contract with the REIT.

(g) Liability and Indemnification

(1) The REIT shall not provide for indemnification of the trustees, advisers, or affiliates for any liability or loss suffered by the trustees, advisers, or affiliates, nor shall it provide that the trustees, advisers, or affiliates be held harmless for any loss or liability suffered by the REIT, unless all of the following conditions are met:

(A) The trustees, advisers, or affiliates have determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the REIT.

(B) The trustees, advisers, or affiliates were acting on behalf of or performing services for the REIT

(C) Such liability or loss was not the result of:

(i) negligence or misconduct by the trustees, excluding the independent trustees, advisers, or affiliates, or

(ii) gross negligence or willful misconduct by the independent trustees.

(D) Such indemnification or agreement to hold harmless is recoverable only out of REIT net assets and not from shareholders.

(2) Notwithstanding anything to the contrary contained in paragraph (1) of this subsection, the trustees, advisers, or affiliates and any persons acting as a broker-dealer shall not be indemnified by the REIT for any losses, liabilities, or expenses arising from or out of an alleged violation of federal or state securities laws by such party unless one or more of the following conditions are met:

(A) There has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee

(B) Such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee.

(C) A court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the Securities and Exchange Commission and of the published position of any state securities regulatory authority in which securities of the REIT were offered or sold as to indemnification for violations of securities laws.

(3) The advancement of REIT funds to the trustees, advisers, or affiliates for legal expenses and other costs incurred as a result of any legal action for which indemnification is being sought is permissible only if all of the following conditions are satisfied.

(A) The legal action relates to acts or omissions with respect to the performance of duties or services on behalf of the REIT.

(B) The legal action is initiated by a third party who is not a shareholder or the legal action is initiated by a shareholder acting in his or her capacity as such and a court of competent jurisdiction specifically approves such advancement.

(C) The trustees, advisers, or affiliates undertake to repay the advanced

funds to the REIT, together with the applicable legal rate of interest thereon, in cases in which such trustees, advisers, or affiliates are found not to be entitled to indemnification.

(h) Arbitration Provisions The declaration of trust may contain provisions relating to the use of arbitration as a means of dispute resolution; provided, however, it may not require arbitration for allegations involving breach of contract, negligence, violations of state or federal securities laws, breach of fiduciary duty or other misconduct by the trustees or adviser, nor shall it provide for mandatory venue. A declaration of trust which contains arbitration provisions shall prominently disclose such fact on the cover page of the declaration of trust. Allocation of the cost of arbitration may be made a matter for determination in the proceedings. This subsection is not intended to prohibit arbitration agreements entered into as a condition for opening or maintaining an account with a broker-dealer, who may also be a sponsor. In addition, this subsection should not be interpreted to prohibit separate arbitration agreements between sponsors and shareholders if the agreements are not a condition of making an investment in the REIT.

§1433. Suitability of Shareholders

(a) General Policy

(1) The sponsor shall establish minimum income and net worth standards for persons who purchase shares in a REIT for which there is not likely to be a substantial and active secondary market

(2) The sponsor shall propose minimum income and net worth standards which are reasonable given the type of REIT and the risks associated with the purchase of shares. REITs with greater investor risk shall have minimum standards with a substantial net worth requirement. The Securities Commissioner shall evaluate the standards proposed by the sponsor when the REIT's application for registration is reviewed. In evaluating the proposed standards, the Securities Commissioner may consider the following

(A) the REIT's use of leverage,

(B) tax implications,

(C) balloon payment financing,

(D) potential variances in cash distributions;

(E) potential shareholders,

(F) relationship among potential shareholders, the sponsor and adviser;

(G) liquidity of REIT shares;

(H) prior performance of sponsor and adviser;

(I) financial condition of the sponsor;

(J) potential transactions between the REIT and the sponsor and adviser; and

(K) any other relevant factors.

(b) Income and Net Worth Standards.

(1) Unless the Securities Commissioner determines that the risks associated with the REIT would require lower or higher standards, shareholders shall have:

(A) a minimum annual gross income of \$45,000 and a minimum net worth of \$45,000; or

(B) a minimum net worth of \$150,000.

(2) Net worth shall be determined exclusive of home, home furnishings, and automobiles.

(3) In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the shares if the donor or grantor is the fiduciary.

(4) The sponsor shall set forth in the final prospectus:

(A) the investment objectives of the REIT;

(B) a description of the type of person who might benefit from an investment in the REIT; and

(C) the minimum standards imposed on each shareholder in the REIT.

(c) Determination that Sale to Shareholder is Suitable and Appropriate.

(1) The sponsor and each person selling shares on behalf of the sponsor or REIT shall make every reasonable effort to determine that the purchase of shares is a

suitable and appropriate investment for each shareholder.

(2) In making this determination, the sponsor or each person selling shares on behalf of the sponsor or REIT shall ascertain that the prospective shareholder:

(A) meets the minimum income and net worth standards established for the REIT;

(B) can reasonably benefit from the REIT based on the prospective shareholder's overall investment objectives and portfolio structure;

(C) is able to bear the economic risk of the investment based on the prospective shareholder's overall financial situation; and

(D) has apparent understanding of:

(i) the fundamental risks of the investment;

(ii) the risk that the shareholder may lose the entire investment;

(iii) the lack of liquidity of REIT shares;

(iv) the restrictions on transferability of REIT shares;

(v) the background and qualifications of the sponsor or the adviser; and

(vi) the tax consequences of the investment.

(3) The sponsor or each person selling shares on behalf of the sponsor or REIT will make this determination on the basis of information it has obtained from a prospective shareholder. Relevant information for this purpose will include at least the age, investment objectives, investment experience, income, net worth, financial situation, and other investments of the prospective shareholder, as well as any other pertinent factors.

(4) The sponsor or each person selling shares on behalf of the sponsor or REIT shall maintain records of the information used to determine that an investment in shares is suitable and appropriate for a shareholder. The sponsor or each person selling shares on behalf of the sponsor or REIT shall maintain these records for at least six years.

(5) The sponsor shall disclose in the final prospectus the responsibility of the sponsor and each person selling shares on behalf of the sponsor or REIT to make every reasonable effort to determine that the

purchase of shares is a suitable and appropriate investment for each shareholder, based on information provided by the shareholder regarding the shareholder's financial situation and investment objectives.

(d) Subscription Agreements.

(1) The Securities Commissioner may require that each shareholder complete and sign a written subscription agreement.

(2) The sponsor may require that each shareholder make certain factual representations in the subscription agreement, including the following:

(A) The shareholder meets the minimum income and net worth standards established for the REIT.

(B) The shareholder is purchasing the shares for his or her own account.

(C) The shareholder has received a copy of the prospectus.

(D) The shareholder acknowledges that the shares are not liquid.

(3) The shareholder must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the shareholder may not grant any person a power of attorney to make such representations on his or her behalf.

(4) The sponsor and each person selling shares on behalf of the sponsor or REIT shall not require shareholders to make representations in the subscription agreement which are subjective or unreasonable and which:

(A) might cause the shareholder to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or

(B) would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the shareholders.

(5) Prohibited representations include, but are not limited to the following:

(A) The shareholder understands or comprehends the risks associated with an investment in the REIT.

(B) The investment is a suitable one for the shareholder.

(C) The shareholder has read the prospectus.

(D) In deciding to invest in the REIT, the shareholder has relied solely on the prospectus, and not on any other information or representations from other persons or sources.

(6) The sponsor may place the content of the prohibited representations in the subscription agreement in the form of disclosures to shareholders. The sponsor may not place these disclosures in the shareholder representation section of the subscription agreement.

(e) Completion of Sale.

(1) The sponsor or any person selling shares on behalf of the sponsor or REIT may not complete a sale of shares to a shareholder until at least five business days after the date the shareholder receives a final prospectus.

(2) The sponsor or the person designated by the sponsor shall send each shareholder a confirmation of his or her purchase.

(f) Minimum Investment. The Securities Commissioner may require minimum initial and subsequent cash investment amounts.

§143.4 Fees, Compensation, and Expenses

(a) Introduction

(1) The prospectus must fully disclose and itemize all consideration which may be received in connection with REIT activities, directly or indirectly, by the sponsor, trustees, adviser, and underwriters, what the consideration is for and how and when it will be paid. This shall be set forth in one location in tabular form.

(2) The independent trustees will determine, from time to time but at least annually, that the total fees and expenses of the REIT are reasonable in light of the investment performance of the REIT, its net assets, its net income, and the fees and expenses of other comparable unaffiliated REITs. Each such determination shall be reflected in the minutes of the meeting of the trustees.

(b) Organization and Offering Expenses. The organization and offering expenses paid in connection with the REIT's formation or the syndication of its shares shall be reasonable and shall in no event exceed an amount equal to 15% of the proceeds raised in an offering.

(c) Acquisition Fees and Acquisition Expenses.

(1) The total of all acquisition fees and acquisition expenses shall be rea-

sonable, and shall not exceed an amount equal to 6.0% of the contract price of a property, or in the case of a mortgage loan, 6.0% of the funds advanced.

(2) Notwithstanding the above, a majority of the trustees (including a majority of the independent trustees) not otherwise interested in the transaction may approve fees in excess of these limits if they determine the transaction to be commercially competitive, fair and reasonable to the REIT.

(d) Total Operating Expenses.

(1) The total operating expenses of the REIT shall (in the absence of a satisfactory showing to the contrary) be deemed to be excessive if they exceed in any fiscal year the greater of 2.0% of its average invested assets or 25% of its net income for such year. The independent trustees shall have the fiduciary responsibility of limiting such expenses to amounts that do not exceed such limitations unless such independent trustees shall have made a finding that, based on such unusual and non-recurring factors which they deem sufficient, a higher level of expenses is justified for such year. Any such finding and the reasons in support thereof shall be reflected in the minutes of the meeting of the trustees.

(2) Within 60 days after the end of any fiscal quarter of the REIT for which total operating expenses (for the 12 months then ended) exceeded 2% of average invested assets or 25% of net income, whichever is greater, there shall be sent to the shareholders of the REIT a written disclosure of such fact, together with an explanation of the factors the independent trustees considered in arriving at the conclusion that such higher operating expenses were justified.

(3) In the event the independent trustees do not determine such excess expenses are justified, the adviser shall reimburse the REIT at the end of the twelve month period the amount by which the aggregate annual expenses paid or incurred by the REIT exceed the limitations herein provided.

(e) Real Estate Commissions on Resale of Property. If an adviser, trustee, sponsor, or any affiliate provides a substantial amount of the services in the effort to sell the property of the REIT, then that person may receive up to one-half of the brokerage commission paid but in no event to exceed an amount equal to 3% of the contracted for sales price. In addition, the amount paid when added to the sums paid to unaffiliated parties in such a capacity shall not exceed the lesser of the competitive real estate commission or an amount equal to 6.0% of the contracted-for sales price.

(f) Incentive Fees.

(1) An interest in the gain from the sale of assets of the REIT, for which full consideration is not paid in cash or property of equivalent value, shall be allowed provided the amount or percentage of such interest is reasonable. Such an interest in gain from the sale of REIT assets shall be considered presumptively reasonable if it does not exceed 15% of the balance of such net proceeds remaining after payment to shareholders, in the aggregate, of an amount equal to 100% of the original issue price of REIT shares, plus an amount equal to 6% of the original issue price of the REIT shares per annum cumulative. For purposes of this subsection, the original issue price of the REIT shares may be reduced by prior cash distributions to shareholders of net proceeds from the sale of REIT assets.

(2) In the case of multiple advisers, advisers, and any affiliate shall be allowed incentive fees provided such fees are distributed by a proportional method reasonably designed to reflect the value added to REIT assets by each respective adviser or any affiliate.

(g) Adviser Compensation. The independent trustees shall determine from time to time and at least annually that the compensation which the REIT contracts to pay to the adviser is reasonable in relation to the nature and quality of services performed and that such compensation is within the limits prescribed by these guidelines. The independent trustees shall also supervise the performance of the adviser and the compensation paid to it by the REIT to determine that the provisions of such contract are being carried out. Each such determination shall be based on the factors set forth below and all other factors such independent trustees may deem relevant and the findings of such trustees on each of such factors shall be recorded in the minutes of the trustees.

(1) The size of the advisory fee in relation to the size, composition, and profitability of the portfolio of the REIT.

(2) The success of the adviser in generating opportunities that meet the investment objectives of the REIT.

(3) The rates charged to other REITs and to investors other than REITs by advisers performing similar services.

(4) Additional revenues realized by the adviser and any affiliate through their relationship with the REIT, including loan administration, underwriting or broker commissions, servicing, engineering, inspection and other fees, whether paid by the REIT or by others with whom the REIT does business.

(5) The quality and extent of service and advice furnished by the adviser.

(6) The performance of the investment portfolio of the REIT, including income, conservation or appreciation of capital, frequency of problem investments and competence in dealing with distress situations.

(7) The quality of the portfolio of the REIT in relationship to the investments generated by the adviser for its own account

§143.5. Conflicts of Interest and Investment Restrictions.

(a) Sales and Leases to REIT. The REIT shall not purchase property from the sponsor, adviser, trustee, or any affiliate thereof, unless a majority of trustees (including a majority of independent trustees) not otherwise interested in such transaction approve the transaction as being fair and reasonable to the REIT and at a price to the REIT no greater than the cost of the asset to such sponsor, adviser, trustee, or any affiliate thereof, or if the price to the REIT is in excess of such cost, that substantial justification for such excess exists and such excess is reasonable. In no event shall the cost of such asset to the REIT exceed its current appraised value

(b) Sales and Leases to Sponsor, Adviser, Trustees, or any Affiliate

(1) A sponsor, adviser, trustee, or any affiliate thereof shall not acquire assets from the REIT unless approved by a majority of trustees (including a majority of independent trustees), not otherwise interested in such transaction, as being fair and reasonable to the REIT

(2) A REIT may lease assets to a sponsor, adviser, trustee, or any affiliate thereof only if approved by a majority of trustees (including a majority of independent trustees), not otherwise interested in such transaction, as being fair and reasonable to the REIT

(c) Loans

(1) No loans may be made by the REIT to the sponsor, adviser, trustee, or any affiliate thereof except as provided under paragraph (k)(3) of this section or to wholly owned subsidiaries of the REIT

(2) The REIT may not borrow money from the sponsor, adviser, trustee, or any affiliate thereof, unless a majority of trustees (including a majority of independent trustees) not otherwise interested in such transaction approve the transaction as being fair, competitive, and commercially reasonable and no less favorable to the REIT than loans between unaffiliated parties under the same circumstances

(d) Investments

(1) The REIT shall not invest in joint ventures with the sponsor, adviser, trustee, or any affiliate thereof, unless a

majority of trustees (including a majority of independent trustees) not otherwise interested in such transactions, approve the transaction as being fair and reasonable to the REIT and on substantially the same terms and conditions as those received by the other joint venturers.

(2) The REIT shall not invest in equity securities unless a majority of trustees (including a majority of independent trustees) not otherwise interested in such transaction approve the transaction as being fair, competitive, and commercially reasonable.

(e) Statement of Objectives.

(1) The prospectus must state specific investment objectives of the REIT. It should indicate whether the primary objective is to obtain current income, tax benefits, or capital appreciation for its shareholders

(2) The independent trustees shall review the investment policies of the REIT with sufficient frequency and at least annually to determine that the policies being followed by the REIT at any time are in the best interests of its shareholders. Each such determination and the basis therefor shall be set forth in the minutes of the trustees.

(f) Multiple Programs The method for the allocation of the acquisition of properties by two or more programs of the same sponsor or adviser seeking to acquire similar types of assets shall be reasonable. The method shall be described in the prospectus. It shall be the duty of the trustees (including the independent trustees) to insure such method is applied fairly to the REIT

(g) Other Transactions All other transactions between the REIT and the sponsor, adviser, trustee, or any affiliate thereof, shall require approval by a majority of the trustees (including a majority of independent trustees) not otherwise interested in such transactions as being fair and reasonable to the REIT and on terms and conditions not less favorable to the REIT than those available from unaffiliated third parties

(h) Appraisal of Real Property The consideration paid for real property acquired by the REIT shall ordinarily be based on the fair market value of the property as determined by a majority of the trustees. In cases in which a majority of the independent trustees so determine, and in all cases in which assets are acquired from the advisers, trustees, sponsors or affiliates thereof, such fair market value shall be as determined by an independent expert selected by the independent trustees

(i) Roll-Up Transaction

(1) In connection with a proposed roll-up, an appraisal of all REIT as-

sets shall be obtained from a competent, independent expert. If the appraisal will be included in a prospectus used to offer the securities of a roll-up entity, the appraisal shall be filed with the Securities and Exchange Commission and the Securities Commissioner as an exhibit to the registration statement for the offering. Accordingly, an issuer using the appraisal shall be subject to liability for violation of the Securities Act of 1933, §11, and comparable provisions under Texas law for any material misrepresentations or material omissions in the appraisal. REIT assets shall be appraised on a consistent basis. The appraisal shall be based on an evaluation of all relevant information, and shall indicate the value of the REIT's assets as of a date immediately prior to the announcement of the proposed roll-up transaction. The appraisal shall assume an orderly liquidation of REIT assets over a 12-month period. The terms of the engagement of the independent expert shall clearly state that the engagement is for the benefit of the REIT and its investors. A summary of the independent appraisal, indicating all material assumptions underlying the appraisal, shall be included in a report to the investors in connection with a proposed roll-up

(2) In connection with a proposed roll-up, the person sponsoring the roll-up shall offer to shareholders who vote "no" on the proposal the choice of:

(A) accepting the securities of the roll-up entity offered in the proposed roll-up; or

(B) one of the following

(i) remaining as shareholders of the REIT and preserving their interests therein on the same terms and conditions as existed previously, or

(ii) receiving cash in an amount equal to the shareholders' pro-rata share of the appraised value of the net assets of the REIT

(3) The REIT shall not participate in any proposed roll-up which would result in shareholders having democracy rights in the roll-up entity that are less than those provided for under §143 6(a)-(e) of this title (relating to Rights and Obligations of Shareholders).

(4) The REIT shall not participate in any proposed roll-up which includes provisions which would operate to materially impede or frustrate the accumulation of shares by any purchaser of the securities of the roll-up entity (except to the minimum extent necessary to preserve the tax status of the roll-up entity). The REIT shall not participate in any proposed roll-up which would limit the ability of an investor to

exercise the voting rights of its securities of the roll-up entity on the basis of the number of REIT shares held by that investor.

(5) The REIT shall not participate in any proposed roll-up in which investors' rights of access to the records of the roll-up entity will be less than those provided for under §143.6(e) of this title (relating to Rights and Obligations of Shareholders).

(6) The REIT shall not participate in any proposed roll-up in which any of the costs of the transaction would be borne by the REIT if the roll-up is not approved by the shareholders.

(j) **Leverage.** The prospectus shall include an explanation of the borrowing policies of the REIT. The aggregate borrowings of the REIT, secured and unsecured, shall be reasonable in relation to the net assets of the REIT and shall be reviewed by the trustees at least quarterly. The maximum amount of such borrowings in relation to the net assets shall, in the absence of a satisfactory showing that higher level of borrowing is appropriate, not exceed 300%. Any excess in borrowing over such 300% level shall be approved by a majority of the independent trustees and disclosed to shareholders in the next quarterly report of the REIT, along with justification for such excess.

(k) **Other Limitations.** The REIT may not:

(1) invest more than 10% of its total assets in unimproved real property or mortgage loans on unimproved real property;

(2) invest in commodities or commodity future contracts. Such limitation is not intended to apply to future contracts, when used solely for hedging purposes in connection with the REIT's ordinary business of investing in real estate assets and mortgages;

(3) invest in or make mortgage loans unless an appraisal is obtained concerning the underlying property except for those loans insured or guaranteed by a government or government agency. In cases in which a majority of the independent trustees so determine, and in all cases in which the transaction is with the adviser, trustees, sponsor, or affiliates thereof, such an appraisal must be obtained from an independent expert concerning the underlying property. This appraisal shall be maintained in the REIT's records for at least five years, and shall be available for inspection and duplication by any shareholder. In addition to the appraisal, a mortgagee's or owner's title insurance policy or commitment as to the priority of the mortgage or the condition of the title must be obtained. Further, the adviser and trustees shall observe the fol-

lowing policies in connection with investing in or making mortgage loans:

(A) The REIT shall not invest in real estate contracts of sale, otherwise known as land sale contracts, unless such contracts of sale are in recordable form and appropriately recorded in the chain of title.

(B) The REIT shall not make or invest in mortgage loans, including construction loans, on any one property if the aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT, would exceed an amount equal to 85% of the appraised value of the property as determined by appraisal unless substantial justification exists because of the presence of other underwriting criteria. For purposes of this paragraph, the "aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT," shall include all interest (excluding contingent participation in income and/or appreciation in value of the mortgaged property), the current payment of which may be deferred pursuant to the terms of such loans, to the extent that deferred interest on each loan exceeds 5% per annum of the principal balance of the loan.

(C) The REIT shall not make or invest in any mortgage loans that are subordinate to any mortgage or equity interest of the adviser, trustees, sponsors or any affiliate of the REIT.

(4) issue redeemable equity securities;

(5) issue debt securities unless the historical debt service coverage (in the most recently completed fiscal year) as adjusted for known changes is sufficient to properly service that higher level of debt;

(6) issue options or warrants to purchase its shares to the adviser, trustees, sponsors, or any affiliate thereof except on the same terms as such options or warrants are sold to the general public. The REIT may issue options or warrants to persons not so connected with the REIT but not at exercise prices less than the fair market value of such securities on the date of grant and for consideration (which may include services) that in the judgement of the independent trustees, has a market value less than the value of such option on the date of grant. Options or warrants issuable to the adviser, trustees, sponsors, or any affiliate thereof shall not exceed an amount equal to 10% of the outstanding shares of the REIT on the date of grant of any options or warrants; or

(7) issue its shares on a deferred payment basis or other similar arrangement.

§143.6. Rights and Obligations of Shareholders.

(a) Meetings.

(1) There shall be an annual meeting of the shareholders of the REIT upon reasonable notice and within a reasonable period (not less than 30 days) following delivery of the annual report. The trustees, including the independent trustees, shall be required to take reasonable steps to insure that this requirement is met.

(2) Special meetings of the shareholders may be called by the chief executive officer, by a majority of the trustees, or by a majority of the independent trustees, and shall be called by an officer of the REIT upon written request of shareholders holding in the aggregate not less than 10% of the outstanding shares of the REIT entitled to vote at such meeting. Upon receipt of a written request, either in person or by mail, stating the purpose(s) of the meeting, the sponsor shall provide all shareholders within 10 days after receipt of said request, written notice, either in person or by mail, of a meeting and the purpose of such meeting to be held on a date not less than 15 nor more than 60 days after the distribution of such notice, at a time and place specified in the request, or if none is specified, at a time and place convenient to shareholders.

(b) Voting Rights of Shareholders

(1) A public offering of equity securities of a REIT other than voting shares will be looked upon with disfavor.

(2) The voting rights per share of equity securities of the REIT (other than the publicly held equity securities of the REIT) sold in a private offering shall not exceed voting rights which bear the same relationship to the voting rights of the publicly held shares of the REIT as the consideration paid to the REIT for each privately offered REIT share bears to the book value of each outstanding publicly held share.

(3) The declaration of trust must provide that a majority of the then-outstanding shares may, without the necessity for concurrence by the trustees, vote to:

(A) amend the declaration of trust;

(B) terminate the REIT; and

(C) remove the trustees.

(4) The declaration of trust must provide that a majority of shareholders present in person or by proxy at an annual meeting at which a quorum is present, may, without the necessity for concurrence by the

trustees, vote to elect the trustees. A quorum shall be 50% of the then-outstanding shares.

(5) Without concurrence of a majority of the outstanding shares, the trustees may not:

(A) amend the declaration of trust, except for amendments which do not adversely affect the rights, preferences and privileges of shareholders including amendments to provisions relating to trustee qualifications, fiduciary duty, liability and indemnification, conflicts of interest, investment policies or investment restrictions;

(B) sell all or substantially all of the REIT's assets other than in the ordinary course of the REIT's business or in connection with liquidation and dissolution,

(C) cause the merger or other reorganization of the REIT; or

(D) dissolve or liquidate the REIT, other than before the initial investment in property.

(6) With respect to shares owned by the adviser, the trustees, or any affiliate, neither the adviser, nor the trustees, nor any affiliate may vote or consent on matters submitted to the shareholders regarding the removal of the adviser, trustees, or any affiliate or any transaction between the REIT and any of them. In determining the requisite percentage in interest of shares necessary to approve a matter on which the adviser, trustees, and any affiliate may not vote or consent, any shares owned by any of them shall not be included

(c) Liability of Shareholders The declaration of trust shall provide that:

(1) The shares of the REIT shall be non-assessable by the REIT whether a trust, corporation, or other entity.

(2) The shareholders of the REIT which is not a corporation shall not be personally liable on account of any of the contractual obligations undertaken by the REIT

(3) All written contracts to which the REIT, which is not a corporation, is a party shall include a provision that the shareholder shall not be personally liable thereon

(d) Reports.

(1) The declaration of trust shall provide that the REIT shall cause to be prepared and mailed or delivered to each shareholder as of a record date after the end of the fiscal year and each holder of other publicly held securities of the REIT within

120 days after the end of the fiscal year to which it relates an annual report for each fiscal year ending after the initial public offering of its securities which shall include:

(A) financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants;

(B) the ratio of the costs of raising capital during the period to the capital raised;

(C) the aggregate amount of advisory fees and the aggregate amount of other fees paid to the adviser and any affiliate of the adviser by the REIT and including fees or charges paid to the adviser and any affiliate of the adviser by third parties doing business with the REIT;

(D) the total operating expenses of the REIT, stated as a percentage of average invested assets and as a percentage of its net income;

(E) a report from the independent trustees that the policies being followed by the REIT are in the best interests of its shareholders and the basis for such determination; and

(F) separately stated, full disclosure of all material terms, factors, and circumstances surrounding any and all transactions involving the REIT, trustees, advisers, sponsors, and any affiliate thereof occurring in the year for which the annual report is made. Independent trustees shall be specifically charged with a duty to examine and comment in the report on the fairness of such transactions.

(2) The trustees, including the independent trustees, shall be required to take reasonable steps to insure that the above requirements are met.

(e) Access to Records Any shareholder and any designated representative thereof shall be permitted access to all records of the REIT at all reasonable times, and may inspect and copy any of them. Inspection of the REIT books and records by the Securities Commissioner shall be provided upon reasonable notice and during normal business hours. The declaration of trust shall include the following provisions regarding access to the list of shareholders:

(1) An alphabetical list of the names, addresses, and telephone numbers of the shareholders of the REIT along with the number of shares held by each of them (the

"shareholder list") shall be maintained as part of the books and records of the REIT and shall be available for inspection by any shareholder or the shareholder's designated agent at the home office of the REIT upon the request of the shareholder.

(2) The shareholder list shall be updated at least quarterly to reflect changes in the information contained therein.

(3) A copy of the shareholder list shall be mailed to any shareholder requesting the shareholder list within 10 days of the request. The copy of the shareholder list shall be printed in alphabetical order, on white paper, and in a readily readable type size (in no event smaller than 10-point type). A reasonable charge for copy work may be charged by the REIT.

(4) The purposes for which a shareholder may request a copy of the shareholder list include, without limitation, matters relating to shareholders' voting rights under the REIT agreement, and the exercise of shareholders' rights under federal proxy laws.

(5) If the adviser or trustees of the REIT neglects or refuses to exhibit, produce, or mail a copy of the shareholder list as requested, the adviser, and the trustees shall be liable to any shareholder requesting the list for the costs, including attorneys' fees, incurred by that shareholder for compelling the production of the shareholder list, and for actual damages suffered by any shareholder by reason of such refusal or neglect. It shall be a defense that the actual purpose and reason for the requests for inspection or for a copy of the shareholder list is to secure such list of shareholders or other information for the purpose of selling such list or copies thereof, or of using the same for a commercial purpose other than in the interest of the applicant as a shareholder relative to the affairs of the REIT. The REIT may require the shareholder requesting the shareholder list to represent that the list is not requested for a commercial purpose unrelated to the shareholder's interest in the REIT. The remedies provided hereunder to shareholders requesting copies of the shareholder list are in addition to, and shall not in any way limit, other remedies available to shareholders under federal law, or the laws of any state.

(f) Repurchase of Shares. Ordinarily, the REIT is not obligated to repurchase any of the shares. However, the REIT is not precluded from voluntarily repurchasing the shares if such repurchase does not impair the capital or operations of the REIT. The REIT may have excess share provisions that provide for mandatory redemption. The sponsor, adviser, trustees, or affiliates are prohibited from receiving a fee on the repurchase of the shares by the REIT

(g) **Distribution Reinvestment Plans.** All distribution reinvestment plans shall, at the minimum, provide for the following:

(1) All material information regarding the distribution to the shareholder and the effect of reinvesting such distribution, including the tax consequences thereof, shall be provided to the shareholder at least annually.

(2) Each shareholder participating in the plan shall have a reasonable opportunity to withdraw from the plan at least annually after receipt of the information required in paragraph (1) of this subsection.

(h) **Distributions.** The declaration of trust shall state the manner in which distributions to shareholders are to be determined.

(i) **Distributions in Kind.** Distributions in kind shall not be permitted, except for:

(1) distributions of readily marketable securities;

(2) distributions of beneficial interests in a liquidating trust established for the dissolution of the REIT and the liquidation of its assets in accordance with the terms of the declaration of trust; or

(3) distributions of in-kind property which meet all of the following conditions.

(A) The trustees advise each shareholder of the risks associated with direct ownership of the property.

(B) The trustees offer each shareholder the election of receiving in-kind property distributions.

(C) The trustees distribute in-kind property only to those shareholders who accept the trustee's offer.

§143.7. Disclosure and Marketing.

(a) **Sales Material.** Sales material, including without limitation, books, pamphlets, movies, slides, article reprints, television and radio commercials, materials prepared for broker/dealer use only, sales presentations (including prepared presentations to prospective shareholders at group meetings) and all other advertising used in the offer or sale of units shall conform to filing, disclosure, and adequacy requirements under any applicable state regulations. Statements made in sales material communicated directly or indirectly to the public may not conflict with, or modify risk factors or other statements made in the prospectus.

(b) **Prospectus and its Contents.**

(1) **Prospectus.** A prospectus which is not part of a registration statement declared effective by the Securities and Exchange Commission pursuant to the Securities Act of 1933 shall generally conform to the disclosure requirements which would apply if the offering were so registered. The format and information requirements of applicable Guide(s) promulgated by the Securities and Exchange Commission shall be followed, with appropriate adjustments made for the different business of the REIT.

(2) **Prohibited Representations.**

(A) In connection with the offering and sale of shares in a REIT, neither the sponsor(s) nor the underwriter(s) may, in writing or otherwise, directly or indirectly, represent or imply that the Securities Commissioner has approved the merits of the investment or any aspects thereof.

(B) Any reference to the REIT's compliance with these guidelines or any provisions herein which connotes or implies compliance shall not be allowed.

(3) **Forecasts and Projections.**

(A) Neither the prospectus nor any sales material communicated directly or indirectly to the public shall contain a quantitative estimate of a REIT's anticipated economic performance or anticipated return to participants, in the form of investment objectives, cash distributions, tax benefits or otherwise, except as permitted by this paragraph of these guidelines.

(B) The presentation of predicted future results of operations of programs shall be permitted but not required for specified asset REITs and shall be prohibited for all other REITs. The cover of the prospectus must contain in bold face language one of the following statements:

(i) for specified asset REITs with forecasts: "Forecasts are contained in this prospectus. Any representation to the contrary and any predictions, written or oral, which do not conform to that contained in the prospectus shall not be permitted"; or

(ii) for all other REITs: "The use of forecasts in this offering is prohibited. Any representations to the contrary and any predictions, written or oral, as to the amount or certainty of any present or future cash benefit or tax consequence which may flow from an investment in this program is not permitted."

(C) **Content of Forecasts.** Forecasts for specified asset REITs may be included in the prospectus and sales mate-

rial of the REIT only if they comply with all of the following requirements:

(i) Generally, forecasts shall be realistic in their predictions and shall clearly identify the assumptions made with respect to all material features of presentation. Forecasts should be examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements and the Statement on Standards for Accountant's Services on Prospective Financial Information as promulgated by the American Institute of Certified Public Accountants. The report of the independent certified public accountant must be included in the prospectus.

(ii) If any part of the forecast appears in the sales material, the entire forecast must be presented.

(iii) Forecasts shall generally be for a period equivalent to the anticipated holding period for REIT assets. Forecasts which do not extend through the expected term of the REIT's life must show the effects of a hypothetical liquidation of program assets under good and bad conditions. Yield information may not be presented for forecasts which do not extend through the expected term of the REIT's life.

(iv) Forecasts shall disclose possible undesirable tax consequences of an early sale of program assets, such as depreciation recapture, the loss of prior year tax credits, or the possible failure to generate sufficient cash from the disposition to pay the associated tax liabilities.

(v) In computing any rate of return or yield to investors, no unrealized gains or value shall be included.

(c) The Securities Commissioner may require that the declaration of trust be given to prospective shareholders.

§143.8. Miscellaneous.

(a) Provisions of the Declaration of Trust. The requirements and/or provisions of appropriate portions of the following sections shall be included in the declaration of trust: §143.1(b) of this title (relating to Definitions); §143.2(a)-(h) of this title (relating to Requirements of Sponsor, Adviser, Trustees, and any Affiliate); §143.3(b), (c) and (f) of this title (relating to Suitability of Shareholders); §143.4(a)(2) and (c)-(g) of this title (relating to Fees, Compensation, and Expenses); §143.5(a)-(d), (e)(2) and (g)-(k) of this title (relating to Conflicts of Interest and Investment Restrictions); and §143.6(a)-(i) of this title (relating to Rights and Obligations of Shareholders).

(b) **Amendments and Supplements.** A marked copy of all amendments and supplements to an application shall be filed

with the Securities Commissioner as soon as the amendment or supplement is available.

(c) Cross-Reference Sheet Requirement. The cross-reference sheet shall be included with the application for registration.

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 24, 1994

TRD-9436698 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 305-8300

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 190. Procedures of the Board

• 10 TAC §190.3, §190.8

The Texas Department of Commerce proposes an amendment to §190.3 which requires the policy board to adopt rules to administer department programs, by adding new language to existing §190.3(d) concerning the making of the policy board agenda and new §190.8 concerning petitioning for rule procedure

Proposed new §190.8 describes how the public may petition the department for rules as authorized by Texas Government Code, §2001.21. The proposed new section requires the department to provide written notice to the petitioner of its decision to either initiate or deny a rulemaking proceeding

Proposed new language in §190.3(d) clarifies that policy board members may submit items for inclusion in the policy board's meeting agenda

Sedora Jefferson, general counsel, Texas Department of Commerce, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections

Ms. Jefferson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the facilitation of the development and implementation of effective state and local systems for managing job training, employment and related programs in this state

There is no anticipated economic cost to persons or entities who are required to comply with the sections as proposed

Comments on the proposal may be submitted, in duplicate, to Sedora Jefferson, General Counsel, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, within 30 days of the publication of the proposed rules.

The amendment and new rule are proposed under the Texas Government Code, §481.0044(a), which authorizes the policy board to adopt rules necessary for the administration of department programs; and, Texas Civil Statutes, Article 4413(52), §5A, (as amended by Senate Bill 405, §29, 73rd Legislature), which provide the policy board of the Texas Department of Commerce with the authority to adopt necessary rules for the implementation and management of the job training program. The rules are also proposed under the authority of the Administrative Procedure Act (Texas Government Code, Chapter 2001), which mandates the rulemaking procedures for state agencies.

The following statutes are affected by the proposed amendment to §190.3: Texas Labor Code, §301.001, et seq., Texas Civil Statutes, Article 4413(52), §5A (Acts 1993, 73rd Legislature, Chapter 986, §29, effective September 1, 1993).

§190.3 Public Meetings.

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

(d) Agenda The agenda shall consist of agenda items prepared by department staff and approved by the chairman prior to the policy board meeting, and agenda items submitted by policy board members. Notice of all items to be considered shall be filed with the Secretary of State's Office as required by statute

(e)-(i) (No change.)

§190.8 Petition for Rulemaking Procedure

(a) An interested person may request the department to adopt a rule by submitting a written petition to the executive director. Such petitions will be deemed sufficient if they contain:

(1) the exact wording of the new, changed or amended rule being proposed, with new language underlined, and deleted language bracketed,

(2) specific reference to the existing rule which is proposed to be changed, amended or repealed, and

(3) justification for the proposed action with sufficient detail to inform the policy board and any other interested person of the reasons and arguments on which the petitioner is relying.

(b) The department shall send written notification to the petitioning party of its decision to:

(1) deny the petition, stating the department's reasons for such denial, or

(2) initiate a rulemaking proceeding before the policy board, indicating the date, time and place of such proceeding.

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 24, 1994.

TRD-9436721 Deborah C. Kastrin
Acting Executive Director
Texas Department of
Commerce

Earliest possible date of adoption: April 4, 1994

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

TITLE 22. EXAMINING BOARDS

Part VI. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure

Education

• 22 TAC §131.92

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.92, concerning foreign degrees. The section is amended to permit applicants who qualify for registration under subsection (a)(1) to request an exemption from the evaluation requirement of a foreign degree(s) by a commercial evaluation service if the applicant submits substantiating evidence and documentary proof that the degree(s) meets the requirements of §131.91(a)(3) which is satisfactory to the executive director.

Charles E. Nemir, P.E., 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.

Mr. Nemir also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of a more sound basis for evaluating educational qualifications for professional registration. 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 Charles E. Nemir, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.92. Foreign Degrees.

(a) An individual who has completed his undergraduate engineering education and received the equivalent of a baccalaureate degree from an institution other than one located in the United States and its possessions must apply under the Texas Engineering Practice Act (the Act), §12(a)(2), except as follows.

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

(b) Applicants having foreign degree(s), with the exception of those covered by subsection (a)(2) of this section, must furnish at their own expense an evaluation of their foreign degree(s) from a commercial evaluation service selected by the board. The degree evaluation must be sent directly to the board by the evaluation service. Applicants must submit with their applications complete certified copies or documented proof of all engineering degrees, diplomas, certificates, etc., showing the type of engineering degree awarded (B.S., M.S., Ph.D.), date awarded, branch of engineering, dates attended, and scores, grades, or honors awarded. Documents written in languages other than English shall be accompanied by a certified English translation. Applicants covered by subsection (a)(1) of this section may request exemption from the requirement for evaluation of the foreign degree(s) from a commercial evaluation service by submitting other substantiating evidence and documentary proof that the degree(s) meets the requirements of §131.91(a)(3) of this title (relating to Educational Requirements for Registration) which is satisfactory to 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 24, 1994.

TRD-9436680

Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Proposed date of adoption. April 20, 1994

For further information, please call (512) 440-7723

**Part XXIV. Texas Board
of Veterinary Medical
Examiners**

**Chapter 571. Licensing
Examinations**

• 22 TAC §571.18

The Texas Board of Veterinary Medical Examiners proposes an amendment to §571.18, concerning Provisional Licensure. The

amendment prohibits individuals failing the State Board Examination from being eligible for a provisional license. The amendment also requires that the sponsor for a candidate be the licensee under whose supervision the candidate will work.

Ron Allen, 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.

Mr. Allen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow successful provisional licensee candidates to practice prior to taking the full range of examinations. The Board has no data on which to base any cost to be assumed by the small businesses. 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 the Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.18. Provisional Licensure.

(a) A provisional license is not available to individuals who have failed the Texas State Board Examination prior to making application for the provisional license. The Board will grant a provisional license to a person who provides:

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

(3) proof of being sponsored by a person licensed by the Board under the Veterinary Licensing Act under whose supervision [with whom] the provisional licensee may practice under this section. If an applicant submits that obtaining a sponsor is a hardship, the applicant must appear before the Board at a regularly scheduled meeting to justify why a provisional license should be issued without a sponsor.

(4) proof of having taken and passed the Texas jurisprudence examination, [and]

(5) payment of the required application fee, and [.]

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

(d) [EXAMINATION.] The provisional licensure jurisprudence examination will be conducted on an as-needed-basis. A 14-day processing period will begin the date of receipt of an application for provisional licensure

(e)-(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 17, 1994.

TRD-9436781

Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Proposed date of adoption: June 10, 1994

For further information, please call: (512) 447-1183

**Chapter 573. Rules of
Professional Conduct**

Supervision of Personnel

• 22 TAC §573.10

The Texas Board of Veterinary Medical Examiners proposes an amendment to §573.10, concerning Direct Supervision of Lay Personnel. The amendment brings the rule into compliance with the definition of direct and general supervision, and removes the directive that Rabies Certificates be personally signed by the veterinarian.

Ron Allen, 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.

Mr. Allen also has determined that for each year of the first five years the section 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 will be to allow for treatment of pets in emergency situations with the DVM providing direction over the phone. 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 the Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§573.10. Direct Supervision of Lay Personnel.

(a) Official Health Documents. A licensee must personally sign any official health documents, other than Rabies Certificates, issued by said licensee. The issuance of any pre-signed official health documents by a licensee is a violation of this rule.

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

(e) Director Supervision. Direct Supervision, as defined by the Board, requires the presence of the licensee on the premise and his/her [his] availability for prompt consultation and treatment; provided however, that in cases involving emergency treatment; provided however, that in cases involving emergency treatment under subsection (c) of this section, general supervision as defined by the Act [direct supervision] may be effected through radio or telephone communication. It is further provided [;], however, that once a veterinarian has established a veterinarian/client/patient relationship, and the veterinarian has determined the care necessary for hospitalized animals, an unlicensed employee [person] may provide routine treatment that has been ordered by the veterinarian. The veterinarian is the sole judge of the employee's [employee] qualifications necessary for the performance of routine treatment. Consequently, the licensee will be held accountable before the Board for the actions and misdeeds of employees acting at his/her direction.

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-9436780

Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Proposed date of adoption. June 10, 1994

For further information, please call: (512) 447-1183

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 334. Underground and Aboveground Storage Tanks

Subchapter A. General Provisions

• 30 TAC §334.14

The Texas Natural Resource Conservation Commission (TNRCC) proposes new §334.14, concerning the adoption of a memorandum of understanding (MOU) between the Attorney General of Texas and the Texas Natural Resource Conservation Commission. The MOU complies with the Environmental Protection Agency's (EPA's) requirements as delineated in 40 Code of Federal Regulations, §281.42. This federal rule on state program approval requires states to provide for

public intervention in the state civil enforcement process.

Section 334.14 (relating to Memorandum of Understanding Between the Attorney General of Texas and the Texas Natural Resource Conservation Commission) which is referred to by this proposed rule contains the TNRCC's and Office of the Attorney General's policies in regard to public intervention in the civil enforcement process.

Stephen Minick, division of budget and planning, 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 enforcing the section will be the continued approval and federal cost sharing of the state's leaking underground storage tank programs and the assurance of opportunities for public involvement in agency enforcement proceedings. There will be no effect on small businesses. There are no costs anticipated for any person required to comply with this section as proposed

Comments on the proposed rule may be submitted to David Duncan, senior attorney, Legal Services Division, Texas Natural Resource Conservation Commission, P O Box 13087, Austin, Texas 78711-3087, (512) 239-0600. Comments will be accepted until 5.00 p.m., 30 days following publication of this proposal

The new section is proposed under the Texas Water Code, §5.103 (Vernon 1988), which provides the TNRCC with the authority to adopt any rules necessary to carry out the powers and duties under the Texas Water Code and other laws of this state.

The section is also proposed under the Texas Water Code, §5.104 (Vernon 1988), which provides the requirements for a memorandum of understanding between state agencies when the responsibilities addressed are not otherwise specified in the Texas Water Code.

§334.14. *Memorandum of Understanding Between the Attorney General of Texas and the Texas Natural Resource Conservation Commission.*

(a) Applicability This MOU applies to civil enforcement proceedings and complaints filed on storage tanks subject to this chapter. Pursuant to the Texas Water Code, §5.104, the Texas Natural Resource Conservation Commission adopts a MOU between the Texas Natural Resource Conservation Commission (TNRCC) and the Attorney General of Texas. The MOU contains the TNRCC's and the Attorney General's interpretation concerning intervention in the civil enforcement process under the Texas Water Code. This section applies as follows.

(1) The Texas Water Commission (now the Texas Natural Resource Con-

servation Commission, TNRCC) was designated as the state agency for the regulation of underground storage tanks by enactment of Senate Bill 779 of the 70th Texas Legislature, 1987.

(2) The Texas Water Code authorizes the Texas Natural Resource Conservation Commission to have instituted civil suits for injunctive relief and the assessment and recovery of a civil penalty, whenever it appears that a person has violated, or is violating or threatening to violate, any provision of the Texas Water Code, or of any rule, permit, or other order of the Texas Natural Resource Conservation Commission.

(3) The Texas Water Code provides that at the request of the executive director of the Texas Natural Resource Conservation Commission, the Attorney General of Texas shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover a civil penalty, or for both injunctive relief and penalty.

(4) Federal regulations promulgated by the United States Environmental Protection Agency pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, Subtitle I, require that any state agency administering the Underground Storage Tank Program authorized under that act provide for public participation in the state enforcement process.

(5) That all citizen complaints filed, either orally or in writing, that relate to underground storage tanks will be investigated timely and thoroughly by the Texas Natural Resource Conservation Commission. Citizen complaint responses will be first initiated by attempting to establish telephone contact with the complainant within 48 hours of receipt of the complaint, and concurrently beginning whatever records review is necessary. Upon completion of the investigation, the complainant will be informed in writing of the results. In addition, the complainant will be apprised of the ultimate resolution of the problem. The executive director of the Texas Natural Resource Conservation Commission shall keep a complaint file in accordance with §337.4 of this title (relating to Enforcement).

(6) That notice of proposed settlements of civil enforcement actions that relate to underground storage tanks will be published by the Attorney General of Texas in the *Texas Register* (except where immediate action is necessary to adequately protect human health and the environment) and that opportunity will be provided for the public to comment on such proposed settlements

(7) That nothing in this agreement shall be construed to limit or impair

the Attorney General's right to control and direct litigation on behalf of the state

(8) That the Attorney General will not oppose intervention where permissive intervention may be authorized by statute, rule, or regulation into any civil suit involving the State of Texas relating to violations of the Underground Storage Tank Program by any citizen having an interest which is or may be adversely affected

(9) That the Attorney General, on behalf of the State of Texas, will consent to a proposed judgment in an action to enjoin violations of the Underground Storage Tank Program only after the publication of notice which provides at least 30 days for public comment on the proposed judgment prior to its entry by the court, provided that the Attorney General may permit an exception to the 30-day comment period if a settlement or judgment is required to avoid delays that would adversely affect public health or the environment

(b) Execution by all signatories After execution by all signatories, this agreement shall remain in effect until rescinded by formal action of either agency

(c) Effective date The effective date of the memorandum of understanding is the effective date of this rule adoption.

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 28, 1994

TRD-9436782 Mary Ruth Holder Director, Legal Division Texas Natural Resource Conservation Commission

Earliest possible date of adoption: April 4, 1994

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part IX. Texas Commission on Jail Standards

Chapter 259. New Construction Rules

Temporary Emergency Housing-Buildings

• 37 TAC §§259.401-259.422

(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 Commission on Jail Standards or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin)

The Commission on Jail Standards proposes repeal of §§259.401-259.422, concerning New Construction Rules to allow for revisions to temporary housing standards.

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

Mr Crump also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to allow construction of temporary buildings and tents at a reduced cost to counties.

There will be no effect on small businesses

There will be no anticipated economic cost to persons who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Rhonda C Long, P O Box 12985, Austin, Texas 78711, (512) 463-5505.

The repeals are proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails

The repeals implement Government Code, §351.002 and §351.015

§259.401 Qualifications for Use

§259.402 Time Period

§259.403. Construction Approval.

§259.404 Site Requirements

§259.405 Security Requirements.

§259.406. Classification and Separation

§259.407 Support Areas.

§259.408 Capacity.

§259.409. Supervision.

§259.410. Construction Materials and Methods.

§259.411 Electrical Power

§259.412. Life Safety Equipment

§259.413 Lighting

§259.414. Temperature Control.

§259.415 Audible Communication

§259.416. Sanitary Facilities

§259.417. Sleeping Areas

§259.418 Day Rooms

§259.419. Openings

§259.420 Emergency First Aid Equipment

§259.421 Furnishings

§259.422 Storage

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 24, 1994

TRD-9436622 Jack E Crump Executive Director Texas Commission on Jail Standards

Earliest possible date of adoption April 4, 1994

For further information, please call (512) 463-5505

Temporary Emergency Housing

• 37 TAC §§259.500-259.522, 259.600-259.622

The commission on Jail Standards proposes new §§259.500-259.522 and 259.600-259.622, concerning New Construction Rules to revise requirements for temporary tents and buildings to allow counties to build the structures at a reduced cost.

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

Mr. Crump also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to allow construction of temporary tents and buildings at a reduced cost to counties

There will be no effect on small businesses

There will be no anticipated economic cost to persons who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Rhonda C. Long, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505

The new rules are proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The new sections implement Government Code, §§51.002 and §351.015.

§259.500. *Qualifications for Use*

(a) The commission may approve the use of tents for the temporary housing of inmates when a need is clearly identified by the sheriff and commissioners court. The county shall submit a plan to the commission for approval indicating long-range solutions with timeframes for implementation.

(b) The commission may approve the use of tents for temporary housing of inmates in connection with specific correctional programs which include work camps, wilderness camps, forestry camps or boot camps. The county shall submit a plan outlining the specific correctional program and intended length of stay of inmates.

§259.501. *Time Period*. Tents used under authority of §259.500(a) of this title (relating to Qualifications for Use) shall not be used in excess of three years without review and approval by the commission.

§259.502. *Classification*. Inmates housed in tents shall be classified as low-risk as required by Chapter 271 of this title (relating to Classification and Separation of Inmates) or assigned to the specific correctional programs.

§259.503. *Compound Security*. A security perimeter should be provided around the tent compound area to deter inmate escapes and the introduction of contraband. Secure storage space shall be provided for disposition of weapons.

§259.504. *Construction Approval*. The county shall submit, for approval by the commission, drawings and specifications of the proposed tents in sufficient detail to demonstrate that the completed construction meets the requirements of §§259.500-259.522 of this title (relating to Temporary Housing).

§259.505. *Site Requirements*. The site shall be of sufficient size to provide for adequate spacing of tents and support structures to facilitate access of emergency and service vehicles and equipment. Site shall provide adequate drainage to maintain sanitary and safe conditions.

§259.506. *Construction Materials*. Tent fabric shall be of durable, waterproof and fire-resistant material and shall be maintained in good condition. Tent supports shall be structurally sound and fire-resistant. Tent floors shall be constructed of fire-resistant solid material. Tent floors shall be raised or constructed to prevent site runoff water from entering tents. Tent construction shall incorporate measures which protect against the entrance and infestation of vermin.

§259.507. *Sleeping Areas*. Tents used for inmate sleeping areas shall provide a minimum of 40 square feet of clear floor-space for the first bunk plus 18 square feet of clear floor-space for each additional bunk.

§259.508. *Day Rooms*. All inmate living areas shall include or be provided with access to day rooms. Day rooms shall provide 40 square feet of clear floor-space for one inmate plus 18 square feet of clear floor-space for each additional inmate.

§259.509. *Dimensions*. Minimum ridge height shall be 7'-0" above the floor. Distance between furnishings shall be 3'-0" when used for exit path. Distance between tents shall be 16'-0", exclusive of any obstruction.

§259.510. *Capacity*. Maximum capacity of a tent shall not exceed 24 inmates unless operated as a direct supervision unit. Tents for direct supervision units shall not exceed a capacity of 48 inmates.

§259.511. *Tent Openings*. Entrances to tents shall be of adequate size to allow for passage of emergency medical equipment. Openings shall be capable of being fastened and provided with insect screens. Maximum distance from any point in a tent to an exit shall not exceed 50'-0".

§259.512. *Furnishings*. A fire-resistive bunk and mattress or cot not less than 2'-3" wide and 6'-3" long shall be provided for each inmate confined. Additional furnishings may be provided. Drinking water shall be provided in all inmate sleeping and day room areas. Day rooms shall be provided with fire-resistive table and seating to accommodate the number of inmates confined.

§259.513. *Storage*. Provisions shall be made for the storage of inmate property, uniforms, towels, bedding, linens and janitorial supplies.

§259.514. *Guard Stations*. Guard stations shall be provided within sufficient proximity to inmate living and day room areas.

§259.515. *Support Areas*. Provisions shall be made for inmate services and privileges to include:

- (1) food service;
- (2) laundry;
- (3) medical examination and treatment;
- (4) recreation and exercise;
- (5) public and attorney visitation;
- (6) inmate programs, activities, counseling and interviews;
- (7) telephone;
- (8) commissary;
- (9) correspondence;
- (10) religious services;
- (11) education; and
- (12) library.

§259.516. *Sanitary Facilities*. A shower, toilet and lavatory, which are accessible at all times, shall be provided for each group or increment of 12 inmates. Warm water shall be provided at all lavatories and showers. Warm water temperature shall be between 100 and 120 degrees Fahrenheit. Sanitary facilities should be within the inmate living and day room areas. Sanitary facilities shall be within reasonable proximity to inmate living and day room areas and accessible by walkways which are protected from inclement weather, or accessible by other means which will protect inmates from inclement weather. A separate toilet should be available for staff.

§259.517. *Temperature Control*. Reasonable temperature levels shall be maintained. Heating equipment, if provided, shall be approved in writing by local or state fire officials.

§259.518. *Medical Space and Equipment*. Adequate space for first aid equipment shall be provided. Space and equipment for medical examination, treatment and convalescent care shall be provided or a written program shall be established and implemented for medical care. Adequate secure storage for medical supplies and drugs shall be provided.

§259.519. *Life Safety Equipment*.

(a) Self-alarming smoke detectors shall be provided for each inmate living and day room.

(b) Plans and drills for emergencies shall be provided as required by §§263.40-263.44 of this title (relating to Life Safety).

(c) Fire extinguishers of adequate number and type to meet NFPA 10 shall be provided at appropriate locations. Fire department connections in proximity to the tent as approved in writing by local fire official shall be provided.

§259.520. *Audible Communication.* Two-way voice communication shall be available at all times between inmates and corrections officers

§259.521. *Lighting.* Normal lighting sufficient for reading, writing and other activities shall be provided in all inmate occupied areas. Night lights and emergency illumination shall be provided. Adequate exterior lighting shall be provided.

§259.522. *Electrical Wiring.* All electrical wiring shall be in suitable conduit and comply with local electrical codes or the National Electric Code.

§259.600. *Qualifications for Use.* The commission may approve the use of buildings for the temporary housing of inmates when a need is clearly identified by the sheriff and commissioners court. The county shall submit a plan to the commission for approval indicating long-range solutions with timeframes for implementation.

§259.601. *Time Period.* Buildings shall not be used in excess of three years without review and approval by the commission.

§259.602. *Classification and Separation.* Facilities shall have cells and day rooms of capacities which provide separation of different classifications of inmates as required by Chapter 271 of this title (relating to Classification and Separation of Inmates). Temporary buildings may house high, medium and low-risk inmates.

§259.603. *Security Requirements.*

(a) Buildings should protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes. Separate secure storage space shall be provided for disposition of weapons.

(b) A low-risk facility need not be designed and maintained as a special security unit. It does not require a security perimeter. When built in conjunction with other jail or lockup functions, the integrity of the security perimeter of the higher security facility shall not be compromised.

(c) A security perimeter to restrict the movement of inmates and unauthorized persons and to prevent the introduction of contraband into the facility shall be main-

tained in medium and high-risk facilities. Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within a medium or high-risk facility.

§259.604. *Construction Approval.* The county shall submit, for approval by the commission, drawings and specifications of the proposed building construction in sufficient detail to demonstrate that the completed building construction meets the requirements of §§259.600-259.622 of this title (relating to Temporary Housing).

§259.605. *Site Requirements.* The site shall be of sufficient size for the buildings and to facilitate access of emergency and service vehicles and equipment. Site shall provide adequate drainage to maintain sanitary and safe conditions.

§259.606. *Construction Materials and Methods.* Buildings shall be designed, constructed, and maintained in a manner to provide a safe, sanitary, secure and structurally sound environment. Class A finishes are required on exterior and interior surfaces. Floor drains should be provided at wet areas. Building construction shall incorporate measures which protect against the entrance and infestation of vermin.

(1) Inmate housing areas and day rooms in low-risk facilities may be constructed of conventional construction materials. Plywood floors with a fire-retardant vinyl covering may be used for the building floor.

(2) Inmate housing areas and day rooms in medium-risk facilities may be constructed of conventional construction materials which are comparable to metal, masonry, or concrete. The purpose of a particular wall or partition and the type of security sought to be achieved shall determine the selection of appropriate materials.

§259.607. *Sleeping Areas.* Inmate sleeping areas shall provide a minimum of 40 square feet of clear floor-space for the first bunk, plus 18 square feet of clear floor-space for each additional bunk.

§259.608. *Day Rooms.* All inmate living areas shall be provided with or allowed access to day rooms. Day rooms shall provide 40 square feet of clear floor-space for one inmate plus 18 square feet of clear floor-space for each additional inmate. Day rooms may be contiguous with inmate sleeping areas.

§259.609. *Dimensions.* All cells and day rooms shall be not less than 8'-0" from finished floor to ceiling and 5'-6" from wall to wall.

§259.610. *Capacity.* Maximum capacity of any living area shall not exceed 24 inmates unless operated as a direct supervision unit. A living area operated as a direct supervision unit shall not exceed a capacity of 48 inmates.

§259.611. *Openings.* All doors shall have commercial grade or detention hardware to provide the level of security sought to be achieved. All exit doors shall have a minimum width of 35". Key override feature shall be available on all electric or mechanical locks. Maximum distance from any point in the building to an exit shall not exceed 150'. All swinging doors shall be installed to swing in the direction of exit traffic. Where provided, operable windows shall be equipped with insect screens. Adequate mechanical ventilation shall be provided when operable windows are not provided.

§259.612. *Furnishings.* A fire-resistive bunk not less than 2'-3" wide and 6'-3" long with a fire-resistive mattress shall be provided for each inmate confined. Additional furnishings may be provided. Drinking water shall be provided in all inmate sleeping and day room areas. Day rooms shall be provided with fire-resistive table and seating to accommodate the number of inmates confined. Furnishings shall be securely anchored in all areas that house inmates other than low-risk.

§259.613. *Storage.* Provisions shall be made for the storage of inmate property, uniforms, towels, bedding, linens and janitorial supplies.

§259.614. *Guard Stations.* Guard stations shall be provided within sufficient proximity to inmate living and day room areas. They should be so arranged that visibility into the housing areas is provided.

§259.615. *Support Areas.* Provisions shall be made for inmate services and privileges to include:

- (1) food service;
- (2) laundry;
- (3) medical examination and treatment;
- (4) recreation and exercise;
- (5) public and attorney visitation,
- (6) inmate programs, activities, counseling and interviews;
- (7) telephone;
- (8) commissary;

- (9) correspondence;
- (10) religious services;
- (11) education; and
- (12) library.

§259.616. Sanitary Facilities. A shower, toilet and lavatory, which are accessible at all times, shall be provided for each group or increment of 12 inmates. Warm water shall be provided at all lavatories and showers. Warm water temperature shall be between 100 and 120 degrees Fahrenheit. Sanitary facilities should be within the inmate living and day room areas. Sanitary facilities shall be within reasonable proximity to inmate living and day room areas and accessible by walkways which are covered or other means provided which will protect inmates from inclement weather. A separate toilet should be available for staff.

§259.617. Temperature Control. Temperature level shall be reasonably maintained between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas.

§259.618. Medical Space and Equipment Adequate space for first aid equipment shall be provided. Space and equipment for medical examination, treatment and convalescent care shall be provided or a written program shall be established and implemented for medical care. Adequate secure storage for medical supplies and drugs shall be provided.

§259.619 Life Safety.

(a) Provisions shall be made for the rapid removal of occupants by such reliable means as the remote control of doors or by keying all locks to keys readily available to jail staff who are continually on duty and have undergone emergency drills. There shall be not less than 2 exits on each floor as remote as practicable from one another. Travel distance between any point on the floor of the facility to an exit shall not exceed 150'-0". Travel distance between any room door and an exit may be increased by 50'-0" in fully-sprinklered facilities not to exceed 200 feet of total travel distance.

(b) Access to exits shall be marked by readily visible signs at all locations where the exit is not readily visible from outer cell doors

(c) Interior stairways serving as emergency exits for new facilities and new additions shall be separated by a 2-hour fire-rated enclosure and self-closing fire doors.

(d) Hazardous area protection shall be provided as required by §263.21 of this title (relating to Life Safety).

(e) Self-alarmed smoke detectors or smoke detectors which are part of an automatic fire detection and alarm system shall be provided for each inmate living and day room area in sufficient numbers to provide prompt warning to occupants and staff. The alarm systems should be tested in accordance with the manufacturer's recommendation, but shall be tested at least on calendar quarterly intervals and test results made a matter of record to include date and results of test, and signature of the person testing the equipment.

(f) Plans and drills for emergencies shall be provided as required by §§263.40-263.44 of this title (relating to Life Safety).

(g) A manually operated or automatic smoke removal system shall be provided. (Exception: Single-story low-risk facility buildings which provide direct exiting to the exterior of the building from the inmate living and day room areas and whose exit doors are incapable of being locked are not required to provide a smoke removal system.)

(h) Fire extinguishers of adequate number and type to meet NFPA 10 shall be provided at appropriate locations. Fire department connections in proximity to the building as approved in writing by local fire official shall be provided. A standpipe and hose system with a 1" non-collapsible or 1-1/2" collapsible hose utilizing a minimum of 2" domestic water system shall be provided.

(i) All life safety equipment shall be out of reach of inmates, or otherwise secured from unauthorized tampering. At least one self-contained breathing apparatus shall be available and maintained in or near each facility control station. All jail staff shall be trained and quarterly drills conducted in the use of this equipment. A minimum of one unit shall be provided for each building or a multi-building facility. All life safety equipment shall be inspected, maintained and tested by persons qualified to do so (whether under vendor contract, by state or private agency or otherwise) in order that such equipment shall be safe, secure and fully operative at all times.

(j) Records and reports shall be maintained as required by §263.70 and §263.71 of this title (relating to Life Safety).

§259.620. Audible Communication. Two-way voice communication shall be available at all times between inmates and corrections officers

§259.621 Lighting. Normal lighting sufficient for reading, writing and other activities shall be provided in all inmate occupied areas. Night lights and emergency illumina-

tion shall be provided. All corridors, passages to exits, discharging stairways, other means of egress and exit signs shall be continuously illuminated. Adequate exterior lighting shall be provided.

§259.622. Electrical Power. All electrical wiring shall be in a suitable conduit and comply with local electrical codes or the National Electrical Code. Emergency power shall be provided, as applicable, for electrical door locks, smoke detection, smoke removal, emergency lighting, communication, and ventilation. A non-automatic start generator system may be used.

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-9436621 Jack E Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 463-5505

◆ ◆ ◆
Temporary Emergency Housing-Tents

• 37 TAC §§259.501-259.524

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

The Commission on Jail Standards proposes the repeal of §§259.501-259.524, concerning New Construction Rules, to allow for revisions to temporary housing standards.

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

Mr Crump also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to allow construction of temporary buildings and tents at a reduced cost to counties.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Rhonda C. Long, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505

The repeals are proposed under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the

authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance and operation of county jails.

The repeals implement the Government Code, §351.002 and §351.015.

§259.501. *Qualifications for Use.*

§259.502. *Time Period.*

§259.503. *Custody Level Assessment.*

§259.504. *Compound Security.*

§259.505. *Construction Approval*

§259.506. *Site Requirements.*

§259.507. *Construction Materials.*

§259.508. *Sleeping Areas*

§259.509. *Day Rooms.*

§259.510. *Dimensions.*

§259.511. *Capacity.*

§259.512. *Tent Openings.*

§259.513. *Furnishings.*

§259.514. *Storage.*

§259.515. *Guard Stations.*

§259.516. *Support Areas.*

§259.517. *Sanitary Facilities.*

§259.518. *Temperature Control.*

§259.519. *Emergency First Aid Equipment.*

§259.520. *Life Safety Equipment.*

§259.521. *Audible Communication.*

§259.522. *Lighting.*

§259.523. *Electrical Wiring.*

§259.524. *Supervision.*

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-5436651

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: April 4, 1994

For further information, please call: (512) 463-5505

◆ ◆ ◆

ADOPTED RULES

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

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

TITLE 7. BANKING AND SECURITIES

Part IV. Texas Savings and Loan Department

Chapter 63. Fees and Charges

• 7 TAC §63.5

The Texas Savings and Loan Department adopts an amendment to §63.5, concerning fee for special examination or audit, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 390)

This section clarifies that examination fees will be charged only for special examinations and not for an association's annual regular examination

This section will allow more efficient collection and administration of fees charged to the associations under the Department's jurisdiction. An association subject to the Savings and Loan Act will only pay an examination fee of \$325 per day for each examiner if the Commissioner deems a special examination necessary

Special examinations would include only those which the Commissioner conducts or causes to have conducted after the institution has completed one annual examination or such other additional examinations as the Commissioner deems to be necessary

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994

TRD-9436748

James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date March 18, 1994

Proposal publication date January 25, 1994
For further information, please call (512)
475-1350

Chapter 69. Reorganization, Merger, Consolidation, Acquisition, and Conversion

• 7 TAC §§69.1, 69.2, 69.7-69.9, 69.11

The Texas Savings and Loan Department adopts amendments to §§69.1, 69.2, 69.7-69.9, and 69.11 concerning reorganization, merger, consolidation, acquisition, and conversion, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 390)

The amendments conform the language with legislative changes to the Texas Savings and Loan Act relating to cross industry mergers, consolidations, acquisitions, and conversions. This section will allow the continued safe and sound operation of the resulting financial institution. Because the statutory amendments enable savings and loan associations to engage in reorganization, merger, consolidation and acquisition transactions with other types of financial institutions, the rule incorporates those transactions with the additional categories of institutions into the Department's procedure for approving such transactions without material changes to the procedures already in place. Such transactions are subject to applications to and approval by the Commissioner in the same manner as those transactions would be handled if the transactions involved only savings associations

No comments were received regarding adoption of the amendments

The amendments are adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994

TRD-9436746

James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date March 18, 1994

Proposal publication date January 25, 1994
For further information, please call (512)
475-1350

Chapter 73. Subsidiary Corporations

• 7 TAC §73.6

The Texas Savings and Loan Department adopts new §73.6, concerning operating subsidiaries, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 392)

This section clarifies that state savings and loan associations have the authority to invest in operating subsidiaries whose activities are limited to those that could be conducted directly by the parent savings and loan association. This section will allow savings and loan associations to perform selected activities that the parent association could conduct directly through an operating subsidiary, thus limiting the liability of the parent association and, therefore, increasing association and depositor protection. Because operating subsidiaries can only invest in activities that could be conducted directly by the association, such investment would not be included in the calculation of the limit on investment in subsidiaries. Authority to invest in operating subsidiaries is identical to authority available to federally chartered savings associations and such investments by federal associations are not counted as part of an institution's investment in subsidiaries. Institutions generally use operating subsidiaries in order to limit liability of the association in situations involving foreclosed property or other instances where there may be a reason to clearly separate the association from the assets or activities of the operating subsidiary. Any investment or activity limitations that would be applicable to the association's activities or investments would be equally applicable to the operating subsidiary. Operating subsidiaries are fully subject to the regulatory supervision and examination of the Department, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation

No comments were received regarding adoption of the new section

The new section is adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994

TRD-9436747 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date March 18, 1994

Proposal publication date January 25, 1994

For further information, please call (512) 475-1350

Chapter 79. Miscellaneous Corporate Activities

• 7 TAC §79.12

The Texas Savings and Loan Department adopts new §79.12, concerning Bylaws, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 393)

This section gives state savings banks the authority to adopt, amend, and repeal bylaws. This will allow state savings banks to be subject to corporate bylaw and director liability provisions that are competitive with state banks and state savings and loan associations.

A state savings bank is specifically permitted to include in its bylaws a provision regarding the limitation of liability for directors consistent with Article 1302-7.06 of the Texas Miscellaneous Corporations Act. Such directors liability limitations are available to state or national banks in Texas and state or federal savings associations.

No comments were received regarding adoption of the new section

The new section is adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994.

TRD-9436745 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date. March 18, 1994

Proposal publication date January 25, 1994

For further information, please call (512) 475-1350

Fees and Charges

• 7 TAC §79.95

The Texas Savings and Loan Department adopts an amendment to §79.95, concerning fees and charges, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 393)

This section clarifies that examination fees will be charged only for special examinations and not for a savings bank's annual regular examination. This section will allow more efficient collection and administration of fees charged to the savings banks under the Department's jurisdiction.

A savings bank subject to the Savings Bank Act will only pay an examination fee of \$325 per day for each examiner if the Commissioner deems a special examination necessary. Special examinations would include only those which the Commissioner conducts or causes to have conducted after the institution has completed one annual examination or such other additional examinations as the Commissioner deems to be necessary.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994

TRD-9436744 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date March 18, 1994

Proposal publication date January 25, 1994

For further information, please call (512) 475-1350

• 7 TAC §79.105

The Texas Savings and Loan Department adopts an amendment to §79.105, without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 393)

This section reduces the fees for conversion to a state savings bank charter for institutions with assets of less than \$75 million. This will ensure that the cost of conversion for such institutions is not prohibitive, enabling more

institutions to convert to state savings banks, and thus strengthening the state thrift system.

An institution that desires to convert to a state savings bank will be charged according to the amended section

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 342-114, which provide the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of the state and, from time to time, to amend same

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 25, 1994

TRD 9436743 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date March 18, 1994

Proposal publication date January 25, 1994

For further information, please call (512) 475-1350

Part VII. State Securities Board

Chapter 101. General Administration

• 7 TAC §101.4

The State Securities Board adopts an amendment to §101.4, concerning examination of records pursuant to the open records provisions of the Texas Government Code. The rule is adopted without changes to the proposed text as published in the December 7, 1993, issue of the *Texas Register* (18 TexReg 9039)

The amendment corrects the citation to the Open Records Act to reflect its codification in the Texas Government Code, effected by Senate Bill 248, 73rd Legislature, 1993

Persons who anticipate requesting examination of records will be apprised of the accurate citation of the relevant portions of the Texas Government Code

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications, defining terms, classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes

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 24, 1994.

TRD-943682 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date. March 17, 1994

Proposal publication date December 7, 1993

For further information, please call. (512) 305-8300

Chapter 107. Terminology

• 7 TAC §107.2

The State Securities Board adopts an amendment to §107.2, concerning definitions of terms used in the Securities Act and the rules thereunder to change the citation to the Administrative Procedure Act to reflect its codification in the Texas Government Code, and to change the definition of "contested case" to reflect the requirements of Texas Government Code, §2003.021. The rule is adopted with changes to the proposed text as published in the December 7, 1993, issue of the *Texas Register* (18 TexReg 9039). A change was made to the published proposal to remove an unnecessary comma in the definition of "contested case."

The rule reflects the codification of the Administrative Procedure Act in the Texas Government Code and the definition of "contested case" in the Texas Government Code.

Persons will be apprised of the accurate citation to the Texas Government Code and the terminology used by the Agency will be consistent with that used in the Texas Government Code.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

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

APA or Administrative Procedure Act—The Administrative Procedure Act, Texas Government Code, Title 10, Chapter 2001, as amended.

Contested case—A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Securities Commissioner, or the Securities

Board, after an opportunity for adjudicative hearing before an Administrative Law Judge of the State Office of Administrative Hearings.

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 24, 1994.

TRD-943683 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date. March 17, 1994

Proposal publication date December 7, 1993

For further information, please call (512) 305-8300

Chapter 127. Miscellaneous Rules

• 7 TAC §127.3

The State Securities Board adopts an amendment to §127.3, concerning the meaning of the term "state seal" as used in the Securities Act, §30. The rule is adopted without changes to the proposed text as published in the December 7, 1993, issue of the *Texas Register* (18 TexReg 9039).

The rule will now reflect the amendment to the Securities Act, §30, effected by House Bill 1463, 73rd Legislature.

There will be consistency between the language in the Securities Act, §30, and the rule which interprets it.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

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 24, 1994.

TRD-943684 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date. March 17, 1994

Proposal publication date. December 7, 1993

For further information, please call (512) 305-8300

Chapter 133. Forms

• 7 TAC §133.1

The State Securities Board adopts an amendment to §133.1, concerning the form of requests for publicly available information. The rule is adopted without changes to the proposed text as published in the December 7, 1993, issue of the *Texas Register* (18 TexReg 9040).

The amendment corrects the citation to the Open Records Act to reflect its codification in the Texas Government Code, effected by Senate Bill 248, 73rd Legislature, 1993.

Persons who anticipate requesting examination of records will be apprised of the accurate citation of the relevant portions of the Texas Government Code.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction, and prescribing different requirements for different classes.

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 24, 1994.

TRD-943685 Denise Voigt Crawford
Securities Commissioner
State Securities Board

Effective date. March 17, 1994

Proposal publication date. December 7, 1993

For further information, please call: (512) 350-8300

TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

(Editor's Note: In August, 1993, the Board of Vocational Nurse Examiners adopted two new rules in Chapters 241 and 243. Unfortunately these chapters already existed and contain rules from another agency. Therefore the Texas Register is administratively transferring these rules as specified below.)

Chapter 241. Vocation Nurse Peer Review

§241.11. Vocational Nurse Peer Review.

transferred to

Chapter 240. Peer Review and Reporting

§240.11 Vocational Nurse Peer Review.

Chapter 243. Vocational Nurse Reporting

§243.11 Vocational Nurse Reporting.

transferred to

Chapter 240. Peer Review and Reporting

§240.12 Vocational Nurse Reporting

Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 571. Licensing

License Renewals

• 22 TAC §571.52

The Texas Board of Veterinary Medical Examiners adopts an amendment to §571.52, without changes to the proposed text as published in the October 26, 1993, issue of the *Texas Register* (18 TexReg 7455)

The adoption of this section will reduce to one year the period in which a licensee may be delinquent in renewing their license, before being required to submit to reexamination for licensure

This section will require that the Executive Director sign license renewal certificates for licensees with a license that is no more than one year delinquent

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act

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

Issued in Austin, Texas, on February 18, 1994

TRD-9436778 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date March 21, 1994

Proposal publication date October 26, 1993

For further information, please call (512) 447-1183

• 22 TAC §571.54

The Texas Board of Veterinary Medical Examiners adopts an amendment to §571.54, without changes to the proposed text as published in the October 26, 1993, issue of the *Texas Register* (18 TexReg 7455)

The amendment is adopted in order to alleviate confusion concerning the retired licensee status, and qualify what is required should a licensee wish to return to practice.

This section will require that licensees wishing to return to practice, after one year of declaring a retired status, to petition the Board in writing, complete an application for examination, and submit to those examinations ordered by the Board

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act

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

Issued in Austin, Texas, on February 18, 1994

TRD-9436777 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date March 21, 1994

Proposal publication date: October 26, 1993

For further information, please call (512) 447-1183

• 22 TAC §571.55

The Texas Board of Veterinary Medical Examiners adopts an amendment to §571.55, without changes to the proposed text as published in the October 26, 1993, issue of the *Texas Register* (18 TexReg 7456).

The current rule requires the Secretary's signature on letters informing practitioners of their delinquent renewal status. Obtaining this signature requires travel by staff or the Secretary. Removal of this requirement is a cost saving measure. Amendments to the Veterinary Licensing Act reduce the period a license can be delinquent to one year. The second amendment to this rule reduces the delinquent period to one year as mandated by the revised Act.

On March 10th of each year, the Executive Director will inform applicable licensees of their delinquent status.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or

amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act

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

Issued in Austin, Texas, on February 18, 1994

TRD-9436779 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date March 21, 1994

Proposal publication date October 26, 1993

For further information, please call (512) 447-1183

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 261. Introductory Provisions

Subchapter A. General Provisions

• 30 TAC §261.13

The Texas Natural Resource Conservation Commission (Commission) adopts new §261.13, concerning inscriptions on state owned vehicles, without changes to the proposed text as published in the December 24, 1993, issue of the *Texas Register* (18 TexReg 9921)

This section will provide the Special Investigations Unit of the TNRCC the ability to conduct criminal investigations without altering the possible target.

No comments were received regarding adoption of the new section

The new section is adopted under the Texas Water Code, §5.102 and §5.105, which provide the Commission with the authority to adopt any rules necessary to carry out its powers and duties. The new section implements Texas Civil Statutes, Article 6701m-1, as mentioned in the section

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 28, 1994

TRD-9436785 Mary Ruth Holder
Legal Division
Texas Natural Resource
Conservation
Commission

Effective date. March 21, 1994

Proposal publication date: December 24, 1993

For further information, please call: (512) 463-8069

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Franchise Tax

• 34 TAC §3.554

The Comptroller of Public Accounts adopts the repeal of §3.554, concerning earned surplus nexus, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5652)

The section is being repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on February 24, 1994.

TRD-9436677
Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 17, 1994

Proposal publication date: August 24, 1993

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

The Comptroller of Public Accounts adopts new §3.554, concerning earned surplus nexus, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5652).

Because of substantial changes, the current §3.554 is being proposed for repeal. The new section provides several examples of activities sufficient to create nexus and of activities which, by themselves, will not create nexus.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administra-

tion and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on February 24, 1994.

TRD-9436678
Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 17, 1994

Proposal publication date: August 24, 1993

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

Chapter 9. Property Tax Administration

Subchapter C. Appraisal District Administration

• 34 TAC §9.406

The Comptroller of Public Accounts adopts new §9.406, concerning an exemption application for charitable organizations improving property for low-income housing, without changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9834).

The new section sets out the contents of the exemption application, which incorporates the requirements of the Tax Code, §11.181, effective January 1, 1994. The new section is necessary because House Bill 1096, 73rd Legislature, 1993, created the new exemption for charitable organizations improving property for low-income housing.

The new section specifies the language and order of the information in the application form. The new form is similar to the one for charitable organizations with additions reflecting the requirements of the Tax Code, §11.181. The new section adopts the application form by reference.

One comment was received from the Habitat for Humanity International affiliate in Waco requesting that the required listing of salaries and other compensation for services paid in the last year be changed. The comptroller disagreed. Salaries and compensation data are an essential part of the information needed for a charitable organization to be qualified as a charitable organization.

There were no comments concerning adoption of the new section.

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, §11.181 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 23, 1994.

TRD-9436598
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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Long-Term Care

Nursing Facility Requirements for Licensure and Medicaid Certification

Subchapter S. Reimbursement Methodology for Nursing Facilities

• 40 TAC §19.1807

The Texas Department of Human Services (DHS) adopts an amendment to §19.1807, concerning rate setting methodology, in its Long-Term Care Nursing Facility Requirements rule chapter, without changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 340).

The justification for the amendment is to comply with a Health Care Financing Administration audit recommendation to delete the policy that states that DHS lowers the Medicaid rate to the provider's customary charge when that charge is consistently less than the Medicaid rate for the same services. Since DHS does not collect the needs data on private-pay patients, DHS is unable to make the comparison between the Medicaid rate and the provider's customary charge required by the policy.

The amendment will function by deleting an obsolete and unenforceable rule.

During the public comment period, DHS received comments from the Texas Association of Homes for the Aging. The commenter expressed support for the proposal.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §32.028 and §32.029.

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 28, 1994

TRD-9436789 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date April 1, 1994

Proposal publication date January 18, 1994

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

◆ ◆ ◆
**Chapter 27. Intermediate Care
Facilities for the Mentally
Retarded (ICFs-MR)**

**Subchapter D. Reimbursement
Methodology**

• **40 TAC §27.413**

The Texas Department of Human Services (DHS) adopts an amendment to §27.413, concerning rate setting methodology, in its Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) rule chapter, without changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 340)

The justification for the amendment is to comply with a Health Care Financing Administration audit recommendation to delete the policy that states that DHS lowers the Medicaid rate to the provider's customary charge when that charge is consistently less than the Medicaid rate for the same services. Since DHS does not collect the needs data on private-pay patients, DHS is unable to make the comparison between the Medicaid rate and the provider's customary charge required by the policy.

The amendment will function by deleting an obsolete and unenforceable rule.

During the public comment period, DHS received comments from the Texas Association

of Homes for the Aging. The commenter expressed support for the proposal.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §32.028 and §32.029.

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Issued in Austin, Texas, on February 28, 1994

TRD-9436790 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date April 1, 1994

Proposal publication date January 18, 1994

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

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**Part XIX. Texas
Department of Protective
and Regulatory Services**

**Chapter 700. Child Protective
Services**

**Subchapter C. Eligibility for
Child Protective Services**

• **40 TAC §700.316**

The Texas Department of Protective and Regulatory Services (TDPRS) adopts an amendment to §700.316, concerning eligibility for Child Protective Services, without changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 343)

The justification for the amendment is to help youths in foster care finish high school or learn marketable vocational or technical skills

before they leave foster care and begin living independently as adults. The amendment does so by extending the eligibility period for foster-care assistance when a youth is attending high school or taking vocational or technical training classes after turning 18.

The amendment will function by helping older teenagers in foster care make better transitions into adulthood by improving their preparation to earn a living.

No comments were received regarding adoption of the amendment

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs. The amendment is also adopted under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. In addition, the amendment is adopted under Public Law Number 96-272, Title I, which authorizes the department to administer foster-care and adoption assistance programs provided for under the Social Security Act, Title IV-E. Finally, the amendment is adopted under Texas Civil Statutes, Article 4413(503) historical note (Vernon Supplement 1993) which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to the Texas Department of Protective and Regulatory Services. The amendment implements the Social Security Act, Title IV-E

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 25, 1994

TRD-9436734 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Protective and
Regulatory

Effective date: April 1, 1994

Proposal publication date. January 18, 1994

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

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

Tuesday, March 8, 1994, 1:15 p.m.

Soil and Crop Science Building, Room 440,
Texas A&M University

College Station

According to the complete agenda, the Texas Peanut Producers Board will discuss research proposals; and adjourn.

Contact: Mary Webb, P.O. Box 398,
Gorman, Texas 76454, (817) 734-2853.

Filed: February 28, 1994, 10:10 a.m.

TRD-9436796

Wednesday, March 9, 1994, 8:00 a.m.

College Station Hilton, 801 University
Drive East

College Station

According to the complete agenda, the Texas Peanut Producers Board will take roll call; discussion and action on minutes; discussion and possible action on preliminary budget; and adjourn

Contact: Mary Webb, P.O. Box 398,
Gorman, Texas 76454, (817) 734-2853.

Filed: February 28, 1994, 10:10 a.m.

TRD-9436795

Wednesday, March 9, 1994, 10:00 a.m.

Courtyard by Marriott-Love Field, 2383
Stemmons Trail

Dallas

According to the complete agenda, the Texas Boll Weevil Eradication Foundation, Inc., will call to order, opening remarks and introductions; discussion and action: approval of minutes, financial report, oath of office chairman's report, program director's report, TDA report, realignment of zones, funding sources, liability insurance status, referenda, Foundation headquarters; discussion: other business; and adjourn.

Contact: Frank Myers, Rt 1, Box 7,
Reydon, Oklahoma 73660, (405) 655-4621.

Filed: February 28, 1994, 4:36 p.m.

TRD-9436823

State Aircraft Pooling Board

Tuesday, March 8, 1994, 3:00 p.m.

4900 Old Manor Road

Austin

According to the complete agenda, the State Aircraft Pooling Board will call to order; introductions; approval of minutes of board meeting, December 1, 1993; Texas Department of Transportation; executive director's report; strategic plan 1995-1999; setting of time and place for next meeting; and final adjournment.

Contact: Gladys Alexander, 4900 Old
Manor Road, Austin, Texas 78723, (512)
477-8900.

Filed: February 25, 1994, 9:56 a.m.

TRD-9436722

Texas Commission on Alcohol and Drug Abuse

Friday, March 11, 1994, 9:00 a.m.

710 Brazos

Austin

According to the complete agenda, the Offender Credentialing Committee will call to order; review application for the Licensed Chemical Dependency Counselor; and adjourn.

Contact: Mike Ezzell, 710 Brazos, Austin,
Texas 78701-2576, (512) 867-8257.

Filed: February 28, 1994, 3:44 p.m.

TRD-9436816

Texas Alcoholic Beverage Commission

Monday, March 7, 1994, 10:00 a.m.

5806 Mesa Drive

Austin

According to the agenda summary, the Commission will approve minutes of January 18, 1994, and January 25, 1994 meetings, ratify appointment of Doayne Bailey as Administrator, recognition of TABC employees with 20 and above years of service, administrator's report, consideration of petition submitted by the City of Taylor, Texas.

consideration of petition submitted by the City of Groveton, Texas, consideration of proposed agency rules, public comment, executive session to discuss personnel matters and any pending litigation against the agency and vote on action discussed in executive session, if appropriate.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: February 25, 1994, 12:19 p.m.

TRD-9436733

Texas Bond Review Board

Tuesday, March 8, 1994, 10:00 a.m.

Committee Room #5, Fifth Floor, Clements Building, 300 West 15th Street

Austin

According to the agenda summary, the Staff Planning meeting will call to order; approval of minutes; discussion of proposed issues, other business, and adjourn.

Contact: Albert L. Bacarisse, 300 West 15th, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: February 28, 1994, 4:36 p.m.

TRD-9436822

Texas Catastrophe Property Insurance Association

Tuesday, March 1, 1994, 1:00 p.m.

Via conference call at TCPIA Offices, 2801 South Interregional

Austin

Emergency Meeting

According to the complete agenda, the Board of Directors met in executive session to discuss personnel related matters.

Reason for emergency. Unexpected personnel matters.

Contact: Charles F. McCullough, 2801 South Interregional, Austin, Texas 78741, (512) 444-9612.

Filed: February 28, 1994, 4:08 p.m.

TRD-9436817

East Texas State University

Thursday, March 3, 1994, 9:00 a.m.

East Texas State University, 2600 South Neal Street

Commerce

According to the complete agenda, the Board of Regents teleconference meeting

discussed approval of asbestos abatement contract for East Texas State University-Commerce; and asbestos damage litigation.

Contact: Charles Turner, 2600 South Neal, Commerce, Texas 75429, (903) 886-5030.

Filed: February 25, 1994, 3:24 p.m.

TRD-9436802

Texas Employment Commission

Monday, March 7, 1994, 1:30 p.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the Commission will review prior meeting notes; executive session to consider Fannie B. Agbasoga v. TEC; actions, if any, resulting from executive session; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission Docket 10; and set date of next meeting.

Contact: C. Ed. Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: February 25, 1994, 3:59 p.m.

TRD-9436759

Texas Funeral Service Commission

Wednesday, March 9, 1994, 9:00 a.m.

Drury Inn-6511 I-35 North

Austin

According to the agenda summary, the Board will call to order; items for consideration; public comment period; committee reports; consideration of cases to be closed and penalties assessed; consideration of proposed changes to rules; consideration of adoption of memorandum of understanding with the Texas Department of Health; executive director's report; and adjourn.

Contact: Larry A. Farrow, 8100 Cameron Road, Suite 550, Austin, Texas 78753, (512) 834-9992.

Filed: February 24, 1994, 3:57 p.m.

TRD-9436701

Health and Human Service Commission

Tuesday, March 8, 1994, 10:00 a.m.

1100 West 49th Street, Board Room M-739

Austin

According to the agenda summary, the Long-Term Care Task Force will discuss overview of meeting, introductions of guests and task force members, brief presentations by experts, questions and answers; break; discussion; services; lunch; discussion: structure; break; discussion: change; and summary and observations: Dan Fox.

Please inform the Commission if you will need interpreter services. The Commission's phone number is (512) 502-3200. The Texas Relay number is 1-(800) - 735-2989. Interpreters will be available throughout the morning; they will stay for the entire meeting if their services are needed.

Contact: Sonica Leiou, 4807 Spicewood Springs Road, Building 4, Austin, Texas 78759, (512) 502-3250.

Filed: February 28, 1994, 1:15 p.m.

TRD-9436804

Tuesday, March 8, 1994, 10:00 a.m.

Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Advisory Committee to Develop a Tool to Assess Decision-Making Capacity for Persons with Mental Retardation and Developmental Disability, and Elderly Persons will call to order, review and approval of minutes of January meeting; reports by state agency members of the committee concerning administration of the instrument in their facilities; discussion to identify subjects about which the committee should make recommendations; workgroup report; development of workplan to accomplish the remaining work of the committee, set date for the next meeting and adjourn.

If you require auxiliary aids or services or materials in alternate format please contact Sherry McCulley and the Health and Human Services Commission at least four working days to the meeting.

Contact: Sherry McCulley, 4807 Spicewood Springs Road, Building 4, Austin, Texas, 78759 (512) 502-3252.

Filed: March 1, 1994, 9:13 a.m.

TRD-9436828

Thursday, March 10, 1994, 9:15 a.m.

701 West 51st Street, Winters Building

Austin

According to the complete agenda, the Medical Care Advisory Committee will have opening comments; state Medicaid di-

rectors comments; approval of minutes; selective contracting rules, rules pertaining to children in nursing facilities; streamlining the medical need prior approval process for primary home care; changes to the rules regarding utilization and assessment review in the long term care nursing facilities requirements for licensure and Medicaid certification; rehabilitative services for persons with mental illness; modification to inpatient hospital utilization review rules; clarification of disproportionate share hospital program reimbursement methodology; reimbursement for abortions resulting from rape or incest; deletion of oxygen as an incurred medical expense; deduction for guardianship fees; burial funds and resource assessment; changes to the intermediate care facilities for the mentally retarded standards of participating as related to provider applications; changes to the intermediate care facilities for the mentally retarded standards of participation related to level of care; selective contracting report; managed care report; nursing facility waiver program update; hospital payment advisory subcommittee report; open discussion; next meeting and adjournment.

Contact: Geri Willems, 4807 Spicewood Springs Road, Building 4, Austin, Texas 78758, (512) 502-3256.

Filed: February 25, 1994, 4:14 p.m.

TRD-9436761

Managed Health Care Advisory Committee

Monday, March 7, 1994, 1:00 p.m.

Price Daniels, Sr. Building, 209 West 14th Street, Room 500

Austin

According to the complete agenda, the Managed Health Care Advisory Committee will call to order; approval of minutes from January 18, 1994, committee meeting; announcement regarding membership on the Managed Health Care Advisory Committee; receive report from the Ad Hoc Committee regarding development of a health care "needs" plan to support the expanding prison population; discussion and consideration, and possible approval of a policy regarding the transition of TDCJ employees to UTMB; discussion regarding the procurement of an automated medical information system; discussion regarding the funding status of the telemedicine program; discussion, consideration, and possible approval of a policy regarding competitive bidding; executive session to discuss search for Managed Health Care Administrator, and other personnel, pursuant to §551.074, Government Code; discussion and approval of any nec-

essary action relating to the selection of the Managed Health Care Administrator; and discussion and approval of date and location of next committee meeting; and adjournment.

Contact: Cril Payne, UTMB, 621 Administration Building, Galveston, Texas 77555-0124, (409) 772-4898.

Filed: February 24, 1994, 4:13 p.m.

TRD-9436710

Texas Department of Human Services

Thursday, March 10, 1994, 10:00 a.m.

4900 North Lamar Boulevard, Brown-Healy Building, Meeting Room 5501

Austin

According to the complete agenda, the Services to Persons with Disabilities Subcommittee will welcome everyone and make introductions and will consider: approval of minutes; comments by chair; comments by director; strategic planning; DATCIL contract update; client satisfaction surveys; OSPD activities; ADAC agenda items; next meeting; and adjournment.

Contact: D. J. Johnson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3533.

Filed: February 25, 1994, 11:49 a.m.

TRD-9436732

Texas Department of Insurance

Wednesday, March 9, 1994, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the complete agenda, the Department will consider the application of Randy Louis Adams, DeSoto, Texas, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 454-93-1013.

Contact: Melissa Slusher, 333 Guadalupe Street, #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: February 25, 1994, 2:20 p.m.

TRD-9436741

Texas State Library and Archives Commission

Thursday, March 24, 1994, 10:00 a.m.

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

Austin

According to the complete agenda, the Commission approve minutes of the December 9, 1993 Commission meeting, introductions and welcome to new Commission members, resolutions honoring former Commission members, review Sunset Commission staff report for the Library and Archives Commission, consider report for the Commission's internal auditor, approve Texas State Library Risk Management Policy, approve revision to Commission's policy on loan of archival documents, approve procedures for selection process for filing director and librarian position, staff presentation and demonstration of the Texas State Library's information server, the Link Project, and committee report.

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

Filed: February 25, 1994, 4:40 p.m.

TRD-9436765

Texas Department of Licensing and Regulation

Tuesday, March 22, 1994, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

According to the complete agenda, the Inspections and Investigations: Manufactured Housing Committee will hold an administrative hearing to consider the application of Robert Edward Lee White, Jr., for registration as a Manufactured Housing Salesperson in accordance with the Statutes, Articles 5221f, and 9100, the Texas Government Code, Chapter 2001(APA), and 16 Texas Administrative Code (T.A.C.), Chapter 69.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: February 28, 1994, 4:09 p.m.

TRD-9436818

Texas Department of Mental Health and Mental Retardation

Monday, March 7, 1994, 2:00 p.m.

909 West 45th Street, Auditorium

Austin

According to the complete agenda, the Travis State School Alternate Use Committee will welcome and make introductions; discussion of scope and role of the committee; consideration of a meeting schedule; overview of background information; update on Travis County Community Justice

Center, discussion of goals and objectives; and adjourn.

Contact: Steve Craddock, 909 West 45th Street, Austin, Texas 78751, (512) 206-4579

Filed: February 28, 1994, 4.30 p.m.

TRD-9436819

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Texas Natural Resource Conservation Commission

Monday, March 7, 1994, 10:00 a.m.
12118 IH-35, Room 202S, Building E
Austin

According to the agenda summary, the Office of Hearings Examiners will hold a notice of public hearing on application by C J Holloway, individually and as trustee, Application Number 5462 Applicant seeks a water right permit to construct and maintain a dam and 575 0 acre-foot reservoir on Pickens Branch, tributary of Caney Creek, tributary of Cedar Creek, tributary of the Trinity River, in the Trinity River Basin, for domestic and livestock use

Contact: Joe O'Neal, P O Box 13087, Austin, Texas 78711, (512) 463-7875

Filed: February 24, 1994, 4 02 p m

TRD-9436704

Tuesday, March 8, 1994, 10:00 a.m.

Texas Natural Resource Conservation Commission, Room 202S, Building E, 12118 IH-35 North

Austin

According to the agenda summary, the Office of the Hearings Examiners will hold a public hearing on application by Lavaca-Navidad River Authority and Texas Water Development Board, certificate of Adjudication Number 16-2095B Applicants seek to amend certificate of Adjudication Number 16-2095, as amended, and request the commission to consider two related matters (Cause Numbers 361,294, and 374,305) remanded from Travis County District Court

Contact: Linda Sorrells, P O Box 13087, Austin, Texas 78711-3087, (512) 463-7875

Filed: February 25, 1994, 2 03 p m

TRD-9436740

Wednesday, March 9, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F Austin, State Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters Hazardous Waste Class 2 Modification, production area authorization;

municipal solid waste transfer; temporary variance to water quality permit, water quality permits; water district matters; water utility matters, superfund contracts; resolution, settled hearing's in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time

Contact: Doug Kitts, P O Box 13087, Austin, Texas 78711-3087, (512) 463-7905

Filed: February 25, 1994, 5.25 p m

TRD-9436770

Wednesday, March 9, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F Austin, State Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters water quality enforcement, municipal solid waste enforcement, state implementation plan, executive session, in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time

Contact: Doug Kitts, P O Box 13087, Austin, Texas 78711-3087, (512) 463-7905

Filed: February 25, 1994, 5 26 p m

TRD-9436771

Thursday, March 10, 1994, 10:00 a.m.

6300 Ocean Drive, Texas A&M University
Corpus Christi, Conrad Blacher Institute
Corpus Christi

According to the complete agenda, the Local Governments Committee of the Corpus Christi Bay National Estuary Program will call to order, overview of the National Estuary Program and CCBNEP; discuss the start-up year work plan and the fiscal year 1995 annual work plan, review preliminary priority problems list, state EPA management conference agreement, and the CAC bylaws, additional items, and adjourn

Contact: Richard Volk, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767

Filed: February 25, 1994, 9 30 a m

TRD-9436719

Friday, March 11, 1994, 10:00 a.m.

6300 Ocean Drive, Texas A&M University
Corpus Christi, Conrad Blacher Institute

Corpus Christi

According to the complete agenda, the Citizens Advisory Committee of the Corpus Christi Bay National Estuary Program will call to order; overview of the National Estuary Program and CCBNEP, discuss the start-up year work plan and the fiscal year 1995 annual work plan, review preliminary priority problems list, state EPA management conference agreement, and the CAC bylaws, additional items, and adjourn.

Contact: Richard Volk, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767

Filed: February 25, 1994, 9.30 a m

TRD-9436720

Wednesday, March 23, 1994, 11:00 a.m.

Wichita County Courthouse, 900 Seventh Street, Room 200, Wichita Falls,

Wichita Falls

According to the agenda summary, the Commission will meet on application by IMC Waste Disposal, proposed permit Number MSW 2229, for a Type VGG (grease and grit trap waste processing) municipal solid waste facility The proposed site covers approximately 1 15 acres and is located at 1900 Waurika Freeway at the northeast corner of the intersection of state highway 240 and state highway 79 in the city of Wichita Falls, Wichita County, Texas

Contact: Ann Scudday/Charles Stavley, P.O Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-6688

Filed: February 25, 1994, 5 15 p.m

TRD-9436769

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Board of Nurse Examiners

Tuesday-Wednesday, March 8-9, 1994, 8:00 a.m.

1812 Centre Creek Drive, Room 203

Austin

Emergency Revised Agenda

According to the agenda summary, the Board of Nurse Examiners will take actions on an additional ten agreed orders and three ALJ proposals for decision. They will also consider a proposed amendment to §223 1(1), Fees and conduct an executive session pursuant to Government Code, §551 074(a)(1), for the purpose of reviewing the evaluation of the executive director

Reason for emergency These matters require board action prior to the next regularly scheduled board meeting in May

Contact: Erlene Fisher, Box 140466,
Austin, Texas 78714, (512) 835-8675.

Filed: February 25, 1994, 9:58 a.m.

TRD-9436724

Board of Vocational Nurse Examiners

Monday-Tuesday, March 14-15, 1994,
8:00 a.m.

Courtyard Marriott-Conference Room, 5660
IH-35 North

Austin

According to the agenda summary, the Board of Vocational Examiners will: Monday: call to order, new staff, approval of minutes, education report (program matters, program actions, meetings/conferences/seminars attended, 1993 NCLEX-PN summary for Texas, recommendations for program approvals for 1994 school year), unfinished business (budget update, quarterly report on key performance targets, CE update, Health Professions Council), executive director's report, new business (rule changes 231.1, 233.21, 233.89, 235.3, 235.4, 235.7, 235.9, 235.10, 235.11, 235.12, 235.13, 235.15, 235.16, 235.17, 235.18, 235.47, 235.48, 235.49 and 237.15, newsletter, travel costs, recycling and HUB, school nurse, possible legislation re: high school graduation or GED) Tuesday: administrative hearings, any unfinished business, and adjournment. On call-executive session

Contact: Marjorie Bronk, 9101 Burnet
Road, Austin, Texas 78758, (512)
835-2071.

Filed: February 25, 1994, 9:12 a.m.

TRD-9436716

Texas Optometry Board

Wednesday, March 9, 1994, 9:30 a.m.

Room 2198, University of Houston College
of Optometry, 4901 Calhoun, Exit Number
2

Houston

According to the complete agenda, the Therapeutic Optometry Advisory Committee will meet in accordance with Texas Civil Statutes, Article 4552, to consider approval of minutes of October 13, 1992, meeting, hear status report on action of committee recommendation regarding Retin-A, and clarify §103(b) of Article 4552, regarding use of 2.0% hydrocortisone

Contact: Lois Ewald, 9101 Burnet Road,
Suite 214, Austin, Texas 78758, (512)
835-1938

Filed: February 28, 1994, 1:15 p.m.

TRD-9436803

Texas State Board of Exam- iners of Psychologists

Wednesday-Friday, March 16-18, 1994,
8:30 a.m.

9101 Burnet Road, Suite 212

Austin

According to the agenda summary, the Texas State Board of Examiners of Psychologists will meet to consider public comment; minutes; reports from the acting executive director, the chair, and the budget, written examination, oral examination, personnel, search, newsletter, continuing education, reciprocity, public information, and complaint and enforcement committees; applications; proposed and adopted rules; agreed orders and complaints; opinion letters; policies and procedures; planning issues; legislative and legal matters; and to seek legal advice in executive session pursuant to Title 5, Chapter 551, Government Code, §551.071.

Contact: Rebecca E. Forkner, 9101 Burnet
Road, Suite 212, Austin, Texas 78758,
(512) 835-2036.

Filed: February 24, 1994, 1:22 p.m.

TRD-9436673

Public Utility Commission of Texas

Monday, March 7, 1994, 8:30 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Public Utility Commission of Texas will hold a workshop on Project Number 11365, Integrated Resource Planning (IRP).

Contact: John M. Renfrow, 7800 Shoal
Creek Boulevard, Austin, Texas 78757,
(512) 458-0100.

Filed: February 25, 1994, 10:22 a.m.

TRD-9436729

Thursday, March 10, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will meet in Docket Number 12456 application of East Texas Electric Cooperative, Inc. to amend certificate of convenience and necessity for the proposed transmission line with Anderson, Houston, Cherokee, Smith and Van Zandt Counties.

Contact: John M. Renfrow, 7800 Shoal
Creek Boulevard, Austin, Texas 78757,
(512) 458-0100.

Filed: February 25, 1994, 4:14 p.m.

TRD-9436760

Monday, April 4, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has scheduled a hearing in Docket Number 12717-complaint of Dr. Michael Quigley against New Era Electric Cooperative, Inc.

Contact: John M. Renfrow, 7800 Shoal
Creek Boulevard, Austin, Texas 78757,
(512) 458-0100.

Filed: February 24, 1994, 5:03 p.m.

TRD-9436712

Texas Rehabilitation Com- mission

Friday, March 4, 1994, 9:30 a.m.

4900 North Lamar Boulevard, Room 3501

Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners will call to order; approval of minutes; review of TBOTE rule revisions; and adjournment.

Filed: Joy L. Vaughn, 4900 North Lamar
Boulevard, Austin, Texas 78751-2399,
(512) 483-4072.

Filed: February 24, 1994, 4:02 p.m.

TRD-9436705

Texas National Research Laboratory Commission

Tuesday, March 1, 1994, 9:00 a.m.

InfoMart Exhibition Hall, Room 7007, The
Boole Room, 1950 Stemmons Freeway at
Oak Lawn

Dallas

Emergency Meeting

According to the agenda summary, the Commission convened the meeting and roll call of members; executive session; chairman's report-Shelton Smith, comments by the Secretary of Energy, Hazel O'Leary (via video); action items; public comment; and adjourned.

Reason for Emergency. Urgent necessity to act upon and release information concerning use of SSC assets.

Contact: Karen L. Chrestay, 1801 North Hampton Road, Suite 400, DeSoto, Texas 75115.

Filed: February 28, 1994, 1:16 p.m.

TRD-9436805

◆ ◆ ◆
Texas Savings and Loan Department

Monday, March 21, 1994, 9:00 a.m.

300 West 15th Street, Room 408

Austin

According to the agenda summary, the Texas Savings and Loan Department will hold a meeting (hearing) to accumulate a record of evidence in regard to the application of Farm and Home Savings Association, Nevada, Missouri, to merge into Roosevelt Bank, FSB, St Louis, Missouri, with Roosevelt Bank, FSB, being the surviving institution from which record the commissioner will determine whether to grant or deny the application.

Contact: Teresa Scarborough, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 475-1350

Filed: February 24, 1994, 3:57 p.m.

TRD-9436702

◆ ◆ ◆
Council on Sex Offender Treatment

Wednesday, March 9, 1994, 11:00 a.m.

8407 Wall Street, Second Floor Suite #220, (Department of Health Building)

Austin

According to the agenda summary, the Treatment Evaluation Committee of the Interagency Advisory Committee will convene, Linda Reyes, Ph.D., review of 1993 Registered Sex Offender Treatment Providers Survey and the results, review on current research, discussion and possible action on 1994 Survey Questionnaire and adjourn.

Contact: Eliza Mary, LMSW, P O Box 12646, Austin, Texas 78711, (512) 463-2323

Filed: March 1, 1994, 9:13 a.m.

TRD-9436829

◆ ◆ ◆
Texas Southern University

Friday, March 4, 1994, 3:00 p.m.

Texas Southern University, 3100 Cleburne/Hannah Hall Room 111

Houston

According to the complete agenda, the Board of Regents, Finance and Buildings

and Grounds Committee will meet to consider: matters relating to financial reporting systems, and budgets, fiscal reports from the administration; investments; and information items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 25, 1994, 10:15 a.m.

TRD-9436726

Friday, March 4, 1994, 4:00 p.m.

Texas Southern University, 3100 Cleburne/Hannah Hall Room 111

Houston

According to the complete agenda, the Board of Regents, Personnel, Student Services and Academic Affairs Committee will meet to consider: reports on progress of academic activities and programs; and personnel actions

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (512) 529-8911

Filed: February 25, 10:15 a.m.

TRD-9436727

◆ ◆ ◆
University of Houston System

Thursday, February 24, 1994, 4:00 p.m.

1600 Smith, 34th Floor, Conference Room One

Houston

Emergency Meeting

According to the complete agenda, the Board of Regents discussed and/or acted upon the following: executive session: confer with counsel; purchase, exchange, lease, or value of real property; negotiated contracts for prospective gifts or donations; and informational reports from employees, and intercollegiate athletics/SWC-UH System

Reason for emergency. Evaluation of rapidly changing events concerning intercollegiate athletics at the University of Houston and athletic conference realignment which could have long-term impact on the University of Houston necessitate an emergency meeting.

Contact: Peggy Cervenka, 1600 Smith, #3400, Houston, Texas 77002, (713) 754-7442

Filed: February 24, 1994, 1:22 p.m.

TRD-9436672

◆ ◆ ◆
University of North Texas

Wednesday, March 9, 1994, Noon

4100 Beverly, Dallas Country Club, North Room

Dallas

According to the complete agenda, the Board of Regents, Advancement Committee will meet to discuss capital campaign.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: February 25, 1994, 2:00 p.m.

TRD-9436739

◆ ◆ ◆
University of Texas at Austin

Monday, February 28, 1994, 11:30 a.m.

Ex-Students' Association, Moffett Library, 21st and San Jacinto Streets, University of Texas

Austin

According to the agenda summary, the Council for Intercollegiate Athletics for Women: met to call to order; approval of minutes of the previous meeting; new business; announcements/information reports; and adjourned.

Contact: Jody Conradt, UT Austin, 33800 BEL 718, Austin, Texas 78712, (512) 471-7693.

Filed: February 24, 1994, 12:33 p.m.

TRD-9436670

◆ ◆ ◆
Texas Board of Veterinary Medical Examiners

Friday, March 11, 1994, 9:30 a.m.

1946 South IH-35, Suite 306

Austin

According to the complete agenda, the April Examination Preparation Committee will prepare the April Examination for licensure. The committee will convene in open session and then go into executive session in accordance with Attorney General Opinion H-484 (1974) and JM-640 (1987)

Contact: Ron Allen, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183.

Filed: February 28, 1994, 2:10 p.m.

TRD-9436808

◆ ◆ ◆
Texas Workers' Compensation Commission

Thursday, March 3, 1994, 9:30 a.m.

Rooms 910-911, Southfield Building, 4000 South IH-35

Austin

According to the agenda summary, the Commission called to order, recognition of TWCC employee of the year, approval of minutes; action on application for self-insurance; discussion and possible action on revisions to the second opinion/spinal surgery process and adoption, amendment or repeal of spinal surgery rules: Chapter 133; discussion and possible action on rules for adoption. Chapter 152; discussion and possible action on rules for possible proposal and/or amendment: Chapter 110, discussion and possible action on rules for proposal Rule 134 1000 and Rule 134 1001; discussion and possible action on removing doctors from approved doctor list, discussion and possible action on issues regarding rules or policy, discussion and possible action on TWCC internal audit charter and TWCC internal audit plan; executive session, action on matter considered in executive session, general reports and action on issues relating to commission activities, confirmation of future public meetings, and adjournment

Contact: Todd K Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690

Filed: February 25, 1994, 2 44 p m
TRD-9436750

Regional Meetings

Meetings Filed February 24, 1994

The Bell-Milam-Falls Water Supply Corporation Board of Directors met at the WSC Office, FM 485 West, Cameron, March 3, 1994, at 8 30 a.m. Information may be obtained from Dwayne Jekel, P O Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9436659

The Cash Water Supply Corporation Board of Directors met at the Corporation Office, FM 1564 at Highway 34 South, Greenville, February 28, 1994, at 7 00 p m. Information may be obtained from Eddy W Daniel, P O Box 8129, Greenville, Texas, 75404, (903) 883-2695 TRD-9436703

The Central Appraisal District of Rockwall County Appraisal Review Board met at the Rockwall County Appraisal Office, 106 North San Jacinto, Rockwall, March 1, 1994, at 8 30 a.m. Information may be obtained from Ray E Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034 TRD-9436711

The Central Plains Center for MHMR and SA (Emergency Meeting.) Board of Trustees met at 308 South Columbia, Plainview, February 24, 1994, at 6 00 p m. The emergency meeting was necessary due to issues dealing with real estate. Information may be obtained from Gail P Davis, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636 TRD-9436658

The Central Texas Council of Governments (Emergency Revised Agenda.) Executive Committee met at 302 East Central, Belton, February 24, 1994, at 12:45 p m. The emergency status was necessary because the resolution needed to be passed before April 1, 1994. The March meeting will be cancelled to TARC meeting in Austin on the date of the CTCOG meeting. This is an annual resolution; the date has changed. Information may be obtained from A C Johnson, P O Box 729, Belton, Texas 76513, (817) 939-1801 TRD-9436661.

The Deep East Texas Regional MHMR Services Board of Trustees met at the Ward R. Burke Community Room-Administration Facility, 4101 South Medford Drive, Lufkin, March 1, 1994, at 2 30 p m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141 TRD-9436700.

The Guadalupe-Blanco River Authority Legal Committee met at the First Lockhart National Bank, 111 South Main Street, Lockhart, March 1, 1994, at 4 00 p m. Information may be obtained from W E West, Jr., P O Box 271, Seguin, Texas 78156-0271, (210) 379-5822 TRD-9436679

The Hale County Appraisal District Board of Directors met at the Cotton Patch Cafe, 3314 Olton Road, Plainview, March 3, 1994, at 6 00 p m. Information may be obtained from Linda Jaynes, P O Box 29, Plainview, Texas 79072, (806) 293-4226 TRD-9436681

The Middle Rio Grande Development Council Executive Committee will meet in the MRGDC Operations Conference Room, 209 North Getty, Uvalde, March 9, 1994, at 2 00 p m. Information may be obtained from Paul Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533 TRD-9436671

The Pecan Valley Mental Health Mental Retardation Region Board of Trustees met at the Pecan Valley MHMR Region Clinical Office, 906 Lingleville Highway, Stephenville, March 2, 1994, at 8 30 a.m. Information may be obtained from Dr Theresa Mulloy, P O Box 973, Stephenville, Texas 76401, (817) 965-7806 TRD-9436676

The Region IV Education Service Center Board of Directors met in the Board Room, Region IV Education Service Center, 7145 West Tidwell, Houston, March 2, 1994, at 11 00 a.m. Information may be obtained from W L McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534 TRD-9436709

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Planning Committee met at the International Conference Center of the

Convention Center Complex, San Antonio, February 28, 1994, at 1 00 p m. Information may be obtained from Janet A Kennison, 434 South Main, #205, San Antonio, Texas 78204, (210) 227-8651. TRD-9436662.

The San Antonio-Bexar County Metropolitan Planning Organization met at St Joseph's Church Hall, 535 New Laredo Highway, San Antonio, March 1, 1994, at 7 00 p m. Information may be obtained from Michael C. Riojas, 434 South Main #205, San Antonio, Texas 78204, (210) 227-8651 TRD-9436706

Meetings Filed February 25, 1994

The Andrews Center Board of Trustees met at The Beginning, 1010 Timberwilde, Tyler, March 3, 1994, at 3 00 p m. Information may be obtained from Richard J DeSanto, P O Box 4730, Tyler, Texas 75712, (903) 597-1351 TRD-9436755

The Brazos Valley Development Council Brazos Valley Regional Advisory Committee on Aging met at the Council Offices, 1706 East 29th Street, Bryan, March 1, 1994, at 2 30 p m. Information may be obtained from Roberta Lindquist, P O Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244 TRD-9436728

The Creedmoor Maha Water Supply Corporation Board of Directors met at 1699 Laws Road, Mustang Ridge, March 2, 1994, at 7 00 p m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991 TRD-9436715

The Dallas Area Rapid Transit Committee-of-the-Whole met in the Conference Room "C", 1401 Pacific Avenue, Dallas, March 1, 1994, at 1 00 p m. Information may be obtained from Paula Bailey, P O Box 660163, Dallas, Texas 75266-0163, (214) 749-3256, FAX (214) 749-3651 TRD-9436723

The Dawson County Central Appraisal District Board of Directors met at 1806 Lubbock Highway, Lamesa, March 2, 1994, at 7 00 a.m. Information may be obtained from Tom Anderson, P O Box 797, Lamesa, Texas 79331, (806) 872-7060 TRD-9436756

The Daughters of the Republic of Texas, Inc. Board of Management will meet at the Alamo Complex, San Antonio, March 7, 1994, at 9 00 a.m. Information may be obtained from Gail Barnes, 2922 Chisum, Odessa, Texas 79762, (512) 339-1997, or (915) 366-7085 TRD-9436762

The East Texas Council of Governments Executive Committee met at the ETCOG Office, Kilgore, March 3, 1994, at 2 00 p m. Information may be obtained from

Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9436751.

The Ellis County Appraisal District Board of Directors will meet at 406 Sycamore Street, Waxahachie, March 7, 1994, at 6:00 p.m. Information may be obtained from R. Richard Rhodes, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9436764.

The Ellis County Appraisal District Board of Directors will meet at 406 Sycamore Street, Waxahachie, March 7, 1994, at 6:30 p.m. Information may be obtained from R. Richard Rhodes, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9436763.

The Erath County Appraisal District Board of Directors will meet in the Board Room, 1390 Harbin Drive, Stephenville, March 8, 1994, at 7:00 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9436749.

The High Plains Underground Water Conservation District Number One Board of Directors Special Hearing met at the Farm Bureau Office, 1714 Fifth Avenue, Canyon, March 3, 1994, at 7:00 p.m. Information may be obtained from A Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9436767

The Hockley County Appraisal District Appraisal Review Board met at 1103-C Houston, Levelland, March 1, 1994, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9436766.

The Lubbock Regional MHMR Center Board of Trustees met at 1602 Tenth Street, Board Room, Lubbock, February 28, 1994, at Noon. Information may be obtained from Gene Menefee, 1602 Tenth Street, Lubbock, Texas 79401, (806) 766-0202. TRD-9436731.

The Manville Water Supply Corporation Board of Directors met at the Manville Office in Coupland off Highway 95 on Spur 277, Coupland, March 3, 1994, at 7:00 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9436713.

The Nueces River Authority Board of Directors met at the Corpus Christi Marriott Hotel, 900 North Shoreline Boulevard, Corpus Christi, March 3, 1994, at 10:00 a.m. Information may be obtained from Con

Mims, P.O. Box 349, Uvalde, Texas 78802-0349, (210) 278-6810. TRD-9436725

The Shackelford Water Supply Corporation Regular Monthly Director's Meeting met at Fort Griffin Restaurant, Albany, March 2, 1994, at 1:00 p.m. Information may be obtained from Gaynell Perkins, P.O. Box 1295, Albany, Texas 76430, (817) 345-6868. TRD-9436730.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, March 7, 1994, at 4:00 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9436737.

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Meeting Filed February 28, 1994

The Ark-Tex Council of Governments Ark-Tex Private Industry Council will meet at the Northeast Texas Community College, FM 1735, Chapel Hill Road (Student Union Building, Room 101), Mt. Pleasant, March 10, 1994, at 1:30 p.m. Information may be obtained from Cindy Wright, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9436801.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, March 3, 1994, at 5:00 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax: (512) 282-7016. TRD-9436820.

The Capital Area Planning Council Executive Committee Meeting will meet at 2520 IH-35, Suite 100, Austin, March 9, 1994, at 1:30 p.m. Information may be obtained from Richard G. Bean, 2520 IH-35, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9436773

The Central Appraisal District of Nolan County (Emergency meeting.) Board of Directors met at the Nolan County Courthouse-Third Floor, 100 East Third Street, Sweetwater, March 1, 1994, at 10:00 a.m. The emergency meeting was necessary due to urgent public necessity regarding personnel and management matters. Information may be obtained from Lloyd Harris, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9436825.

The Central Counties Center for MHMR Services Board of Trustees-Educational Workshop will meet at Killeen MHMR, 100

East Avenue A, Killeen, March 5, 1994, at 8:30 a.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9436821.

The Hansford Appraisal District Regular Board Meeting will meet at 709 West Seventh Street, Spearman, March 9, 1994, at 9:00 a.m. Information may be obtained from Alice Peddy, P.O. Box 519, Spearman, Texas 79081-0519, (806) 659-5575. TRD-9436813.

The Kempner Water Supply Corporation (Emergency meeting.) Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, March 1, 1994, at 7:00 p.m. The emergency meeting was necessary because the board was unable to have regular monthly meeting February 24, 1994-several items required immediate action. Information may be obtained from Doug Lavender and/or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9436806.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, March 9, 1994, at 9:00 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9436824.

The Texas Council on Offender with Mental Impairments Executive Committee will meet at the Texas Department of Criminal Justice-Pardons and Paroles Building, 8610 Shoal Creek Boulevard, Austin, March 14, 1994, at 10:00 a.m. Information may be obtained from Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5466. TRD-9436807.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business Office, one block west of FM 765 and FM 2134 in Millersview, March 8, 1994, at 7:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9436792.

The Millersview-Doole Water Supply Corporation Annual Membership Meeting will meet at the Corporation's Business Office, one block west of FM 765 and FM 2134 in Millersview, March 8, 1994, at 7:30 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9436793

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 Proposal Request (Reissued)

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Commission on Alcohol and Drug Abuse (TCADA) invites proposals from qualified consultants to provide training for staff of TCADA-funded programs in the use of the Addiction Severity Index (ASI) in a manner that is practical, economical, and clinically useful.

The consultant will provide 20 training sessions with no more than 20 participants per session. The trainings will be scheduled in various regions of the state to allow accessibility for local program staff. The consultant will provide and manage all aspects of training, including publicizing the availability of the training, scheduling sessions, notifying prospective participants, securing suitable facilities, providing training aids, providing qualified and experienced trainers, and all other costs associated with this effort.

To obtain a complete copy of this RFP, contact Kelly Reichenbach, Texas Commission on Alcohol and Drug Abuse, 710 Brazos, Austin, Texas 78701, (512) 867-8735.

All proposals in response to the RFP must be received by 5:00 p.m. on March 18, 1994. Since the turn around time for the original proposal request (#517-4-2188) was too short, this new deadline has been issued and any applications submitted under the previous request will be considered. Also, any applicants under the previous request may retract their application and submit a new one by the new deadline.

A panel of program and administrative staff from TCADA will score and rank proposals based on criteria described in the request for proposed (RFP) consultant contract. The initial award period for this work will be March 31, 1994-November 30, 1994.

Issued in Austin, Texas, on February 28, 1994

TRD-9436772 David P. Tatum
Interim Executive Director
Texas Commission on Alcohol and Drug
Abuse

Filed February 28, 1994

Notices of Intent to Contract

The Texas Commission on Alcohol and Drug Abuse (TCADA), under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice

of intent to renew a contract with Texas A&M University, Health and Kinesiology Department, Safety Education Program, for the purpose of providing DWI Education Administrator/Instructor Training Program and the DWI Education Administrator/Instructor In-Service Training Program for the period effective September 1, 1994 to August 31, 1995.

Contractor will plan, develop, schedule, publicize, manage, and conduct a minimum of four, five-day training workshops for DWI Education Program administrators and instructors utilizing a predetermined agenda, format and the Texas DWI Education Program Administrator/Instructor Manual as directed by TCADA. A maximum of 95 persons will be trained in the use of the Texas DWI Education Program Administrator/Instructor Manual. Contractor will schedule all trainings, notify prospective participants, manage registration process for attendance, secure suitable facilities, provide training aids, and experienced trainers. In addition, contractor will plan, develop, schedule, manage and conduct a maximum of five two-three day DWI Education Administrator/Instructor In-Service Training Programs for a maximum of 150 certified DWI Education Program administrators and instructors utilizing the Texas DWI In-Service Training Manual, a predetermined agenda and format as directed by TCADA. These trainings will be conducted in various regions of the state to allow accessibility for local administrators/instructors. The award shall not exceed \$90,851 annually.

TCADA will consider other reasonable offers to provide this service. Qualified organizations with experience and capability interested in receiving an application to apply shall submit a letter of intent to Steve Casillas, Director, Funding Processes Department, 710 Brazos, Austin, Texas 78701. The letter shall demonstrate experience and capability to provide the service and must be received in Austin no later than 5:00 p.m., March 11, 1994. Contact Steve Casillas for further information at (512) 867-8122.

Issued in Austin, Texas, on February 24, 1994

TRD-9436707 David P. Tatum
Interim Executive Director
Texas Commission on Alcohol and Drug
Abuse

Filed February 24, 1994

The Texas Commission on Alcohol and Drug Abuse (TCADA), under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice of intent to renew a contract with Sam Houston State University, Extended Learning Center for the purpose of providing the Texas Drug Offender Education Administra-

tor/Instructor Training Program for the period effective September 1, 1994, to August 31, 1995.

The contractor will plan, develop, schedule, publicize, manage, and conduct a minimum of four and a maximum of six, five-day training workshops for Drug Offender Education Program administrators and instructors utilizing a predetermined agenda format and the standardized Texas Drug Offender Education Program Administrator/Instructor Manual as directed by TCADA. A maximum of 132 persons will be trained in the use of the Texas Drug Offender Education Program Administrator/Instructor Manual. Contractor will schedule all trainings, notify prospective participants, manage registration process for attendance, secure suitable facilities, provide training aids, and experienced trainers. The award shall not exceed \$50,000 annually.

TCADA will consider other reasonable offers to provide this service. Qualified organizations with experience and capability interested in receiving an application to apply shall submit a letter of intent to: Steve Casillas, Director, Funding Processes Department, 710 Brazos, Austin, Texas 78701. The letter shall demonstrate experience and capability to provide the service and must be received in Austin no later than 5:00 p.m., March 11, 1994. Contact Steve Casillas for further information at (512) 867-8122.

Issued in Austin, Texas, on February 24, 1994.

TRD-9436708 David P. Tatum
Interim Executive Director
Texas Commission on Alcohol and Drug
Abuse

Filed: February 24, 1994

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Office of the Attorney General
Consultant Contract Amendment and
Extension

In accordance with Texas Government Code, §2254.031, the Office of the Attorney General (OAG) files this report announcing the amendment and extension of a contract for consultant services with Coopers and Lybrand, 1155

Peachtree Street, Atlanta, Georgia 30309-3630. The request for proposal was published in the July 16, 1993, issue of the *Texas Register* (18 TexReg 4697) and the date of the original contract was November 8, 1993. The amendment provides that as part of its review of claims management practices, Coopers and Lybrand will perform an actuarial analysis for the Office of the Attorney General related to the State's workers' compensation self-insurance program. The actuarial report will provide the following information: recommended loss and allocated loss expense reserves by fiscal accident year as of August 31, 1993; funding recommendations associated with these reserves, derived by discounting the recommended reserves for future investment income and including a cushion to increase the probability that funds will be available to pay self-insured claims when they become due; ultimate loss projections and funding recommendations for losses occurring during fiscal years 1993-1994; and cash flow projections for fiscal years 1992-1993 through 1993-1997 associated with the payout of self-insured losses.

Coopers and Lybrand will complete a draft report within six weeks of receipt of requested data. The final report will be issued shortly after discussion of the draft report.

The original contract is for an amount not to exceed \$40,000, and the amendment and extension will not alter that amount.

The beginning date of the amendment and extension is February 14, 1994, and the ending date is not later than May 1, 1994. The due date for the consultant's final report is May 1, 1994.

For further information, please contact David Bolduc, Assistant Attorney General, at (512) 475-0721.

Issued in Austin, Texas on February 24, 1994.

TRD-9436699 Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: February 24, 1994

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1994 Tax Charts

**OFFICE OF THE ATTORNEY GENERAL
1994 TAX CHARTS**

Pursuant to Section 14.053(h) of the Texas Family Code, the Attorney General of Texas as the "agency charged with enforcing child support orders under Part D of Title IV of the federal Social Security Act" has promulgated the following charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, Section 14.053 provides for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. Computation of the obligee's net resources should follow similar steps

**EMPLOYED PERSONS
1994 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes**	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*		
100.00	6.20	1.45	-0-	92.35
200.00	12.40	2.90	-0-	184.70
300.00	18.60	4.35	-0-	277.05
400.00	24.80	5.80	-0-	369.40
500.00	31.00	7.25	-0-	461.75
600.00	37.20	8.70	11.88	542.22
700.00	43.40	10.15	26.88	619.57
800.00	49.60	11.60	41.88	696.92
900.00	55.80	13.05	56.88	774.27
1,000.00	62.00	14.50	71.88	851.62
1,100.00	68.20	15.95	86.88	928.97
1,200.00	74.40	17.40	101.88	1,006.32
1,300.00	80.60	18.85	116.88	1,083.67
1,400.00	86.80	20.30	131.88	1,161.02
1,500.00	93.00	21.75	146.88	1,238.37
1,600.00	99.20	23.20	161.88	1,315.72
1,700.00	105.40	24.65	176.88	1,393.07
1,800.00	111.60	26.10	191.88	1,470.42
1,900.00	117.80	27.55	206.88	1,547.77
2,000.00	124.00	29.00	221.88	1,625.12
2,100.00	130.20	30.45	236.88	1,702.47
2,200.00	136.40	31.90	251.88	1,779.82
2,300.00	142.60	33.35	266.88	1,857.17
2,400.00	148.80	34.80	281.88	1,934.52
2,500.00	155.00	36.25	307.71	2,001.04
2,600.00	161.20	37.70	335.71	2,065.39
2,700.00	167.40	39.15	363.71	2,129.74
2,800.00	173.60	40.60	391.71	2,194.09
2,900.00	179.80	42.05	419.71	2,258.44
3,000.00	186.00	43.50	447.71	2,322.79
3,100.00	192.20	44.95	475.71	2,387.14
3,200.00	198.40	46.40	503.71	2,451.49
3,300.00	204.60	47.85	531.71	2,515.84
3,400.00	210.80	49.30	559.71	2,580.19
3,500.00	217.00	50.75	587.71	2,644.54
3,600.00	223.20	52.20	615.71	2,708.89
3,700.00	229.40	53.65	643.71	2,773.24
3,800.00	235.60	55.10	671.71	2,837.59
3,900.00	241.80	56.55	699.71	2,901.94
4,000.00	248.00	58.00	727.71	2,966.29
4,250.00	263.50	61.63	797.71	3,127.16
4,500.00	279.00	65.25	867.71	3,288.04
4,750.00	294.50	68.88	937.71	3,448.91
5,000.00	310.00	72.50	1,007.71	3,609.79
5,250.00	313.10***	76.13	1,081.83	3,778.94
5,500.00	313.10	79.75	1,159.33	3,947.82
5,750.00	313.10	83.38	1,236.83	4,116.69
6,000.00	313.10	87.00	1,314.33	4,285.57
6,250.00	313.10	90.63	1,391.83	4,454.44
6,500.00	313.10	94.25	1,469.33	4,623.32
6,750.00	313.10	97.88	1,546.83	4,792.19
7,000.00	313.10	101.50	1,624.33	4,961.07
7,500.00	313.10	108.75	1,779.33	5,298.82
8,000.00	313.10	116.00	1,934.33	5,636.57
8,500.00	313.10	123.25	2,089.33	5,974.32
9,000.00	313.10	130.50	2,244.33	6,312.07
9,500.00	313.10	137.75	2,400.60	6,648.55
10,000.00	313.10	145.00	2,559.40	6,982.50

10,500.00	313.10	152.25	2,737.95	7,296.70
11,000.00	313.10	159.50	2,922.36	7,605.04
11,500.00	313.10	166.75	3,105.30	7,914.85
12,000.00	313.10	174.00	3,288.24	8,224.66
12,500.00	313.10	181.25	3,472.65	8,533.00
13,000.00	313.10	188.50	3,655.59	8,842.81

Footnotes to Employed Persons 1994 Tax Chart:

- * An employed person not subject to the Old-age, Survivors and Disability Insurance/Hospital (Medicare) Insurance taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.
- ** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,450.00, subject to reduction in certain cases, as described in the next paragraph of this footnote) and taking the standard deduction (\$3,800.00).

For a single taxpayer with an adjusted gross income in excess of \$111,800.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$111,800.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly gross wages of \$12,000.00 times 12 months equals \$144,000.00. The excess over \$111,800.00 is \$32,200.00. \$32,200.00 divided by \$2,500.00 equals 12.88. The 12.88 amount is rounded up to 13. The reduction percentage is 26% (13 x 2% = 26%). The \$2,450.00 deduction for one personal exemption is reduced by \$637.00 (\$2,450.00 x 26% = \$637.00) to \$1,813.00 (\$2,450.00 - \$637.00 = \$1,813.00).
- *** For annual gross wages above \$60,600.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1994 maximum Old-Age, Survivors and Disability Insurance tax of \$3,757.20 per person (6.2% of the first \$60,600.00 of annual gross wages equals \$3,757.20). One-twelfth (1/12) of \$3,757.20 equals \$313.10.

.....

References Relating to Employed Persons 1994 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 22, 1993, and appearing in 58 Fed. Reg. 58,004 (October 28, 1993)
- (2) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 22, 1993, and appearing in 58 Fed. Reg. 58,004 (October 28, 1993)
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1994 for Single Taxpayers

- (1) Revenue Procedure 93-49, Section 3.01, Table 3, which appears at page 20 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))

(b) Standard Deduction

- (1) Revenue Procedure 93-49, Section 3.03, which appears at pages 20-21 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) Revenue Procedure 93-49, Section 3.07, which appears at pages 21-22 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

**SELF-EMPLOYED PERSONS
1994 TAX CHART**

Monthly Net Earnings From Self- Employment*	SOCIAL SECURITY TAXES		Federal Income Taxes***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)**		
100.00	11.45	2.68	-0-	85.87
200.00	22.90	5.36	-0-	171.74
300.00	34.35	8.03	-0-	257.62
400.00	45.81	10.71	-0-	343.48
500.00	57.26	13.39	-0-	429.35
600.00	68.71	16.07	5.52	509.70
700.00	80.16	18.75	19.46	581.63
800.00	91.61	21.43	33.40	653.56
900.00	103.06	24.10	47.34	725.50
1,000.00	114.51	26.78	61.28	797.43
1,100.00	125.97	29.46	75.22	869.35
1,200.00	137.42	32.14	89.16	941.28
1,300.00	148.87	34.82	103.10	1,013.21
1,400.00	160.32	37.49	117.04	1,085.15
1,500.00	171.77	40.17	130.98	1,157.08
1,600.00	183.22	42.85	144.92	1,229.01
1,700.00	194.67	45.53	158.86	1,300.94
1,800.00	206.13	48.21	172.80	1,372.86
1,900.00	217.58	50.88	186.74	1,444.80
2,000.00	229.03	53.56	200.68	1,516.73
2,100.00	240.48	56.24	214.62	1,588.66
2,200.00	251.93	58.92	228.56	1,660.59
2,300.00	263.38	61.60	242.50	1,732.52
2,400.00	274.83	64.28	256.44	1,804.45
2,500.00	286.29	66.95	270.38	1,876.38
2,600.00	297.74	69.63	284.32	1,948.31
2,700.00	309.19	72.31	310.30	2,008.20
2,800.00	320.64	74.99	336.32	2,068.05
2,900.00	332.09	77.67	362.34	2,127.90
3,000.00	343.54	80.34	388.36	2,187.76
3,100.00	354.99	83.02	414.39	2,247.60
3,200.00	366.44	85.70	440.41	2,307.45
3,300.00	377.90	88.38	466.43	2,367.29
3,400.00	389.35	91.06	492.45	2,427.14
3,500.00	400.80	93.74	518.47	2,486.99
3,600.00	412.25	96.41	544.50	2,546.84
3,700.00	423.70	99.09	570.52	2,606.69
3,800.00	435.15	101.77	596.54	2,666.54
3,900.00	446.60	104.45	622.56	2,726.39
4,000.00	458.06	107.13	648.58	2,786.23
4,250.00	486.68	113.82	713.64	2,935.86
4,500.00	515.31	120.52	778.69	3,085.48
4,750.00	543.94	127.21	843.75	3,235.10
5,000.00	572.57	133.91	908.80	3,384.72
5,250.00	601.20	140.60	973.86	3,534.34
5,500.00	626.20****	147.30	1,039.44	3,687.06
5,750.00	626.20	153.99	1,115.90	3,853.91
6,000.00	626.20	160.69	1,192.37	4,020.74
6,250.00	626.20	167.38	1,268.83	4,187.59
6,500.00	626.20	174.08	1,345.29	4,354.43
6,750.00	626.20	180.78	1,421.75	4,521.27
7,000.00	626.20	187.47	1,498.21	4,688.12
7,500.00	626.20	200.86	1,651.14	5,021.80
8,000.00	626.20	214.25	1,804.06	5,355.49
8,500.00	626.20	227.64	1,956.99	5,689.17
9,000.00	626.20	241.03	2,109.91	6,022.86
9,500.00	626.20	254.42	2,262.84	6,356.54
10,000.00	626.20	267.82	2,418.29	6,687.69
10,500.00	626.20	281.21	2,573.75	7,018.84
11,000.00	626.20	294.60	2,725.20	7,327.00
11,500.00	626.20	307.99	2,934.20	7,631.61
12,000.00	626.20	321.38	3,114.73	7,937.69
12,500.00	626.20	334.77	3,295.26	8,243.77
13,000.00	626.20	348.16	3,477.26	8,548.38

Footnotes to Self-Employed Persons 1994 Tax Chart:

- * Determined without regard to Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U S C) (the "Code").
- ** In calculating each of the Old-Age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under Section 1402(a)(12) of the Code. The deduction under Section 1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-Age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) of \$2,500.00 are calculated as follows:

(i) Old-Age, Survivors and Disability Insurance Taxes:

\$2,500.00 x 92.35% x 12.4% = \$286.29

(ii) Hospital (Medicare) Insurance Taxes:

\$2,500.00 x 92.35% x 2.9% = \$66.95

*** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,450.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$3,800.00).

In calculating the annual Federal income tax, gross income is reduced by the deduction under Section 164(f) of the Code. The deduction under Section 164(f) of the Code is equal to one-half (1/2) of the self-employment taxes imposed by Section 1401 of the Code for the taxable year. For example, monthly net earnings from self-employment of \$12,000.00 times 12 months equals \$144,000.00. The Old-Age, Survivors and Disability Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$7,514.40 (\$60,600.00 x 12.4% = \$7,514.40). The Hospital (Medicare) Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$3,856.54 (\$144,000.00 x .9235 x 2.9% = \$3,856.54). The sum of the taxes imposed by Section 1401 of the Code for the taxable year equals \$11,370.94 (\$7,514.40 + \$3,856.54 = \$11,370.94). The deduction under Section 164(f) of the Code is equal to one-half (1/2) of \$11,370.94 or \$5,685.47.

For a single taxpayer with an adjusted gross income in excess of \$111,800.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$111,800.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly net earnings from self-employment of \$12,000.00 times 12 months equals \$144,000.00. The \$144,000.00 amount is reduced by \$5,685.47 (i.e., the deduction under Section 164(f) of the Code -- see the immediately preceding paragraph of this footnote for the computation) to arrive at adjusted gross income of \$138,314.53. The excess over \$111,800.00 is \$26,514.53. \$26,514.53 divided by \$2,500.00 equals 10.61. The 10.61 amount is rounded up to 11. The reduction percentage is 22% (11 x 2% = 22%). The \$2,450.00 deduction for one personal exemption is reduced by \$539.00 (\$2,450.00 x 22% = \$539.00) to \$1,911.00 (\$2,450.00 - \$539.00 = \$1,911.00).

**** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$60,600.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1994 maximum Old-Age, Survivors and Disability Insurance tax of \$7,514.40 per person (12.4% of the first \$60,600.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$7,514.40). One-twelfth (1/12) of \$7,514.40 equals \$626.20.

References Relating to Self-Employed Persons 1994 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 22, 1993, and appearing in 58 Fed. Reg. 58,004 (October 28, 1993)
- (2) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 22, 1993, and appearing in 58 Fed. Reg. 58,004 (October 28, 1993)
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1994 for Single Taxpayers

- (1) Revenue Procedure 93-49, Section 3.01, Table 3, which appears at page 20 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))

(b) Standard Deduction

- (1) Revenue Procedure 93-49, Section 3.03, which appears at pages 20-21 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) Revenue Procedure 93-49, Section 3.07, which appears at pages 21-22 of Internal Revenue Bulletin 1993-42, dated December 27, 1993
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

(d) Deduction Under Section 164(f)

- (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))

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

TRD-9436794 Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: February 28, 1994

◆ ◆ ◆
**Central Texas Council of Governments
Consultant Proposal Request**

This request for consultant services is filed pursuant to Texas Civil Statutes, Article 6252-11c. The Central Texas Council of Governments is requesting written proposals for consultant services related to conducting a land use analysis and transportation planning of Old Nolanville road and the surrounding area in the city of Harker Heights. Specifically, the study will recommend alternative solutions and priorities for improvements and will provide cost estimates.

The proposals will be evaluated upon

- 1. Project Understanding
- 2. Scope of Services
- 3. Project Manager and Staff Qualifications
- 4. Project Cost.

5. Firm Qualifications and Consultant Reference

6. Study Schedule

A detailed scope of work and guidelines for the proposal's content can be obtained from Bharat Dwa, Transportation Planner, CTCOG, P.O. Box 729, Belton, Texas, 76513, (817) 742-0842. The deadline for receipt of proposals is 1.00 p.m., March 25, 1994.

Issued in Belton, Texas, on February 22, 1994

TRD-9436610 Bharat Dwa
Transportation Planner
Central Texas Council of Governments

Filed February 23, 1994

◆ ◆ ◆
**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	02/28/94-03/06/94	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	03/01/94-03/31/94	10.00%	10.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

[graphic]

Issued in Austin, Texas, on February 22, 1994

TRD-9436649 Al Endsley
Consumer Credit Commissioner

Filed February 24, 1994

◆ ◆ ◆
**Texas Education Agency
Notice of Contract Extension**

The Texas Education Agency has elected to exercise the extension provision contained in the Financial Accountability Project contract to permit the implementation of recommendations made in the Tier I needs assessment phase. According to the terms of the original Request For Proposal Number 701-93-024 and the contract for this project, the agency has chosen the option of continuing with the same team of consultants led by Deloitte & Touche, CPAs, 801 Cherry Street, Suite 2340, Fort Worth, Texas 76102, and is extending the contract amount from \$300,000 to \$2,405,000 and extending the completion date of the contract to August 31, 1995 (See the following issues of the *Texas Register*: July 27, 1993 (18 TexReg 4959), January 4, 1994 (19 TexReg 111), and January 25, 1994 (19 TexReg 535)).

Issued in Austin, Texas, on February 25, 1994

TRD-9436787 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed February 28, 1994

◆ ◆ ◆
Request for Information

Adopted by the State Board of Education (SBOE) in January 1994, the Texas Administrative Code (TAC), Title 19, §101.6, requires school districts participating in optional, local norm-referenced testing under the Texas Education Code (TEC), §35.026, to select a norm-referenced instrument from a list approved by the SBOE. To prepare the list of test instruments, the Texas Education Agency (TEA) is requesting that publishers submit the names of norm-referenced achievement tests that are appropriate for group administration and meet the requirements specified in the TEC, §35.026 and §35.033. The publisher should submit the name of the test and documentation demonstrating how the test meets the requirements of law. Publishers are asked to submit

about this request, contact Keith Cruse, Division of Student Assessment, (512) 463-9536.

Issued in Austin, Texas, on February 24, 1994.

TRD-9436786 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 28, 1994

◆ ◆ ◆
General Land Office

**Notice of Availability and Request for
Comments**

Agencies Texas General Land Office (GLO), Texas Natural Resource Conservation Commission (TNRCC), Texas Parks and Wildlife Department (TPWD), Department of the Interior (DOI), and National Oceanic and Atmospheric Administration (NOAA).

Action. Notice of availability of a draft oil spill agreement and of a 30-day period for public comment on the proposed draft agreement.

Summary. Notice is hereby given that the document entitled "Chilipin Creek Spill Agreement" dated January 26, 1994, is available for public review and comment. This document describes the agreement proposed by state and federal natural resource trustees (GLO, TNRCC, TPWD, DOI, NOAA) providing compensation for natural resource injuries from the oil spill occurring within the Chilipin Creek natural drainage area, San Patricio County, Texas, from a ruptured Exxon Pipeline Company pipeline, January 7, 1992.

The proposed agreement between the Natural Resource Trustees and Exxon Pipeline Company is a cash settlement of \$130,000 plus Trustee administrative costs. The settlement amount will be placed in trust to be used for rehabilitation, replacement, or acquisition of equivalent resources and for habitat enhancement.

The Trustees will develop a restoration plan for use of the money, and the plan will be made available for public review and comment.

The opportunity for public review of this proposed agreement announced by this notice parallels the provisions included in 43 Code of Federal Regulations, §11.32(c) of the Natural Resource Damage Assessment Regulations.

Dates Comments must be submitted in writing on or before March 25, 1994, to Diane Hyatt, Natural Resource Damage Assessment, Texas General Land Office, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-1395. All written comments will be considered by state and federal natural resource trustees in finalizing the draft agreement.

Supplementary Information: Statement of Facts.

1. At approximately 10:45 a.m. on January 7, 1992, a pipeline owned and operated by Exxon Pipeline Company ruptured and released 2,950 barrels (123,900 U.S. gallons) of API gravity 37 South Texas light crude oil. Of this volume, 1,700 barrels escaped into a marsh contained within the Chilipin Creek natural drainage area, San Patricio County, Texas. The remaining 1,250 barrels were estimated to have been recovered from the blow-out hole.

2. The oil discharged was a light crude oil, containing trace amounts of heavy metals and petroleum hydrocar-

bons sufficient to cause toxicity affecting and mortality to various aquatic and terrestrial organisms.

3. The DOI, NOAA, and the State are designated co-Trustees of the natural resources injured by the discharge of oil from Exxon Pipeline Company's pipeline in the Chilipin Creek drainage area.

4. The marshes impacted by the discharge provide important habitat for numerous species of waterfowl, shorebirds, songbirds, and terrestrial reptiles and mammals. Marshes also provide valuable habitat for aquatic species, e.g. fishes, crabs, zooplankton, and other aquatic organisms.

5. Exxon Pipeline Company initiated response actions to contain and remove crude oil, which included a permitted in situ burn of a portion of the oiled area.

6. The Exxon Pipeline Company response action provided no compensation for the value of natural resources, and their services, injured or lost as a result of the discharge of oil.

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

TRD-9436788 Garry Mauro
Commissioner
General Land Office

Filed: February 28, 1994

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**Office of the Governor, Budget
Division**

Budget Execution Proposal

Pursuant to Texas Government Code, §317.002(b)(2) relating to budget execution authority, I make the following budget execution proposal.

The Texas Department of Criminal Justice requests authority to expend funds appropriated for an additional purpose. Appropriations made to the Department relating to capital budget items will be affected.

I find that the significant increase in the backlog of offenders confined in the county jails awaiting transfer to state prisons, now numbering in excess of 28,000, creates an emergency requiring the construction of 15,000 additional prison beds and the acceleration of 6,000 state jail beds.

I therefore propose that during the 1994-1995 biennium, the Department may have full transferability within the total amount of its capital budget rider provided in the General Appropriations Act (Acts of the 73rd Legislature, Regular Session, 1993) for the projects necessary to meet this emergency.

Issued in Austin, Texas, on March 1, 1994.

TRD-9436838 Ann W. Richards
Governor
Office of the Governor

Filed: March 1, 1994

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**Texas Department of Health
Notice of Correction of Error**

The Texas Department of Health, Bureau of Radiation Control, submitted a Notice of Revocation of Certificates of Registration, which appeared in the February 15, 1994, issue of the *Texas Register* (19 TexReg 1129).

The holder of certificate of registration R19586 was incorrectly listed as Comanche County Hospital of Sour Lake

The correct holder of certificate of registration R19586 is F. A. Eisenrich, M.D. of Comanche.

Issued in Austin, Texas, on February 28, 1994.

TRD-9436775 Susan K Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed. February 28, 1994

Notice of Intent to Sell or Dispose of Radioactive Material

Notice is hereby given that the Texas Department of Health, Bureau of Radiation Control (bureau) will sell or dispose of a 2.7 curie americium-beryllium source the bureau impounded from Exwell Logging and Perforating, Inc. of Alice on January 13, 1994. The bureau will sell or dispose of this source if they have not received notification of intent to reclaim the source within 30 days of publication of this notice in the *Texas Register*. Any notification to reclaim this source must be submitted in writing to Richard A. Ratliff, P.E., Acting Chief, Texas Department of Health, Bureau of Radiation Control, 1100 West 49th Street, Austin, Texas 78756-3189. A copy of the current radioactive material license authorizing possession of the material must accompany the notification.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 00 a.m. to 5 00 p.m. (except holidays)

Issued in Austin, Texas, on February 24, 1994

TRD-9436774 Susan K Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed. February 28, 1994

Notice of Revocation of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following certificates of registration: Ed Pitt, D.D.S., M.S.D., Mineral Wells, R05629, February 15, 1994; Larry C. Glass, D.D.S., Quinlan, R08042, February 15, 1994; The Family Medicine Center of Henderson, Henderson, R14462, February 15, 1994; Luke R. Long, Houston, R14850, February 15, 1994; Pedro Barba, Jr., M.D., Dallas, R15891, February 15, 1994; W. C. Eklund, D.C., Dallas, R15973, February 15, 1994; Nasa Road Chiropractic Clinic, Webster, R17499, February 15, 1994; United Chiropractic, Austin, R18772, February 15, 1994; Cisco Community Health Care Center, Cisco, R19783, February 15, 1994; Justice Ophthalmic Laser Services, Barker, Z00317, February 15, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 00 a.m. to 5.00 p.m. (except holidays)

Issued in Austin, Texas, on February 24, 1994

TRD-9436674

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

Filed. February 24, 1994

Notice of Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following radioactive material licenses: Petrospect, Inc., Houston, L03088, February 15, 1994; Aero NDE & Threading Corporation, Snyder, L03581, February 15, 1994; Texas Environmental Services, Inc., Nederland, L03641, February 15, 1994; Dames & Moore, Houston, L04186, February 15, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 00 a.m. to 5 00 p.m. (except holidays)

Issued in Austin, Texas, on February 24, 1994

TRD-9436675 Susan K Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed February 24, 1994

Texas Health and Human Services Commission

Public Notices

In accordance with Texas Government Code, Chapter 2254, Subchapter B, the Health and Human Services Commission (HHSC) publishes this notice of a consultant contract award. The consultant proposal request was published in the December 24, 1993, issue of the *Texas Register* (18 TexReg 9954). HHSC is managing the consulting service for HHSC and the participating agencies who include the Texas Department of Health, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Employment Commission, Texas Early Childhood Intervention Council, Texas Commission for the Blind, Texas Youth Commission, and the Texas Juvenile Probation Commission. HHSC and the participating agencies will obtain advice and consultation in developing and implementing Medicaid claims for administrative activities performed by state and local staff in HHSC and the participating agencies.

The consultant contract was awarded to the Institute for Human Services Management, Inc., 7303 MacArthur Boulevard, Suite 214, Bethesda, Maryland 20816. The maximum amount of the contract is \$330,400. The contract began February 15, 1994, and will end August 31, 1995. The consultant is required to submit a final report for Phase I by March 30, 1994, and a final report for Phase II by August 31, 1995.

Issued in Austin, Texas, on February 24, 1994.

TRD-9436663

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-17, Amendment Number 402

The amendment revises the reimbursement methodology for case management services for individuals who are mentally retarded or developmentally disabled. The amendment is effective April 1, 1993

If additional information is needed, please contact Nancy Kumble at (512) 450-3496

Issued in Austin, Texas, on February 24, 1994

TRD-9436664

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-19, Amendment Number 404

The amendment provides for an appropriate adjustment in payment amounts for nursing facility services as required by §4211(b) of the Omnibus Budget Reconciliation Act (OBRA) of 1987 and §4801(e) of OBRA 1990. The amendment is effective October 1, 1993

If additional information is needed, please contact Kathy Hall at (512) 450-3702

Issued in Austin, Texas, on February 24, 1994

TRD-9436665

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-39, Amendment Number 424

The amendment allows coverage of peripheral stem cell transplants in lieu of a bone marrow transplant. The amendment is effective November 1, 1993

If additional information is needed, please contact Gene DeKneef at (512) 338-6509

Issued in Austin, Texas, on February 24, 1994

TRD-9436666

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-41, Amendment Number 426

The amendment expands coverage of nurse-midwife services to include those services that nurse midwives are authorized to perform under State law that are outside the maternity cycle. The amendment is effective October 1, 1993

If additional information is needed, please contact Kay Sterling at (512) 338-6511

Issued in Austin, Texas, on February 24, 1994

TRD-9436667

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-43, Amendment Number 428

The amendment addresses the requirements concerning transfers of assets and treatment of certain trusts mandated by §13611 of Public Law 103-56 (OBRA 1993). The amendment is effective October 1, 1993

If additional information is needed, please contact Judy Coker at (512) 450-3227

Issued in Austin, Texas, on February 24, 1994

TRD-9436668

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-44, Amendment Number 429

The amendment incorporates reference to the statutory and regulatory requirement that States include in payment for nursing facility services at least certain items and services specified by the Secretary. The amendment is effective October 1, 1993

If additional information is needed, please contact Mark Gold at (512) 450-3174

Issued in Austin, Texas, on February 24, 1994

TRD-9436669

Bryan P. Sperry
Deputy Commissioner
Texas Health and Human Services
Commission

Filed February 24, 1994



**Texas Department of Housing and
Community Affairs**

**Emergency Nutrition/Temporary
Emergency Relief Program**

The Texas Department of Housing and Community Affairs (TDHCA), Community Services Section, announces the availability of funds to provide Emergency Nutrition/Temporary Emergency Relief Program (ENTERP) services in certain Texas counties. The purpose of the Emergency Nutrition/Temporary Emergency Relief Program (ENTERP) is to assist counties by providing state funds for emergency assistance for needy persons. TDHCA is soliciting from organizations a notification of intent to apply for funds to deliver ENTERP services in certain counties. The contract period is for 12 months, September 1, 1993, to August 31, 1994.

The Texas Legislature appropriated General Revenue funds and Oil Overcharge funds for the fiscal year 1994. General Revenue funds are to be used to help low income individuals and/or families pay for rent and food. Oil Overcharge funds are restricted and must be utilized to provide short term energy related services, such as payment for electricity, natural gas, butane, propane, kerosene, and other heating petroleum products, cord wood, and coal, purchase and repair of essential heating and cooling appliances; and blankets and coats for warmth.

The Texas Human Resources Code, Chapter 34 and Government Code, Chapter 2305, mandate that counties shall be given the first opportunity to apply for ENTERP. As of February 4, 1994, (extended deadline to apply for ENTERP funds) the following counties, with the allocations indicated, have not responded:

COUNTY	GENERAL REVENUE	OIL OVERCHARGE	TOTAL
Chambers	\$1,000	\$6,615	\$7,615
Childress	1,000	3,833	4,833
Collin	3,007	74,964	77,971
Crane	1,000	1,823	2,823
Jim Wells	1,103	27,498	28,601
Loving	1,000	1,000	2,000
McMullen	1,000	1,000	2,000
Midland	1,769	44,095	45,864
Orange	1,806	45,019	46,824
Pecos	1,000	9,588	10,588
Stephens	1,000	4,077	5,077
Sutton	1,000	2,095	3,095
Terrell	1,000	1,000	2,000
Tom Green	1,568	39,099	40,667
Travis	9,553	238,179	247,732
Wharton	1,000	2,425	3,425

These funds will be used to deliver ENTERP services in each county listed. To qualify for these funds, the appli-

cant must be a nonprofit organization or a political subdivision and must be able to provide a financial contribution in an amount equal to the state contribution for the county. The matching funds may include local government funds, private contributions, and federal funds. ENTERP funds may not be used by successful applicants for administrative costs and not more than 25% of the local match of the General Revenue funds may be used for local administrative costs. Local administrative costs may not be used as a match for Oil Overcharge funds.

An organization interested in delivering ENTERP services in any of the counties listed above must notify TDHCA in writing of its desire to apply for ENTERP funds to deliver services in a specified county. The organization must notify the county judge of the specified county that it intends to apply for ENTERP funds and provide TDHCA with documentation of the notification. Upon receipt of these documents, TDHCA will send the organization a Service Delivery Plan (SDP) with instructions for its completion and return. TDHCA will select organizations to deliver ENTERP services after reviewing completed SDPs.

TDHCA reserves the right to accept or reject any or all SDPs submitted. TDHCA is under no obligation to execute a contract on the basis of the SDP or this invitation nor is it obligated to pay any costs incurred in the preparation of a response. TDHCA intends to use SDPs as a basis for further negotiation of specific program details with potential contractors.

Organizations interested in applying for ENTERP funds must mail letter and documentation not later than March 21, 1994, to the Texas Department of Housing and Community Affairs, Community Services Section, 811 Barton Springs Road, Suite 250, Austin, Texas 78704.

If you have any questions, please call Program Administrators Lilliana Ruiz or Phillip Montgomery at (512) 475-3950.

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

TRD-9436615 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed February 23, 1994

◆ ◆ ◆
Texas Department of Human Services
Title XX Expenditure Report Notice

The Texas Department of Human Services has published a report describing the actual expenditures of Title XX Social Services Block Grant funds for fiscal year 1993. Free copies of the report are available to the public.

Contact Person: To obtain a copy of this report, write Burton Raiford, Commissioner, Texas Department of Human Services, W-619, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on February 28, 1994.

TRD-9436791 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Human Services

Filed February 28, 1994

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Texas Natural Resource Conservation Commission

Notice of Application For Waste Disposal Permits

Attached are Notices of Application for waste disposal permits. These notices were issued during the period of February 7-February 25, 1994.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number, the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application, a description of the location of your property relative to the applicant's operations, and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

B & W Gathering Company, wastewater treatment facilities, north of Highest Drive between Lakecrest Drive and Moss Downs Drive in Burnet County, Texas, renewal, 11332-01.

Dallas County Utility and Reclamation District, proposed water treatment facility, 2,785 feet north northeast of the intersection of State Highway 114 and Valley View Lane, 300 feet west northwest of the dead end of Parkridge Boulevard in Dallas County, Texas, new, 13678-01.

City of Del Rio, the Round Mountain Wastewater Treatment Facilities, southwest of the intersection of Martinez and Noriega Streets in the City of Del Rio in Val Verde County, Texas, renewal, 10159-05.

Fina Oil and Chemical Company, its Port Arthur Petroleum Refinery, on the northwest corner of State Highway 87 and FM Road 366 and northeast of the City of Groves, Jefferson County, Texas, amendment, 00491.

Harris County Municipal Utility District Number 6, wastewater treatment facilities, approximately two miles north and one mile east of the intersection of Fairbanks-North

Road and White Oak Bayou in Harris County, Texas; amendment; 11273-01.

Harris County Municipal Utility District Number 238, wastewater treatment facilities; approximately one mile north of the intersection of Saums Road and Barker-Cypress Road, approximately 2.1 miles north-northwest of the intersection of Interstate Highway 10 and Barker-Cypress Road in Harris County, Texas; renewal; 12802-01.

County of Hidalgo; the Delta Lake Park Wastewater Treatment Facilities; approximately two miles north of the intersection of FM Roads 88 and 1422, east of FM Road 88, adjacent to the Monte Alto Reservoir in Hidalgo County, Texas; renewal; 10973-01.

City of Lake Jackson, wastewater treatment facilities, at 150 Canna Drive; approximately 9/10 mile southwest of the intersection of Oak Drive and State Highway 332 in Brazoria County, Texas; renewal; 10047-01.

Liberty Seafood, Inc. doing business as Aransas Shrimp Company; a shrimp unloading and transfer facility; at 420 Bigelow Street in the City of Aransas Pass, Aransas County, Texas; renewal; 02007.

City of Mason; wastewater treatment plant; approximately 3/4 mile northeast of the intersection of U.S. Highway 87 and FM Road 1723, southeast of the City of Mason, in Mason County, Texas; renewal; 10670-01.

Memorial Point Utility District; wastewater treatment facilities; approximately two miles south of the intersection of FM Roads 2457 and 3277 on the east side of Lake Livingston in Polk County, Texas; renewal; 11147-01

Radler Enterprises Texas, Inc.; the Cedarstone Wastewater Treatment Facilities; in the front parking lot of Cedarstone Commercial Complex, on the north side of Sawdust Road, approximately one tenth of a mile west of the intersection of Sawdust Road and Sawmill Road in the Woodlands, Montgomery County, Texas, new; 13697-01

City of San Angelo; wastewater treatment facilities and the 52-acre irrigation site; southeast of the north-south runway of Mathis Field, and the 170-acre irrigation site is at the Bentwood Golf Course in Tom Green County, Texas; amendment; 10641-02

South Hampton Refining Company; a bulk organic chemicals manufacturing plant, and a products storage and shipping facility; the storage and shipping facility is about one mile north of the FM 418 and Highway 92 intersection on Loading Dock Road within the city limits of Silsbee; the manufacturing plant is on FM 418 West, approximately 1,000 feet north of the FM 418 and FM 1122 intersection, which is about 3.5 miles northwest of the City of Silsbee, Hardin County, Texas, renewal; 01403

City of Streetman; wastewater treatment facilities, west of FM Road 80 and east of the Fort Worth and Denver Railway (F W & D RR) on the north bank of Sloan Creek in the southern portion of the City of Streetman in Freestone County, Texas; renewal; 10471-01.

Texas Department of Transportation, the Cass County Rest Area Wastewater Treatment Facilities, on U.S. Highway 59, approximately 6-1/2 miles northeast of the City of Linden in Cass County, Texas, renewal, 12009-01

United States Department of Agriculture, Forest Service; the Cagle Recreation Area wastewater treatment facility and irrigation site; 400 feet east of Lake Conroe, approximately 4,800 feet southeast of the intersection of FM Road

1375 and Baker Bridge, 7.0 miles west of New Waverly in Walker County, Texas; new; 13676-01.

The Atchison, Topeka and Santa Fe Railway Company (AT&SF); a Class I hazardous waste facility for on-site storage and treatment of solid wastes from wood preserving (creosote) processes. AT&SF operates the facility as a centralized tie treating plant which treats and preserves railroad cross ties, poles, pilings, and other timbers with creosote; on 200 acres of land adjacent to Highway 36, partially within the City Limits of Somerville in Burleson County, Texas; amendment; CP50090; 45 days.

Celanese Engineering Resins, Inc.; site-generated hazardous wastewaters from the manufacture of petrochemicals; the waste disposal wells are on company property at the Hoechst Celanese plant, approximately two miles southwest of Bishop in Nueces County, Texas; renewal; WDW-210, WDW-211, and WDW-212; 45 days.

Dowell Schlumberger Incorporated; a hazardous waste facility and compliance plan at its Monahans facility; the compliance plant would authorize corrective action for groundwater contamination at the Closed Lagoon, on a 14,905-acre tract of land, approximately 45 miles southwest of Midland, on the Ozarka-Mahoney Service Road about 1/4 mile north of the intersection of U.S. Highway 80 and Loop 464 on the western side of the City of Monahans, in Ward County, Texas; new; HW50351 and CP50351; 45 days

Exxon Company, U S A ; industrial solid waste management facility; on a 2624 5 acre tract of land, south of Decker Drive (Spur 330), about four miles from the Interstate Highway 10 exit and approximately 25 miles east of Houston in Harris County, Texas; amendment, HW50111; 45 days

Miles, Inc., a chemical manufacturing facility which produces industrial chemicals and polymers; on a 727-acre tract of land east of Cedar Bayou, approximately 1/2 mile south of the intersection of FM 565 near the City of Baytown in Chambers County, Texas; amendment, HW50173; 45 days.

U.S. Navy/Naval Weapons Industrial Reserve Plant (NWIRP) #387; a hazardous waste container storage facility; at 9314 West Jefferson Boulevard in the City of Dallas, Dallas County, Texas, new; HW50279; 45 days.

Issued in Austin, Texas, on February 25, 1994.

TRD-9436768 Gloria A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed, February 25, 1994

Notice of Public Hearing (S02 SIP)

Due to several errors in the public hearing notice printed in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1482), the notice has been revised as follows.

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 through Agreed Orders to locally limit SO₂ allowable emissions for 22 grandfathered (non-permitted) facilities. The new SO₂ limits and modeled demonstration of attainment included in the SIP will prevent the need for EPA to designate Harris County as nonattainment for SO₂.

A public hearing on the proposal will be held March 31, 1994, 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 12118 North I-35, Park 35 Technology Center, Building E, Austin, and at the Houston regional office of the TNRCC located at 3555 West Loop, Suite 300, Bellaire. 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 Mr. 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 28, 1994.

TRD-9436776 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed February 28, 1994

Public Hearing Notices

The Texas Natural Resource Conservation Commission will conduct a public hearing beginning at 7 00 p.m., March 30, 1994, at Trinity University, Chapman Graduate Center Auditorium, San Antonio, Texas.

This hearing is scheduled to receive public comment on the Edwards Aquifer Water Quality Protection Program and the TNRCC's rules addressing water pollution abatement plans for regulated development over the designated recharge zone of the Edwards Aquifer pursuant to 30 TAC §313. The public hearing shall be conducted in accordance with the Texas Water Code, §26.046.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the Edwards Aquifer Program. Written comments which are submitted prior to or during the public hearing will be included in the record. The Commission will also include

copies of all written testimony received up to ten days after the public hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Helen Stovall, Legal Services Division, P.O. Box 13087, Austin, Texas 78711, or call (512) 239-0578.

Issued in Austin, Texas, on February 24, 1994.

TRD-9436718 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed February 25, 1994

The Texas Natural Resource Conservation Commission will conduct a public hearing beginning at 7 00 p.m., Tuesday, April 5, 1994, in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas.

This hearing is scheduled to receive public comment on the Edwards Aquifer Water Quality Protection Program and the TNRCC's rules address water pollution abatement plans for regulated development over the designated recharge zone of the Edwards Aquifer pursuant to 30 TAC §313. The public hearing shall be conducted in accordance with the Texas Water Code, §26.046.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the Edwards Aquifer Program. Written comments which are submitted prior to or during the public hearing will be included in the record. The Commission will also include copies of all written testimony received up to ten days after the public hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Helen Stovall, Legal Services Division, P.O. Box 13087, Austin, Texas 78711, or call (512) 239-0578.

Issued in Austin, Texas, on February 28, 1994.

TRD-9436783 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed February 28, 1994

Public Notice

The Texas Natural Resource Conservation Commission published in the April 7, 1992, issue of the *Texas Register* (17 TexReg 2493), the first Priority Enforcement List (PEL) identifying illegal tire sites for which no responsible party had been identified. The following is an update to the first PEL published to include additional sites identified and to delete sites cleaned up. Forty additional sites have been cleaned up since the last publication and are being deleted. Copies of the PEL can be obtained from the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Waste Tire Recycling Fund Program (WTRF) at 12015 Park 35 Circle, Austin, Texas 78753.

Any questions regarding the implementation or operation of this program should be directed to the staff of the WTRF at (512) 239-6001.

SITES ADDED

PRIORITY ENFORCEMENT LIST

<u>Site #</u>	<u>Rank</u>	<u>County</u>	<u>Name</u>	<u>#Tires</u>
70607	33	CALDWELL	HERBERT PRICE PROPERTY	8000
70608	22	GILLESPIE	GOLD SITE	750
70609	31	SMITH	ROY HALL	1500
70610	15	HEMPHILL	NICK THOMAS INC.	2500
70611	40	BEXAR	KANE SITE	3000
70612	30	HARRISON	MIKE RYAN	10000
70613	37	HILL	GARLAND LIVELY	20000
70614	32	BRAZOS	LARRY GILBERT	1000

70615	31	ERATH	JOANNE PHILLIPS	1500
70616	31	TARRANT	BIBLE TRAINING CENTER	1000
70617	27	HENDERSON	PETER HARVILLE	10000
70618	33	ATASCOSA	RODRIGUEZ SITE	2000
70619	37	KERR	HATCH SITE	4000
70620	19	NUECES	LLOYD W. RICHARDSON CONSTRUCTI	1700
70621	33	WISE	MARY WINTERS	15000
70622	29	DALLAS	MJ MANNING	700
70623	32	DALLAS	DALLAS COUNTY - POST OAK	22000
70624	31	HARRIS	STUEBNER PRK	4000
70625	31	JASPER	KIRBYVILLE UNIT #2	10000
70626	27	BASTROP	PATTERSON PROPERTY	3500
70627	31	TRINITY	PRICE FIGHTER AUTO PARTS	700
70628	31	PARKER	ERVIN CRANE	16000
70629	32	ELLIS	JAMES R. NANAY	5000
70630	21	HILL	DONALD REED	1200
70631	25	HAMILTON	SAM HEADLEY	2500
70632	30	KAUFMAN	HENRY STITZEL	3500
70633	16	MILAM	ROBERT MCIRVIN	2300
70634	28	TITUS	GARY LANDRAM	17000
70635	18	BASTROP	WILLIAM JOHNSON FARM	600
70636	16	POTTER	KC AUTO SALVAGE	2000
70637	28	SMITH	JOHN E. PROTHRO	8500
70638	34	VAN ZANDT	WILLARD E. TRUSSELL	1500
70639	22	HILL	PAUL RAY SCHUMAN	2500
70640	29	WALLER	WEINMAN SITE	8000

70641	31	HARRIS	WOODWARD STREET	500
70642	35	GALVESTON	5TH STREET SAN LEON	5000
70643	36	BEXAR	BINTLIFF SITE	3000
70644	13	HUTCHINSON	W.E. HOPE	1500
70645	28	MONTGOMERY	HARRAN SITE	600
70646	27	HENDERSON	PETER HARVILLE	10000

SITES DELETED

PRIORITY ENFORCEMENT LIST

<u>Site #</u>	<u>Rank</u>	<u>County</u>	<u>Name</u>	<u>#Tires</u>
70139	31	CALDWELL	LAREDO HEMPHILL MACKAY	1000
70151	15	GRAY	TOWER TRUCK STOP	2000
70163	27	GRIMES	MESSER RECYCLING	10000
70190	38	BEXAR	SCHIMCEH	500000
70231	27	SWISHER	SWISHER AREA FOUNDATION	650
70243	18	LAVACA	POWELL	2500
70284	32	ZAVALA	CRYSTAL CITY LANDFILL	6000
70287	29	DE WITT	COPPEDGE	2000
70329	12	LIMESTONE	TOM AND CHERYL BROWN	1250
70338	33	DALLAS	ARROW STAR METALS, INC.	6000
70346	33	TARRANT	PAULA JONES	1000
70351	33	VAL VERDE	HARGROVE	1000
70354	31	DENTON	F. D. THOMAS	2000
70377	33	DE WITT	BIEMER	1000
70403	30	HARRIS	HESELTIME	617
70404	27	MONTGOMERY	RHOADES	600
70411	30	FRIO	SOUTHWEST EQUIPMENT CO.	2500

70441	19	GRAY	DENNIS CALDWELL	15000
70443	16	RANDALL	KEITH PATTERSON	1500
70451	32	DALLAS	JOE O' ROUKE	1700
70452	30	DALLAS	LAFARGE CORPORATION	1500
70454	37	WISE	GLENN SMALLWOOD	3000
70461	40	MONTGOMERY	SHIRLEY'S TIRE SERVICE	40000
70462	31	BRAZORIA	WINSTON	600
70466	33	HARRIS	AVE. E	3000
70467	31	HARRIS	RIVERDALE	3000
70469	25	MONTGOMERY	CONROE OIL FIELD	600
70470	25	MONTGOMERY	CRATER LAKE	2000
70471	30	HARRIS	RED OAK	600
70483	36	BEXAR	WALSH	2000
70496	21	NUECES	ABC AUTO PARTS	1250
70504	36	WILLIAMSON	J&R TIRE	2500
70509	18	MOORE	HOWARD JACOB	4000
70515	19	GRAY	M.D. SNIDER TRUCKING	5000
70528	40	RED RIVER	ANNA LOU WILLIAMS	3000
70539	16	ECTOR	C & R AUTO SALVAGE	1000
70554	16	POTTER	DAVID C. CRAWFORD	1000
70555	16	POTTER	PAUL EVERETT MILLER TRUST	1000
70581	40	BEXAR	VILLARREAL	1000
70589	29	SMITH	MOORE	650

Issued in Austin, Texas, on February 28, 1994.

TRD-9436784 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: February 28, 1994

◆ ◆ ◆
**Texas Parks and Wildlife Department
(Gulf States Marine Fisheries
Commission)**

GSMFC Spring Meeting

The Gulf States Marine Fisheries Commission will hold its 44th Annual Spring Meeting April 4-7, 1994. Mississippi is the host state and arrangements have been made to convene at the Broadwater Tower Hotel, 2060 Beach Boulevard, Biloxi, Mississippi, 1-(800)-647-3964 or (601) 388-7000.

All persons interested in the Gulf States Marine Fisheries Commission are invited to attend. For additional information please call Virginia K. Herring, (601) 875-5912.

Issued in Austin, Texas, on February 25, 1994.

TRD-9436738 Paul M. Shinkawa
Director of Legal Services
Texas Parks and Wildlife Department

Filed: February 25, 1994

◆ ◆ ◆
**Texas Department of Public Safety
Request for Instructor to Teach
Hazardous Materials Response Training**

The Governor's Division of Emergency Management (DEM), acting for the State Emergency Response Commission (SERC), is requesting bids from instructors for conducting Hazardous Materials Response classes. These classes are being administered through DEM utilizing funds from the Hazardous Materials Transportation Act Grant provided by the U.S. Department of Transportation.

Description of Activities. Instructors are needed that can provide instruction in Hazardous Materials Awareness, Operations and Incident Command System. Classes should conform to OSHA's 29 CFR, §1920.120 and NFPA 472 requirements.

Eligible Applicants. Individuals that are, or can become, certified as instructors through the Texas Commission on Fire Protection are needed as contract instructors in the Hazardous Materials Response training.

Inquirers. Any interested instructor can obtain more information or submit bids by contacting the Division of Emergency Management, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, or call (512) 483-5985.

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

TRD-9436653 Tom Millwee
State Coordinator
Texas Department of Public Safety

Filed: February 24, 1994

**Public Utility Commission of Texas
Notice of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.27**

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application for approval of a customer specific contract to provide 10-megabit (MBPS) service to St. Michael Specialty Hospital pursuant to Public Utility Commission Substantive Rule 23.27(j).

Tariff Title and Number. Applications of GTE Southwest, Incorporated for Approval of a Customer Specific Contract to Provide 10-megabit (MBPS) Service to St. Michael Specialty Hospital Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 12776.

The Application. GTE Southwest, Incorporated is requesting approval of a customer specific contract to provide 10-megabit (MBPS) service to St. Michael Specialty Hospital at its business operations in the Texarkana area.

Person who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9436616 John M. Rentrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 23, 1994

◆ ◆ ◆
**Notices of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.28**

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.28 for approval of promotional business and residence rates in the General Exchange Tariff.

Tariff Title and Number. Application of United Telephone Company of Texas for Approval of SignalRing(R), Call Waiting, and/or Three Way Calling Service Promotional Business and Residence Rates Pursuant to Public Utility Commission Substantive Rule 23.28(d). Tariff Control Number 12790.

The Application. United Telephone Company of Texas is requesting approval of promotional business and residence rates for new customers of existing services, SignalRing(R), Call Waiting, and/or Three Way Calling for new customers of existing services. The geographic service market for this specific service includes the following exchanges: Athens, Brownsboro, Cayuga, Chandler, Commerce, Cooper, Dublin, Eustace, Frankston, Hico, Kaufman, Kemp, Kerens, Koon Creek, Mabank, Malakoff, Martins Mill, Montalba, Murchison, Neches, Palestine, Payne Springs, Stephenville, Tennessee Colony, Tool-Seven Points, Trinidad, and Tucker.

Person who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 24, 1994

TRD-9436754 John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed February 25, 1994



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.28 for approval of promotional business and residence rates in the General Customer Service Tariff

Tariff Title and Number. Application of Central Telephone Company of Texas for Approval of Call Waiting, and/or Three Way Calling Service Promotional Business and Residence Rates Pursuant to Public Utility Commission Substantive Rule 23.28(d). Tariff Control Number 12788

The Application. Central Texas Telephone Company of Texas is requesting approval of Call Waiting, and/or Three Way Calling Service promotional business and residence rates for new customers of existing services. The geographic service market for this specific service includes the following exchanges: Atascocita, Copperas Cove, Florence, Fort Hood, Harker Heights, Humble, Kempner, Killean, King's Crossing, Kingwood, Nolanville, Porter, and South Humble.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 24, 1994.

TRD-9436753 John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed February 25, 1994



Petition for Rulemaking

The Public Utility Commission of Texas has received a petition for rulemaking from the Sustainable Energy Development Council to amend the Commission's rules that, in the Council's view, impede the development and use of sustainable energy sources by electric utilities. The petition requests that the Commission's rules concerning the granting of a certificate of convenience and necessity be amended to permit generation projects with an average annual output of not more than ten megawatts, for experimental purposes, research and development or demonstration purposes, to be operated by an electric utility without a certificate. The petition also requests that the rules concerning the recovery of fuel costs be amended to recognize the different relationship between capital costs and operating costs and the different health, environmental, and social impacts of renewable energy. Copies of the petition filed by the Sustainable Energy Development Council are available in Central Records of the Commission.

The Commission requests comments on whether it should initiate a proceeding to amend its rules, in the manner requested by the Sustainable Energy Development Council. Parties should file 15 copies of their comments with the commission's Secretary, John Renfrow, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 21 days of the publication of this notice in the *Texas Register*. Comments should refer to project number 12793. This notice is not a formal notice of proposed rulemaking, but the comments will assist the commission in deciding whether to initiate a rulemaking proceeding.

Issued in Austin, Texas, on February 25, 1994

TRD-9436752 John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed February 25, 1994





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



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

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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	Monday, December 23	Tuesday, December 27

