

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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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 21, April 15, July 12, and October 11, 1994). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

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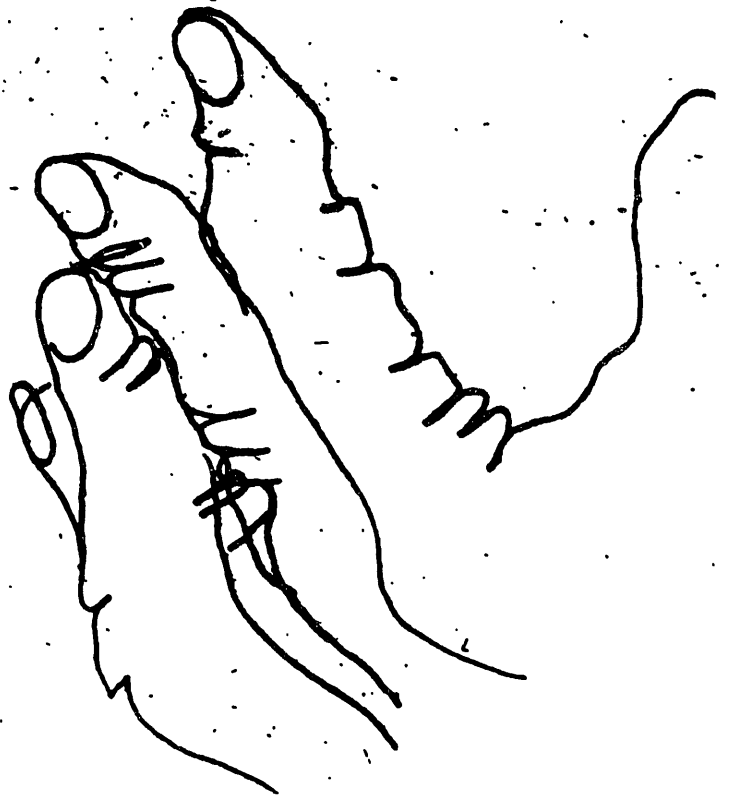
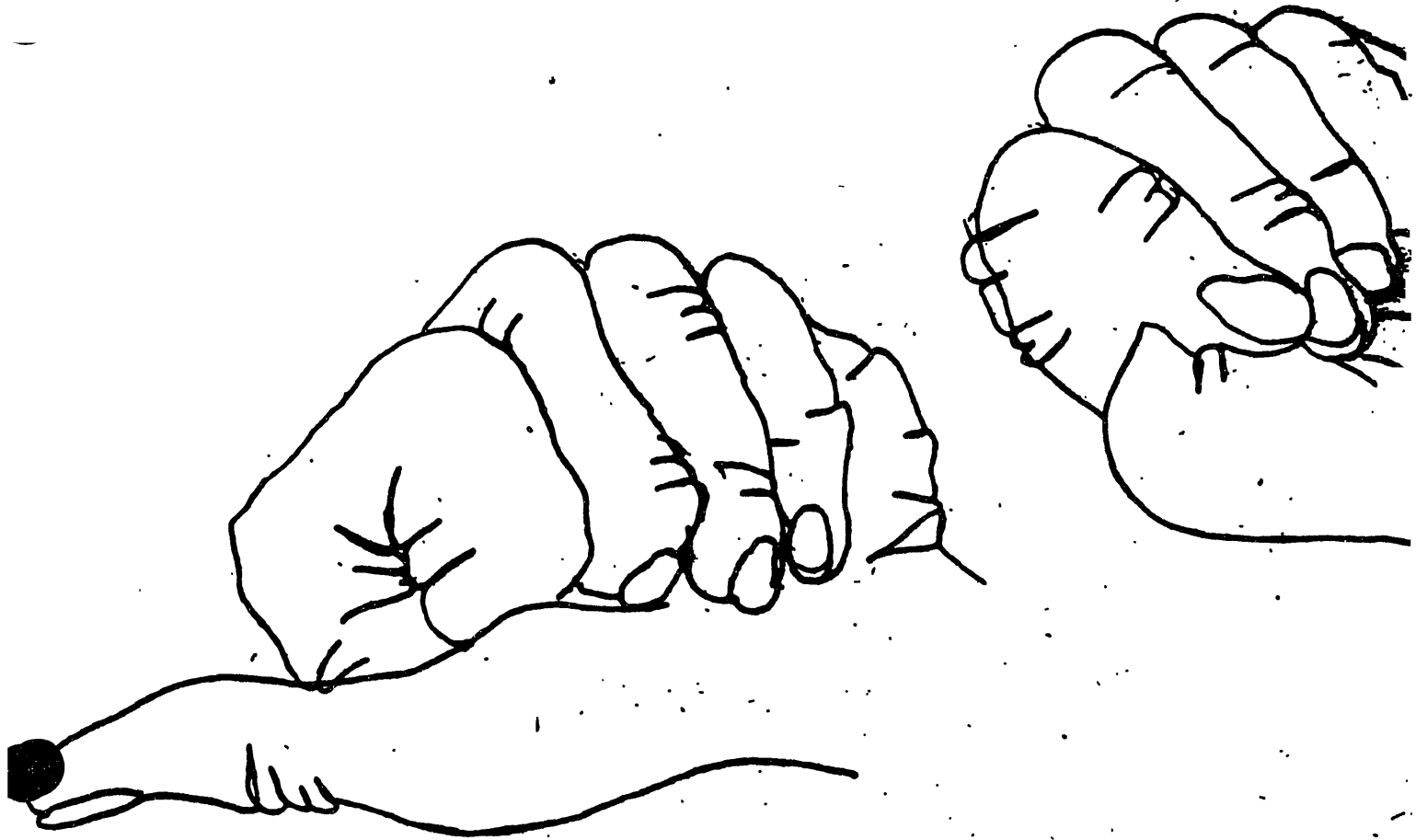
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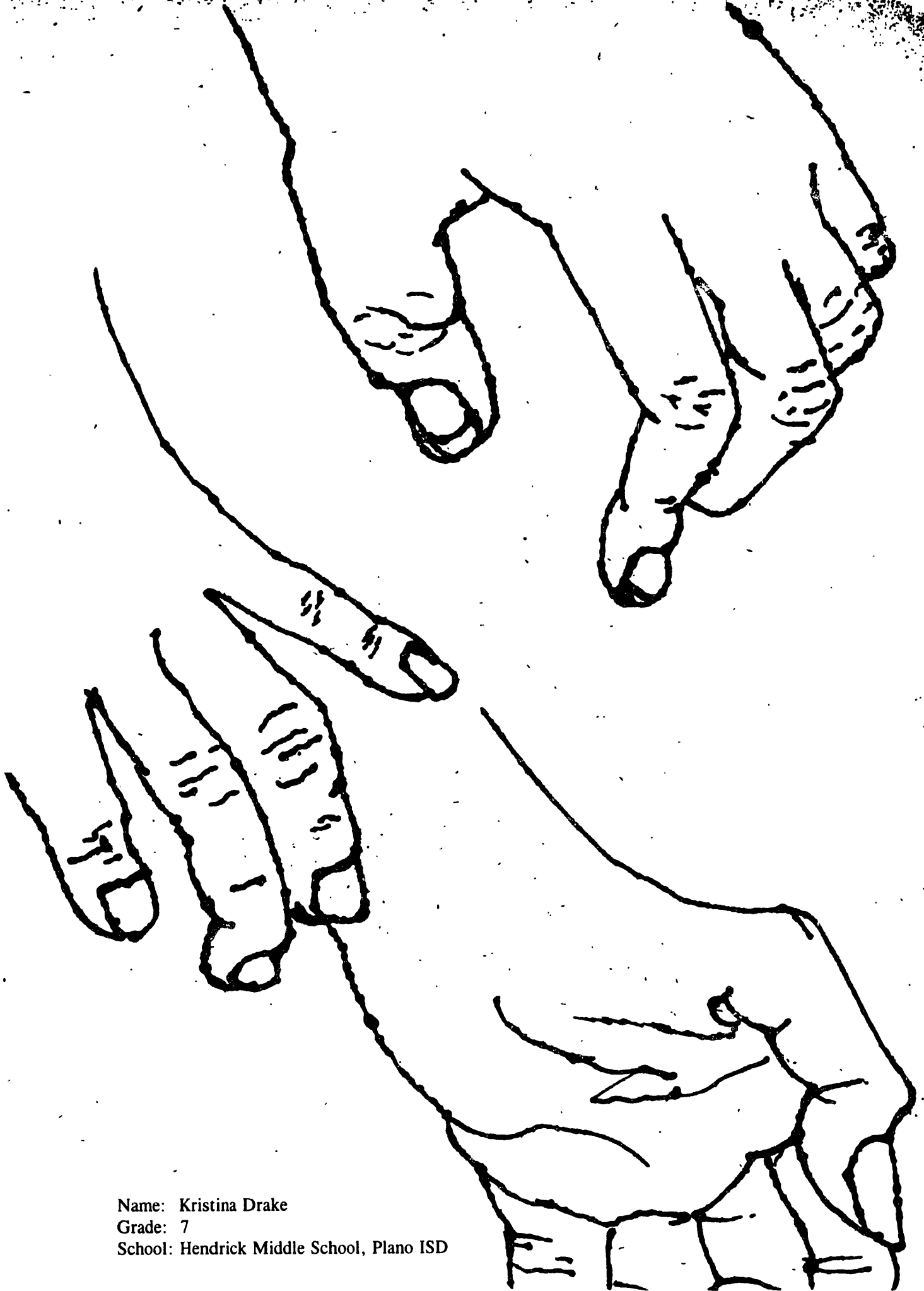
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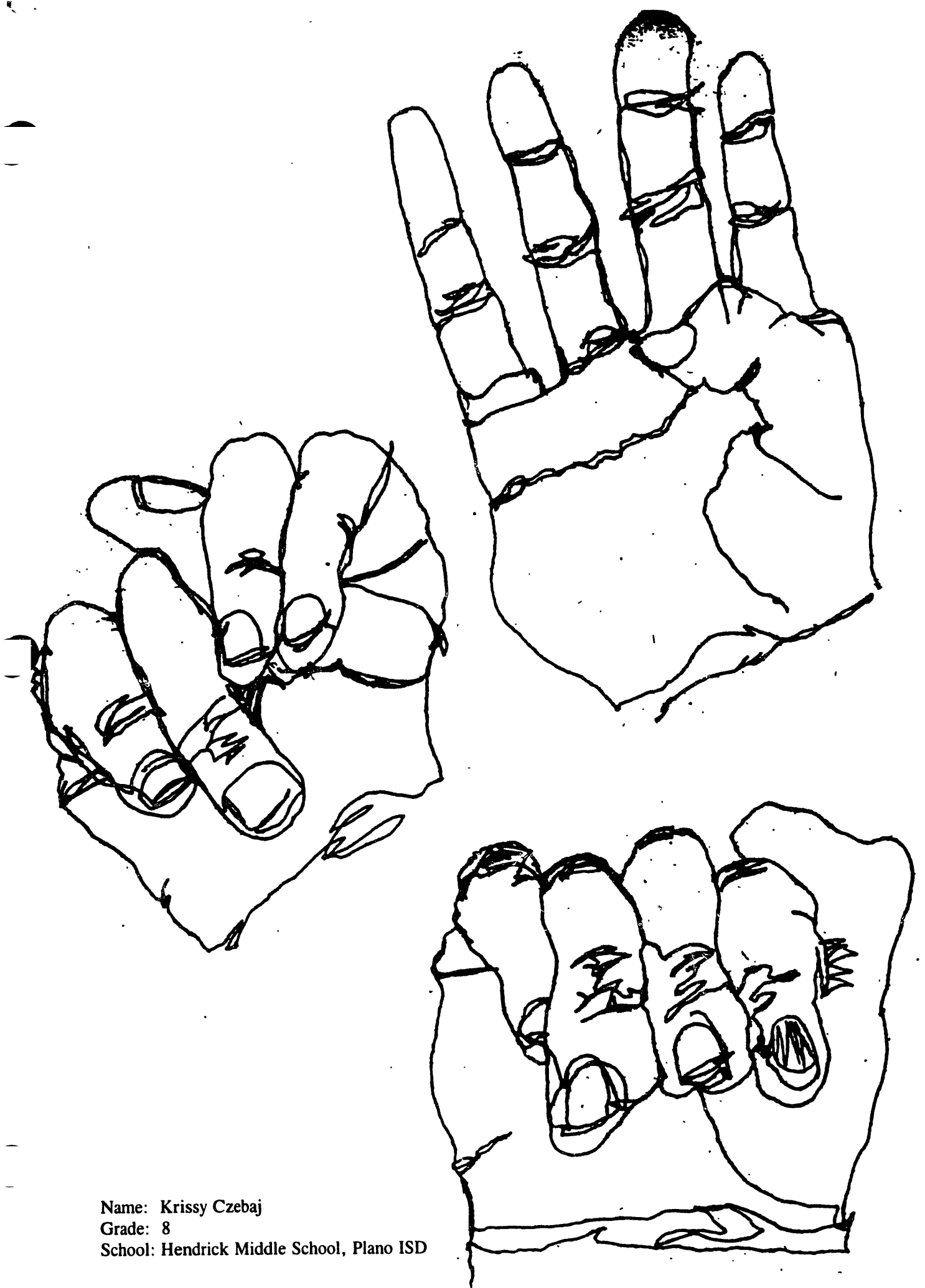
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Name: Allison Christensen
Grade: 7
School: Hendrick Middle School, Plano ISD

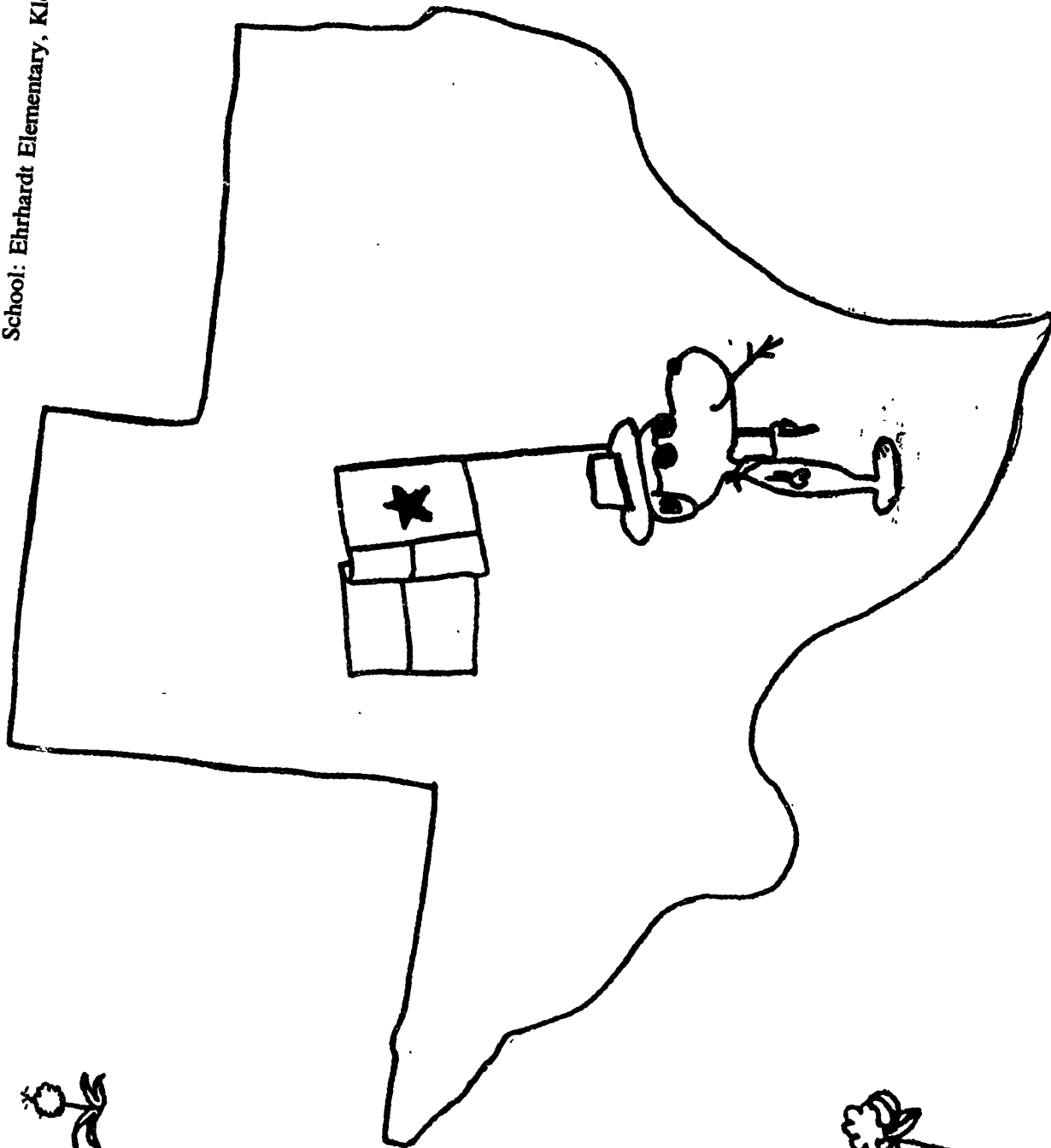


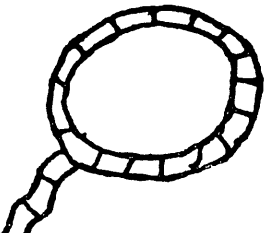
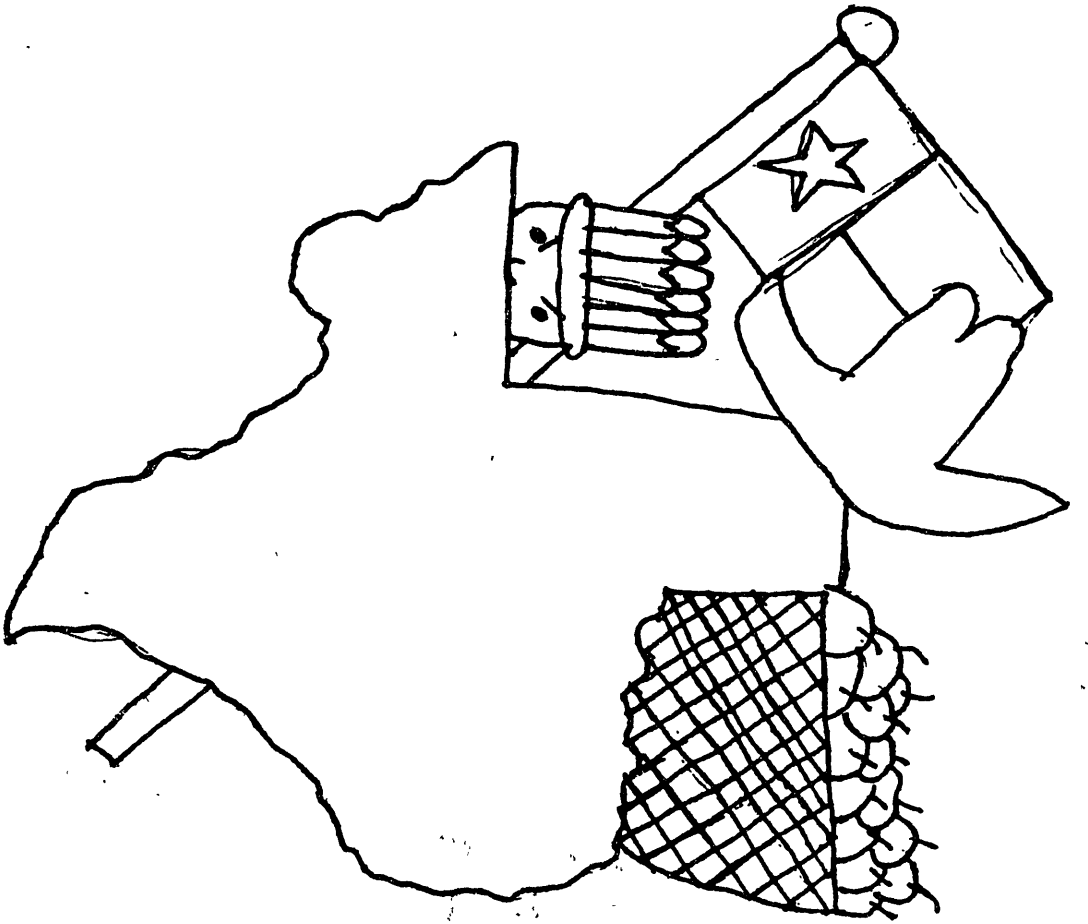
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Grade: 7
School: Hendrick Middle School, Plano ISD



Name: Krissy Czebaj
Grade: 8
School: Hendrick Middle School, Plano ISD

Name: Jason Harbison
Grade: 5
School: Ehrhardt Elementary, Klein ISD





Greg Drugan
5th grade

Name: Greg Drugan
Grade: 5
School: Ehrhardt Elementary, Klein ISD



Name Lauren Levine
Grade 11
School Plano Senior High School, Plano 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 March 17, 1994

To be a member of the Texas State Board of Veterinary Medical Examiners for a term to expire August 26, 1999: Robert I. Hughes, D.V.M., P.O. Box 588, Center, Texas 75935. Dr. Hughes will be replacing Dr. Robert Lewis of Elgin, whose term expired.

To be a member of the Texas State Board of Veterinary Medical Examiners for a term to expire August 26, 1999: Michael Jay McCullough, D.V.M., 132 Partridge Park, Odessa, Texas 79761. Dr. McCullough will be replacing Dr. Larry Michael Dubisson of Weslaco, whose term expired.

Appointments Made March 21, 1994

To serve as Judge of the 308th Judicial District Court, Harris County, until the next General Election and until his successor shall be duly elected and qualified: A. Robert Hinojosa, 7115 Mission Bay Drive, Houston, Texas 77083. Mr. Hinojosa will be replacing Judge Bob Robertson of Houston, who is deceased.

To be members of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments pursuant to Senate Bill 953, 73rd Legislature, for terms to expire December 31, 1995. A. L. Burns, Jr., 7004 North Park Road, Texarkana, Texas 75502; Wallace Hammill, 3136 St. Croix Drive, Dallas, Texas 75229; and Austin I King, M.D., 1134 South Leggett, Abilene, Texas 79605.

To be members of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for terms to expire December 31, 1997: Joycie L. Burns, 218 West Eighth Street, Teague, Texas 75860; Thomas C. Lucenay, 912 Sierra Slope, Hewitt, Texas 76643; and Diane Cecile Shaffer, 6450 Ivanhoe, Apartment 221, Beaumont, Texas 77706

To be members of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for terms to expire December 31, 1999: Larry Wayne Farris, 110 Moss Ridge, Universal City, Texas 78148, and Jane W. Porter, 2809 North Britain Road, Irving, Texas 75062.

Appointments Made March 22, 1994

To be a member of the Texas State Board of Pharmacy for a term to expire August 31, 1995: Susan Rees Williams, 5301 North Fourth Street, McAllen, Texas 78504. Ms. Williams will be replacing Michael Keith Lester of Dallas, whose term expired.

To be a member of the Texas State Board of Pharmacy for a term to expire August 31, 1999: Susan Herzmark Jacobson, 3315 Moonlight, El Paso, Texas 79904. Ms. Jacobson will be replacing Charles Rittenberry of Amarillo, whose term expired.

To be a member of the Texas State Board of Pharmacy for a term to expire August 31, 1999: Gilbert P. Acuna, 1317 Christy Avenue, Kingsville, Texas 78363. Mr. Acuna will be replacing Jerry Pyle of Arlington, whose term expired

Appointments Made March 23, 1994

To serve as District Attorney of the 38th Judicial District, Uvalde, Medina, Real Counties, until the next General Election and until his successor shall be duly elected and qualified: Anton E. (Tony) Hackebell, HCR 12, Box 48A, Hondo, Texas 78861. Mr. Hackebell will be replacing Rogelio F Munoz of Uvalde, who resigned

To serve as Justice of the Fourth Court of Appeals, San Antonio, until the next General Election and until her successor shall be duly elected and qualified: Catherine M Stone, 319 Cloudcroft, San Antonio, Texas 78228. Ms. Stone will be replacing Justice Fred Biery of San Antonio, who resigned.

To serve as Justice of the Fourth Court of Appeals, San Antonio, until the next General Election and until his successor shall be duly elected and qualified: Phil Hardberger, 319 West Hollywood, San Antonio, Texas 76212. Mr. Hardberger will be replacing Justice Orlando Garcia of San Antonio, who resigned.

To be a member of the Texas Low-Level Radioactive Waste Disposal Authority for a term to expire February 1, 1999: William L. Fisher, Ph.D., 8705 Ridgehill, Austin, Texas 78759. Dr. Fisher is being reappointed.

To be a member of the Petroleum Storage Tank Advisory Committee for a term to expire February 1, 1997: Gail Kathleen Davidge, P.O. Box 1246, Euless, Texas 76039. Ms. Davidge will be replacing Ray D Knowles of Abilene, whose term expired.

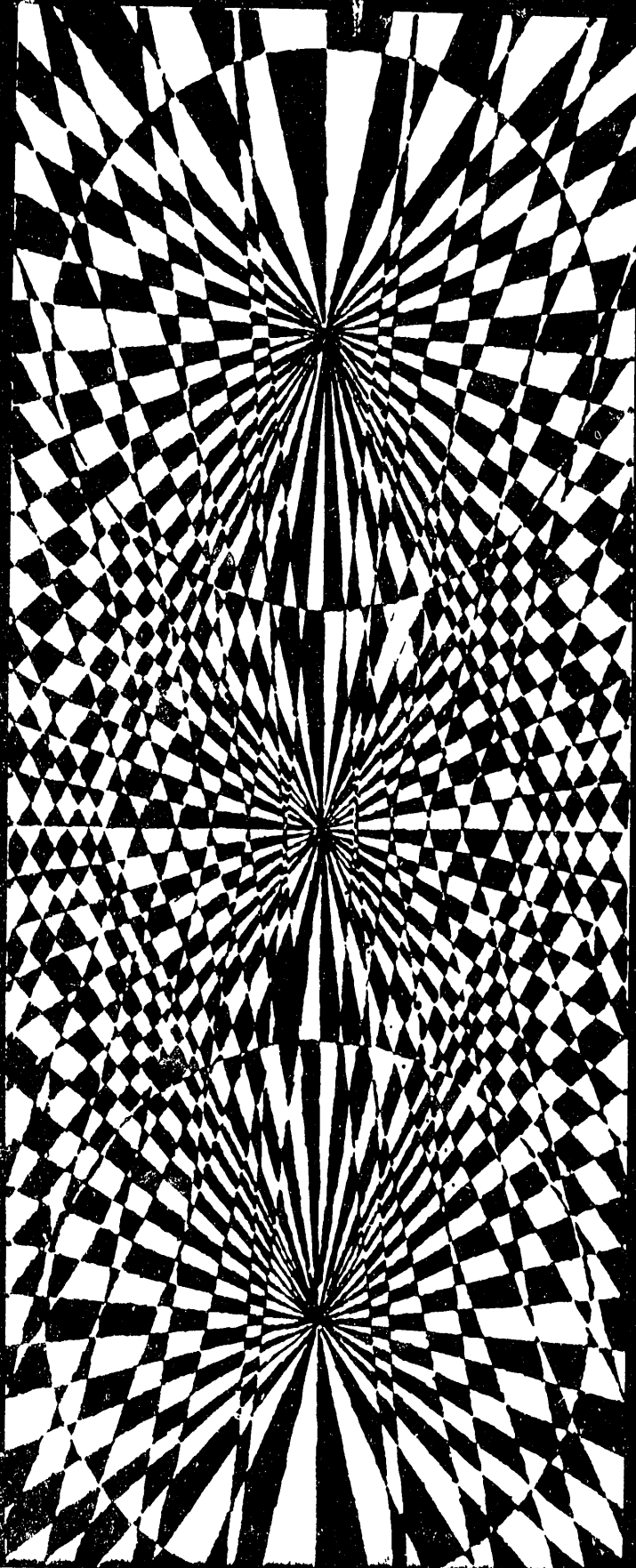
To be a member of the Petroleum Storage Tank Advisory Committee for a term to expire February 1, 1999: Jerry L. Susser, 225 Wilshire Place, Corpus Christi, Texas 78411. Mr. Susser will be replacing Leland Freeman of Victoria, whose term expired.

To be a member of the Petroleum Storage Tank Advisory Committee for a term to expire February 1, 1999: Donald J. Najvar, 11815 Park Creek Drive, Houston, Texas 77070. Mr. Najvar will be replacing Joe Nall of Dallas, whose term expired.

To be a member of the Interstate Oil and Gas Compact Commission for a term at the pleasure of the Governor: The Honorable Steve Carriker, Texas Senate, P.O. Box 12068, Austin, Texas 78711. Senator Carriker will be serving on the Energy Resources Committee

To be a member of the State Community Development Review Committee for a term to expire February 1, 1995: The Honorable Larry Martinez, City Councilman, City of Alice, 1106 Lillian, Alice, Texas 78332. Councilman Martinez will be replacing Octavio Figueroa of Alice, whose term expired.

Name David Coley
Grade 7
School Hendrick Middle School, Plano 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 13. CULTURAL RESOURCES

Part VII. State Preservation Board

Chapter 111. Rules and Regulations of the Board

• 13 TAC §111.29

The State Preservation Board proposes new §111.29, concerning Capitol Complex Visitors Center Texas Gift Shop Product Selection Policies and Procedures. The new section establishes policies and procedures for product selection for resale in the Capitol Complex Visitors Center Texas Gift Shop.

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

Ms Herndon also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clear understanding of the procedures for gift shop product selection. 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 Lori Kneisly, State Preservation Board, P.O. Box 13286, Austin, Texas 78711.

The new section is proposed under Texas Government Code, Chapter 443, which provides State Preservation Board with the authority to adopt rules concerning the buildings, their contents, and their grounds.

*§111.29 Capitol Complex Visitors Center
Texas Gift Shop Product Selection Policies
and Procedures*

(a) Mission statement

(1) The gift shop will offer visitors items related to the Capitol, General Land Office, and the State of Texas. It will feature books and products reflecting Texas, Texas history, historic preservation and Texas government with priority given to

products with an education focus.

(2) Consideration will be given to Texas-made products, and at least 80% of vendors supplying items to the gift shop should be from Texas.

(3) In accordance with House Bill 2626, Regular Session, 1993, it is our goal that 30% of the dollar value of items purchased for resale in the gift shop will be provided by minority-owned and women-owned businesses.

(4) We will also encourage purchases of relevant materials published or produced through Texas state agencies by Texans with disabilities. We will encourage purchases of recycled or recyclable materials.

(5) Net revenue from the gift shop will help support the administrative operations and education programming of the center.

(b) Criteria for product selection

(1) The gift shop will review potential products and make final determinations regarding purchase and quantities of products. All products submitted for consideration in the gift shop are subject to review by the gift shop advisory committee at the direction of the gift shop manager. Products will be selected based upon review of the following criteria:

(A) compatibility with the mission statement,

(B) quality,

(C) value,

(D) uniqueness,

(E) presentation potential,

(F) visual appearance,

(G) demonstrated marketability, and

(H) quality in packaging.

(2) All items should reflect the mission of the visitors center, should be of production quality, and should be suitable for display within a significant historic structure on the state Capitol grounds. Only the highest quality products relating to the Capitol, Texas state government, or its land, history and heritage will be considered for the gift shop.

(3) Consideration will be given to minority-owned and women-owned businesses to achieve a goal of a minimum of 30%.

(4) At least 80% of vendors supplying items to the gift shop should be from Texas.

(5) Consideration will be given to products made of natural, recycled or recyclable materials whenever possible. Every effort will be made to avoid products made from plastic or other synthetic materials.

(6) All products must complement existing shop inventory.

(7) All products submitted for review must have a demonstrated record in retail sale.

(8) Letters of recommendation will not be considered in evaluating products submitted for the gift shop.

(9) A majority of the products carried in the gift shop will have a retail price of \$25 or less.

(10) All products must achieve an acceptable level of sales activity within three months of receipt of order to be considered for continued representation in the gift shop.

(11) Items must be able to be produced and shipped quickly in reasonable quantities for resale. Shipments must be received within 30 days of order.

(12) When comparing similar products with other criteria being equal, the lowest wholesale cost will be the determining factor.

(c) Submission of potential products.

(1) All requests to carry products must be submitted in writing with catalogues or photographs to the gift shop manager, Capitol Complex Visitors Center, 112 East 11th Street, Austin, Texas 78701

(2) Do not send samples. Samples will be requested at a later date if necessary.

(d) The gift shop manager's decision regarding acceptance or non-acceptance of any item to be sold in the gift shop is final.

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 March 25, 1994.

TRD-9438119 Dealey Herndon
Executive Director
State Preservation Board

Earliest possible date of adoption. May 2, 1994

For further information, please call: (512) 463-5495

TITLE 16. ECONOMIC REGULATION

Part IX. Texas Lottery Commission

Chapter 401. Administration of State Lottery Act

Subchapter E. Retailer Rules • 16 TAC §401.367

The Texas Lottery Commission proposes new §401.367, concerning the requirement of Lottery sales agents to maintain minimum ticket sales as provided in the minimum ticket sales criteria established by the Texas Lottery Commission's Executive Director

Rick Sookiasian, budget analyst, has determined that for the first five-year period the section is in effect there will be no fiscal implications for local government as a result of enforcing or administering the section. Mr. Sookiasian also has determined that for the first five-year period the section is in effect, the following will be the fiscal implications for state government as a result of enforcing or administering the section: Fiscal Year 1995-\$8,700; Fiscal Year 1996-\$4,000; Fiscal Year 1997-\$4,000, Fiscal Year 1998-\$4,000, and Fiscal Year 1999-\$4,000 Mr. Sookiasian has also determined that there will be no additional costs of compliance for small or large businesses.

Mr. Sookiasian 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 as proposed will be that the on-line ticket terminals will be placed with Lottery sales agents who have a higher volume of ticket sales, and, therefore, are in a better position to generate more revenue for the State of Texas Mr. Sookiasian also has determined that there will be no anticipated economic cost to persons who are required to comply with the section as proposed

Comments on the proposal may be submitted to Karen Porter, Marketing Director, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630

The new section is proposed under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt all rules necessary to administer the State Lottery Act.

The new section implements the State Lottery Act, Texas Government Code, Chapter 466

§401.367. Minimum Sales Criteria.

(a) Lottery sales agents must maintain minimum ticket sales in accordance with the minimum ticket sales criteria established by the Executive Director. Sales agents who do not maintain minimum ticket sales in accordance with such criteria may be placed in a sales review probation period. Such probation period shall be a period of eight weeks. An additional probation period of up to eight weeks may be granted for good cause. After the sales agent's probation period has expired, the sale agent's sale of lottery tickets during the probation period shall be reviewed. If the sales agent has not maintained the minimum ticket sales in accordance with the minimum ticket sales criteria during such probation period, the agency's staff may initiate proceedings to suspend or revoke the sale agent's license, or remove the on-line terminal, if applicable

(b) The minimum ticket sales criteria established by the Executive Director shall be provided to the Lottery's sales agents at least 30 days prior to the implementation of such minimum ticket sales criteria

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 March 25, 1994.

TRD-9438191 Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Earliest possible date of adoption May 2, 1994

For further information, please call (512) 323-3791

Subchapter G. Lottery Security • 16 TAC §401.501

The Texas Lottery Commission proposes new §401.501, concerning the security for the lottery The rule sets out the requirements for security at the Lottery, including the development of an internal security plan. The purpose of the internal security plan is to preserve the integrity and security of the Lottery.

Rick Sookiasian, budget analyst, 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. Sookiasian also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be the assurances to the public that the Lottery is operated under the highest degree of security and integrity There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to Steve Barber, Security Division Director, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt rules governing the security for the lottery.

The proposed new section implements Texas Government Code, §466.015.

§401.501. Lottery Security. The Texas Lottery Commission considers security and integrity to be every agency employee's responsibility. The security of the Texas Lottery Commission shall be developed and administered by agency's Security Division. The Security Division shall develop and maintain an internal security plan. The agency's security plan and other security procedures shall be designed to ensure the integrity and security of the operation of the Lottery and, to the extent that they are not inconsistent with Texas Open Records law, Chapter 552, Texas Government Code, are exempt from disclosure to the public.

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 March 25, 1994.

TRD-9438189 Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Earliest possible date of adoption: May 2, 1994

For further information, please call. (512) 323-3791

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 223. Fees

• 22 TAC §223.1

The Board of Nurse Examiners proposes an amendment to §223.1, concerning Fees. Beginning April 1, 1994, the licensure examination for Registered Nurses will be administered by the National Council of State Boards of Nursing, Inc using Computer Adaptive Testing (CAT). The exam fee will be submitted directly to the testing service. The BNE will determine eligibility and will process candidate's applications for initial licensure. Therefore, the fee structure has been amended by adding an initial licensure fee and deleting the admission fee to the examination.

Louise Waddill, Ph.D., R.N., 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.

Dr. Waddill also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the public is relatively unaffected by this section, only those candidates applying for initial licensure in Texas will be affected. 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 Louise Waddill, Ph.D., R.N., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, and Article 4257, §1, which provide the Board of Nurse Examiners with the authority and power to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it. The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this chapter.

§223.1. Fees. The Board of Nurse Examiners has established reasonable and necessary fees for the administration of its functions in the following amounts:

(1) initial licensure fee-\$50
[admission fee to examination-\$90.]

(2)-(17) (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 March 23, 1994

TRD-9438018

Louise Waddill, Ph.D., R.N.

Executive Director
Texas Board of Nurse
Examiners

Earliest possible date of adoption May 2, 1994

For further information, please call (512) 835-8660

Part XVII. Texas State Board of Plumbing Examiners

Chapter 361. Administration

General Provisions

• 22 TAC §361.9

The Texas State Board of Plumbing Examiners proposes a new §361.9 concerning charges for copies of public records. The new section provides the following with regard to charges for copies of public records that the Board may charge the amounts set forth in the General Services Commission's rules that it may charge actual costs for particular items set forth in the proposed new section, or that the Administrator may waive or reduce these charges if he determines that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

Dr. Douglas A. Beran, Chief Fiscal Officer/Office Manager, has determined that for each year of the first five years the section as proposed is in effect, the fiscal and economic implications for state and local governments and small businesses as a result of enforcing or administering the proposed section will be minimal or none for the information typically requested.

Dr. Beran also has determined that for each year of the first five years the section as proposed is in effect, the Board will be able to recover the costs for providing copies of public records in circumstances where such a practice would provide the most benefit to the state.

The anticipated economic costs to persons who are required to comply with the new section as proposed will be the charges set forth in the General Services Commission's rules and/or the amounts set forth in the proposed new section necessary for the Board to recoup its costs. However, these amounts will be minimal or none for the information typically requested.

Comments on the proposal may be submitted in writing to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The new section is proposed in compliance with actions taken by the 73rd Texas Legislature in House Bill 1009 in relation to Texas Civil Statutes, Article 6252-17a which requires agencies to adopt rules specifying charges for copies of open records.

§361.9 Charges for Copies of Public Re-

ords

(a) The charge any person requesting copies of any public record of the Texas State Board of Plumbing Examiners will be the charge established by the General Services Commission, however, the Board will charge actual personnel costs and the following amounts necessary to recoup the costs for items set forth as follows:

(1) Labels-Whole State:

(A) Active Masters and Journeyman (\$100).

(B) Mainframe set-up fee (\$25)

(2) Labels-Per City:

(A) Active Masters and Journeyman (\$0.02 per name).

(B) Mainframe set-up fee (\$25)

(3) Lists-Whole State:

(A) Active Masters and Journeyman (\$100).

(B) Mainframe set-up fee (\$20)

(4) Lists-Per City:

(A) Active Masters and Journeyman (\$0.02 per name).

(B) Mainframe set-up fee (\$20)

(5) Tape-Whole State (\$100).

(6) Computer Resource Charges (mainframe and programming time); as determined by the Department of Information Resources.

(7) Data base file (\$0.02 per name)

(b) Copies of public records shall be furnished without charge or at a reduced charge if the Administrator determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

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 March 14, 1994.

TRD-9438176

Gilbert Kissling
Administrator
Texas State Board of
- Plumbing Examiners

Proposed date of adoption: May 9, 1994

For further information, please call: (512) 458-2145

Chapter 363. Examinations

Qualifications

• 22 TAC §363.11

The Texas State Board of Plumbing Examiners proposes an amendment to §363.11 concerning requirements for providers of medical gas piping installation training programs as follows: approval criteria for instructors, the required course outline and minimum hours of training for prospective instructors; provider's notification to the Board of the time(s) and place(s) where medical gas piping training will occur; self-monitoring by the approved providers.

Dr. Douglas A. Beran, chief fiscal officer/office manager, 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.

Dr. Beran 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 enhanced public health, safety, and welfare by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases because the installers of medical gas piping have undergone quality medical gas training programs. 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 in writing to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

The proposed amendment does not affect other statutes, articles, nor codes

§363.11. Endorsement Training Programs

(a) Medical gas piping installation training programs.

(1) Any person wishing to offer a training program in medical gas piping installation to the public must meet criteria as prescribed by the board. Instructors shall be employed by a program that meets certification requirements of the Central Education Agency or is exempted from the Central Education Agency certification requirements under the Texas Education Code (Proprietary Schools and

Veterans Education), Chapter 32, §32.12(a)(5). Such persons shall provide to the administrator [a course outline,] lesson plans[,] and instructor credentials. The Board shall provide a course outline and the required minimum hours.

(2) Training programs in medical gas piping installation shall be reviewed annually by the board to ensure that programs have been provided equitably across the state of Texas.

(3) Periodically, the board shall review training programs in medical gas piping installation for quality in content and instruction. The board shall also respond to complaints regarding approved programs.

(4) Prior to the effective date of the law, September 1, 1993, the board shall accept as certification those training and testing programs in medical gas piping installation that meet board criteria.

(5) Prior to the effective date of the law, September 1, 1993, instructors in medical gas piping installation will be required to successfully complete a board approved program. The Board will allow credit for previous approved courses. However, effective February 1, 1994, instructors will be required to pass the board examination as well as successfully complete a board approved program of 160 clock hours which meets the following generic criteria:

(A) five days (40 hours) to provide the instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs. Upon completion of this course, the instructor will be able to:

(i) list and explain an instructor's professional responsibilities for planning and conducting training;

(ii) select and utilize the appropriate instructional techniques for effective teaching;

(iii) design instructional strategies for long and short term training programs or projects;

(iv) design multi-stage presentation plans for single topic instruction;

(v) conduct training utilizing appropriate instructional strategies to meet the needs of students;

(B) five days (40 hours) to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs. Upon completion of this

course, the instructor will be able to:

(i) apply a systems approach to the development of instructional materials;

(ii) perform an instructional analysis;

(iii) develop performance objectives;

(iv) write a course/program description;

(v) develop instructional schedule;

(vi) develop lesson/session plans;

(vii) develop instructional sheets;

(viii) develop criteria tests;

(ix) select instructional strategies;

(x) plan for course/training program implementation;

(C) five days (40 hours) to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community. Upon completion of this course, the instructor will be able to:

(i) interact effectively with class members, co-workers, management, clients, industry, and members of the community;

(ii) earn the confidence and respect of students;

(iii) gain the cooperation of class members in a learning situation;

(iv) identify learning differences in individuals and adapt instruction to meet their needs;

(v) motivate students for maximum receptiveness toward instruction;

(vi) identify problems in human relations and develop probable solutions to these problems;

(vii) analyze behavior in order to achieve more effective relationships with others;

(viii) utilize effective communication techniques;

(D) five days (40 hours) to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with

the use of instructional media. Upon completion of this course, the instructor will be able to:

(i) diagram and explain a communication model;

(ii) state the role of media in the instructional process;

(iii) describe six procedures in the systematic planning for the use of media;

(iv) list the five basic steps in utilizing instructional materials;

(v) design and prepare literate visuals utilizing proper arrangement, balance, color, and lettering;

(vi) operate various types of projection equipment correctly;

(vii) integrate the use of instructional media into a lesson plan;

(viii) use effectively instructional media and teaching devices in the classroom, laboratory, or field environments.

(E) To maintain his/her status as an approved instructor of medical gas piping installation training, the instructor shall undergo one of the aforementioned training programs every six months such that the entire training (160 hours) is complete within two years.

(6) Each approved provider must notify the Board 30 days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

(7) Each approved provider will perform self-monitoring and reporting as required by the Board.

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

Issued in Austin, Texas, on March 14, 1994.

TRD-9438175

Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: May 9, 1994

For further information, please call: (512) 458-2145

◆ ◆ ◆
• 22 TAC §365.14

The Texas State Board of Plumbing Examiners proposes an amendment to §365.14 concerning requirements for providers of continuing education programs as follows: approval criteria for instructors; the required course outline and minimum hours of training for prospective instructors; provider's notification to the Board of the time(s) and place(s)

where continuing education programs will occur; self-monitoring by the approved providers.

Dr. Douglas A. Beran, Chief Fiscal Officer/Office Manager, 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.

Dr. Beran also has determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be enhanced public health, safety, and welfare by ensuring each person has access to clean water because of plumbing installed and maintained by well-trained and competent plumbers who have undergone quality continuing education programs. There will be no effect on 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 Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The proposed amendment does not affect other statutes, articles, or codes.

§365.14. Continuing Education Programs.

(a) Any person wishing to offer continuing education in plumbing to the public must meet criteria as prescribed by the board. Such persons shall provide to the board instructor credentials for board approval. The board will approve a course and textbook. The board shall provide a course outline and the required minimum hours.

(b) Instructors must be licensees of the board, attend an instructor certification each year conducted by the board, be certified by the Central Education Agency, and be employed by a program that meets [exemption or] certification requirements of the Central Education Agency or is exempted from the Central Education Agency certification requirements under Texas Education Code (Proprietary Schools and Veterans Education), Chapter 32. §32.12(a)(5).

(c) Instructors will be required to successfully complete a board approved program of 160 clock hours which meets the following generic criteria. The board will allow credit for previous approved courses as follows:

(1) five days (40 hours) to provide the instructor with the basic educa-

tional techniques and instructional strategies necessary to plan and conduct effective training programs. Upon completion of this course the instructor will be able to:

(A) list and explain an instructor's professional responsibilities for planning and conducting training;

(B) select and utilize the appropriate instructional techniques for effective teaching;

(C) design instructional strategies for long and short term training programs or projects;

(D) design multi-stage presentation plans for single topic instruction;

(E) conduct training utilizing appropriate instructional strategies to meet the needs of students;

(2) five days (40 hours) to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs. Upon completion of this course, the instructor will be able to:

(A) apply a systems approach to the development of instructional materials;

(B) perform an instructional analysis;

(C) develop performance objectives;

(D) write a course/program description;

(E) develop instructional schedule;

(F) develop lesson/session plans;

(G) develop instructional sheets;

(H) develop criteria tests;

(I) select instructional strategies;

(J) plan for course/training

program implementation;

(3) five days (40 hours) to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community. Upon completion of this course, the instructor will be able to:

(A) interact effectively with class members, co-workers, management clients, industry, and members of the community;

(B) earn the confidence and respect of students;

(C) gain the cooperation of class members in a learning situation;

(D) identify learning differences in individuals and adapt instruction to meet their needs;

(E) motivate students for maximum receptiveness toward instruction;

(F) identify problems in human relations and develop probable solutions to these problems;

(G) analyze behavior in order to achieve more effective relationships with others;

(HA) utilize effective communication techniques;

(4) Five days (40 hours) to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media. Upon completion of this course the instructor will be able to:

(A) diagram and explain a communication model;

(B) state the role of media in the instructional process;

(C) describe six procedures in the systematic planning for the use of media;

(D) list the five basic steps in utilizing instructional materials;

(E) design an prepare liter-

ate visuals utilizing proper arrangement, balance color and lettering;

(F) operate various types of projection equipment correctly;

(G) integrate the use of instructional media into a lesson plan;

(H) use effectively instructional media and teaching devices in the classroom laboratory or field environments;

(5) to maintain his/her status as an approved instructor of continuing education, the instructor shall undergo an aforementioned training program every six months such that the entire training (160 hours) is complete within two years.

(d) [(c)] Continuing education programs shall be reviewed annually by the board to ensure that programs have been provided equitably across the state of Texas.

(e) [(d)] Periodically, the board shall review continuing education programs for quality in content and instruction. The board shall also respond to complaints regarding approved programs.

(f) Each approved provider must notify the Board 30 days before conducting classes: the notice shall contain the times and places where the classes will occur.

(g) Each approved provider will perform self-monitoring and reporting as required by the Board.

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

Issued in Austin, Texas, on March 14, 1994.

TRD-9438174 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: May 9, 1994

For further information, please call: (512) 458-2145

Chapter 367. Enforcement

General Provisions

• 22 TAC §367.2

The Texas State Board of Plumbing Examiners proposes an amendment to §367.2(d) concerning licensed plumbers' standards of conduct. The new subsection (d) requires that a licensed plumber shall comply fully with all orders of the Texas State Board of Plumbing Examiners.

Dr. Douglas A. Beran, Chief Fiscal Officer/Office Manager, has determined that there will be fiscal implications as a result of enforcing or administering the proposed new subsection. There will be no effect on state or local government for the first five-year period the rule will be in effect. However, the cost of compliance with the rule for small businesses and large businesses will be contingent upon any economic sanctions imposed (if any) with any order of the Texas State Board of Plumbing Examiners.

Dr. Beran also has determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be enhanced public health, safety, and welfare by ensuring each person has access to clean water because of plumbing installed and maintained by well-trained and competent plumbers as a result of their compliance with the Board's rules, regulations, and orders.

The anticipated cost to persons who are required to comply with the rule as proposed will be similar in nature to those anticipated for small and large businesses.

Comments on the proposal may be submitted in writing to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The proposed amendment does not affect other statutes, articles, or codes.

§367.2. Standards of Conduct.

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

(d) Compliance with Board Orders. The licensee shall comply fully with all Board orders.

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 March 14, 1994.

TRD-9438173 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: May 9, 1994

For further information, please call: (512) 458-2145

• 22 TAC §367.3

The Texas State Board of Plumbing Examiners proposes an amendment to §367.3 delineating what a master plumber and a firm, company, or corporation may and may not do with regard to using the master plumber's license in conjunction with contracting for plumbing work by the master plumber and the firm, company, or corporation.

Dr. Douglas A. Beran, Chief Fiscal Officer/Office Manager, has determined that there will be fiscal implications as a result of enforcing or administering the proposed amendment. There will be no effect on state or local government for the first five-year period the rule will be in effect. However, the cost of compliance with the rule for small businesses and large businesses will be contingent upon the economic impact precipitated by the constricted use of a master plumber's license by a firm, company, or corporation in conjunction with contracting for plumbing work by the firm, company, or corporation.

Dr. Beran also has determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be enhanced public assurance that contracted plumbing work is performed with the direct participation of a master plumber.

The anticipated economic cost to persons who are required to comply with the rule as proposed will be similar in nature to those anticipated for large and small businesses.

Comments on the proposal may be submitted in writing to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The proposed amendment does not affect other statutes, articles, or codes.

§367.3. Requirement for Plumbing Companies. A company offering to do plumbing work must secure the services of at least one person holding a current master plumber's license. The master plumber shall not allow any person, firm, company, or corporation to use his or her master plumber's license for any purpose unless the master plumber is a bone fide employee of the person, firm, company, or corporation or is the owner of or has a substantial financial interest in the firm, company, or corporation that will use the master plumber's license. The master plumber's license shall be used only by that one person, company, firm, or corporation. The master plumber shall be knowledgeable of and responsible for all permits, contracts, and agreements to perform plumbing work secured and plumbing work performed under his or her master plumber's license. All work performed under the master plumber's license shall be within the sight of and under the direct control and on-the-job supervision of a licensed plumber that is a bone fide employee of the person, or bona fide employee, owner of or has a substantial financial interest in the firm, company, or corporation using the master plumber's license.

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

Issued in Austin, Texas, on March 14, 1994.

TRD-9438172
Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: May 9, 1994

For further information, please call: (512) 458-2145

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 56. Family Planning

On behalf of the State Medicaid Director and the Texas Department of Health (the department), the department submits the proposed repeal of §§56.503-56.511, 56.515, 56.518, 56.519, 56.522 and 56.523; new §§56.503-56.511, 56.515, 56.518, 56.519, 56.522, 56.523, and 56.525; and amendments to §§56.512-56.514, 56.516, 56.517, 56.520, and 56.521, concerning family planning agency standards (Titles V, X, XIX, and XX).

These changes are revisions to the standards of client care developed by the Bureau of Women and Children in the mid-1970s and, since 1987, applied to all family planning programs under a memorandum of understanding with the Texas Department of Human Services (DHS). Prior to September 1, 1993, DHS administered the federally subsidized family planning programs under Title XIX (42 United States Code 1395 et seq), and Title XX (42 United States Code 1397 et seq), and the department administered the federally subsidized Family Planning Programs under Title V (42 United States Code §701 et seq) and Title X (42 United States Code 300 et seq). House Bill 7 transferred the DHS family planning programs to the department and by agreement with the Health and Human Services Commission, the department administers the Title XIX family planning program. The department now administers all four funding sources. Many providers receive funding from more than one source.

The proposed repeal, amendments, and new sections are actually revisions to the standards developed under the memorandum of understanding, include more medically current standards of client care, and clarify some of the original program requirements. The proposed sections address the following topics: client assessment criteria, such as health history, physical examination, and laboratory tests; education and counseling requirements; written informed consent; client scheduling; management of abnormal findings; the provision of contraceptive methods; specialty services, such as those for adolescents and pregnancy testing; required documentation; confidentiality; privacy, timeliness of services; protection from discrimination;

voluntary client participation; client understanding; staff qualifications; staff development; emergency care; community outreach/education; provider protocols; accessibility; and quality assurance activities.

J. Scott Simpson, M.D., division director for women's health, Bureau of Women and Children, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government.

Dr. Simpson also has determined that for each of the first five years the sections are in effect, the public benefit anticipated is an improvement of the consistency and quality of client care among publicly funded family planning clinics. There is no anticipated additional cost to small or large businesses to comply with the proposed rules. There is no anticipated economic cost to persons who are required to comply with the proposed sections. Likewise, no effect on local employment is anticipated.

Written comments on the proposal may be submitted to Carol Pavlica, R.N., Director, Family Planning Program, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Telephone inquiries may also be made to Carol Pavlica, R.N., at (512) 458-7700. Comments will be accepted for 30 days following the date of publication of this proposal in the Texas Register.

Subchapter E. Joint TDH/DHS Family Planning Agency Provider Standards (Titles V, X, XIX, and XX)

- 25 §§56.503-56.511, 56.515, 56.518, 56.519, 56.522 and 56.523

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

The repeals are proposed under of the Health and Safety Code, §12.001(b), the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the Title XIX Family Planning Program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendments affect Chapter 32 of the Human Resource Code, and Texas Civil Statutes, Article 4413 (502), §16.

§56.503. Health History, Laboratory Tests, and Examination.

§56.504. Plan of Care.

§56.505. *Education and Counseling.*

§56.506. *Written Informed Consent.*

§56.507. *Office or Medical Clinic Visits.*

§56.508. *Management and Referral for Abnormal Findings.*

§56.509. *Provision of Contraceptive Method.*

§56.510. *Family Planning Services for Adolescents.*

§56.511. *Clients Requesting Pregnancy Testing.*

§56.515. *Timeliness.*

§56.518. *Client Understanding.*

§56.519. *Staff Qualifications.*

§56.522. *Community Participation*

§56.523. *Client Education Component.*

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 March 28, 1994.

TRD-9438195 Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: May 2, 1994

For further information, please call: (512) 458-7700



Chapter 56. Family Planning

Subchapter E. Family Planning Agency Standards Titles V, X, XIX and XX

- 25 TAC §§56.503-56.511, 56.515, 56.518, 56.519, 56.522, 56.523, 56.525

The new sections are proposed under the Health and Safety Code, §12.001(b), the Human Resources Code, §32.301, and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program

and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the Title XIX Family Planning Program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendments affect Chapter 32 of the Human Resource Code; and Texas Civil Statutes, Article 4413 (502), §16.

§56.503. *Client Assessment: Health History, Physical Examination, and Laboratory Tests.*

(a) Every client requesting family planning medical services or a surgical or prescriptive contraceptive method must be provided an assessment.

(b) For female clients, the assessment must include the following.

(1) Health history. The following information must be obtained initially and annually:

(A) gynecologic history including sexual history and STD/HIV risk;

(B) menstrual history;

(C) contraceptive history;

(D) obstetric history;

(E) medical and surgical history;

(F) family/genetic history; and

(G) social history, i.e., tobacco, substance abuse, alcohol, and domestic violence.

(2) Physical examination. Physical examinations shall be performed initially and annually and must cover the following:

(A) height (annually for clients until they are five years post-menarcheal);

(B) weight;

(C) blood pressure;

(D) head, neck (including thyroid);

(E) lymph nodes;

(F) heart;

(G) lungs;

(H) breasts (including instruction in self-examination initially, reinforcement annually);

(I) abdomen;

(J) back;

(K) extremities;

(L) pelvic examination; and

(M) rectal examination, as indicated.

(3) Laboratory tests. The following laboratory tests must be provided initially and annually:

(A) hemoglobin or hematocrit (initially for all clients; annually for IUD clients; as indicated otherwise);

(B) pap smear;

(C) tests for gonorrhea and chlamydia for clients requesting IUD insertion (required only before IUD insertion, but not annually); and

(D) urinalysis for sugar and protein (initially for all clients and as indicated thereafter).

(4) Additional laboratory tests. The following tests must be provided directly or by referral, if medically indicated:

(A) tests for gonorrhea, chlamydia, and herpes;

(B) complete urinalysis (dipstick and micro) and urine culture and sensitivity;

(C) syphilis serology;

(D) rubella titer;

(E) tests for abnormal lipid and/or glucose levels (or an equivalent multiple test profile);

(F) pregnancy test (must be available on-site);

(G) microscopic examination of wet mount of vaginal smear;

(H) sickle-cell test;

(I) TB test; and

(J) HIV test.

(c) For male clients, the assessment will vary according to the scope of services requested and provided. A complete male assessment must include a similarly appropriate history, physical exam, and set of laboratory studies as that required for women in subsection (b) of this section.

§56.504. Education and Counseling.

(a) Initial client education. Every new client requesting contraceptive services or family planning medical services must be provided initial client education either verbally, in writing, or by audio/visual materials. Over-the-counter contraceptive methods may be provided before the client receives the initial client education but must be accompanied by written instructions on correct use. The following initial client education content may vary according to the educator's assessment of the client's current knowledge:

(1) general benefits of family planning services and contraception;

(2) information on male and female basic reproductive anatomy and physiology;

(3) information regarding particular benefits and potential side effects and complications of all available contraceptive methods;

(4) information concerning all of the clinic's available services, the purpose and sequence of clinic procedures, and routine schedule of return visits;

(5) breast self-examination rationale and instruction unless provided during physical exam (for females), and

(6) information on HIV/STD infection and prevention and safer sex discussion

(b) Post-assessment counseling. There must be a discussion of the findings from the client's history, physical exam and lab tests. Information regarding the recommended schedule of return visits must be discussed. If a new contraceptive method is initiated, method-specific counseling must be provided and include at least:

(1) verbal and written instructions for correct use of the method and self-monitoring;

(2) information regarding the method's mode of action, safety, benefits and effectiveness;

(3) information regarding risks, potential side effects and complications of the method and what to do if they occur;

(4) a back up method review when appropriate and instructions on the correct use; and

(5) a demonstration of appropriate insertion and removal of diaphragms or caps by the client at the time of the fitting.

(c) Preconceptional counseling. Clients who may become pregnant and whose assessment indicates the potential for a high-risk pregnancy must receive counseling regarding the modification/reduction of the risk(s).

(d) Education counseling. Other client education and/or referral must be provided as indicated, based on the client assessment.

§56.505. Written Informed Consent. The client's general consent must be obtained for receipt of medical services and an informed consent must be obtained for receipt of a prescriptive or surgical contraceptive method. A consent form must be obtained whenever a client undergoes a reinsertion procedure or begins a new form of prescriptive contraception. The following standards apply.

(1) Only the client may consent to her/his contraceptive care. Neither spousal nor parental consent may be requested or required.

(2) The client's consent must be voluntary.

(3) The client's consent must be in writing.

(4) The client's consent for a prescriptive or surgical method must be obtained before provision of the method.

(5) If the client does not understand the language of the consent form, it must be interpreted. Consent information must be effectively communicated to every client including those who are blind, deaf, or who have other disabilities.

(6) The consent form for contraception must contain a statement that the client has been counseled, and has received appropriate information about the chosen method.

(7) If sterilization services using federal funds are provided or arranged, the federal sterilization consent guidelines must be followed

§56.506. Office or Medical Clinic Visits.

(a) During any visit for a medical problem or follow-up visit the following must occur:

(1) an update of the client's relevant history;

(2) physical exam, if indicated;

(3) laboratory tests, if indicated;

(4) treatment and/or referral, if indicated;

(5) education/counseling or referral, if indicated; and

(6) scheduling a follow up visit, if indicated.

(b) Unless specifically indicated otherwise, the first routine follow-up visit after a contraceptive method is initially provided must be scheduled:

(1) between three and four months for oral contraceptors (and must include obtaining blood pressure and weight);

(2) at one week and at three to four months for Norplant users, or in accordance with protocols (and the later visit must include obtaining blood pressure and weight); and

(3) after the next normal menses or no more than six weeks after an IUD is inserted.

(c) Subsequent routine visits for non-high-risk clients must not occur more frequently than annually unless indicated.

(d) Supply visits for oral contraceptive refills must not be more frequent than every three months, unless specifically indicated. Annual supply visits are encouraged. Other supply-only visits must occur as indicated. More frequent supply visits may be scheduled for reasons other than medical indications.

§56.507. Management and/or Referral for Abnormal Findings.

(a) The provider must have a system for:

(1) informing the client or making at least three attempts within 30 days after diagnosis to inform the client of a diagnosed or suspected disorder. All attempts must be documented with dates, and the final attempt must be in writing;

(2) counseling the client about diagnosed or suspected abnormalities; and

(3) offering the client treatment or referral for treatment when counseled about diagnosed or suspected abnormalities.

(b) Clients must be offered treatment or referral for treatment of sexually transmitted diseases (STD) when diagnosed. STD clients must be counseled to have their

partner(s) evaluated and treated. Providers must comply with state STD reporting requirements in Chapter 97 of this title (relating to Communicable Diseases).

§56.508. Provision of Contraceptive Method.

(a) A contraceptive method must not be provided to the client if an absolute medical contraindication exists for that client in accordance with the provider's protocols.

(b) If a contraceptive method is provided for a client for whom a relative medical contraindication exists, a specific inquiry and evaluation regarding the relative contraindication must be made at all contraceptive surveillance visits.

§56.509. Family Planning Services for Adolescents.

(a) Adolescents age 17 and younger must be provided counseling and medical services that meet their special needs.

(b) The provider must ensure that:

(1) appointment schedules are flexible enough to accommodate immediate access for adolescents requesting services,

(2) counseling for adolescents includes information on use of all medically approved birth control methods including abstinence;

(3) counseling for adolescents encourages them to discuss their family planning needs with a trusted or significant adult if they choose to do so;

(4) for the adolescent electing a nonprescriptive method, full participation in medical procedures is encouraged but may be deferred by the client; and

(5) the adolescent is assured that all services are confidential and that any necessary follow-up contact will also protect the client's privacy

§56.510. Pregnancy Testing.

(a) Clients having a pregnancy test must be provided an assessment, counseling and a referral, if indicated.

(b) At a minimum, the following must be obtained or updated prior to performance of the laboratory test:

(1) date of last normal menstrual period; and

(2) current contraceptive method.

(c) Clients must be advised that the laboratory test for pregnancy cannot be considered 100% accurate.

(d) Clients with positive results

must receive a pelvic examination or be advised to have a pelvic examination within 15 days to confirm the pregnancy and must be provided basic pregnancy education and counseling; and if:

(1) desiring to maintain the pregnancy, must be encouraged to enroll in prenatal care as soon as possible; or

(2) requesting information about options for an unintended pregnancy, must be provided non-directive counseling and a referral for the following:

(A) prenatal care and delivery;

(B) infant care, foster care, or adoption; and

(C) pregnancy termination (not required of natural family planning agencies)

(e) Clients with bleeding, pain, or any symptoms of an abnormal pregnancy, must be provided with appropriate management immediately, or a timely referral for further evaluation.

(f) Clients whose pregnancy tests are negative and who are not seeking pregnancy must be offered information about contraception (at least a non-prescriptive contraceptive method), and a return appointment for a family planning visit. Clients seeking pregnancy must be appropriately counseled.

(g) If the results of the pregnancy test are inconclusive, the client must be instructed to return to the clinic or referral source for another assessment within one week

§56.511. Documentation All services provided to a client must be appropriately documented in the client's medical record.

§56.515. Timeliness

(a) Clients who request contraception but cannot be seen immediately must be offered a non-prescriptive method without delay.

(b) Complete family planning services must be provided within 30 calendar days after the client's request, unless the desired method is unavailable.

§56.518. Client Understanding.

(a) All services must be provided in such a way that they can be understood by the client regardless of any disabilities or language barrier that may exist.

(b) Bilingual interpreters, agreed to

by both the client and provider, must be available for clients who do not speak English.

(c) Written communication and selected educational materials must be available in English and Spanish.

(d) During staff orientation, the provider must stress sensitivity to client differences arising from cultural expectations or disabling conditions.

§56.519. Staff Qualifications.

(a) Medical director. The provider's medical care services must be provided under the supervision, direction, and responsibility of a qualified medical director.

(1) At all times, the provider must have a medical director who is a physician currently licensed to practice medicine in Texas. The medical director must be responsible for the overall direction, supervision, and coordination of medical services provided by the provider, and must assume final responsibility for the content of all medical information and services given to clients. Licensure verification and qualifications must be available in the personnel records.

(2) The medical director must participate in quality assurance activities.

(b) Other staff. The provider must ensure that all medical, educational, counseling and administrative staff are qualified, and appropriately licensed, certified, registered, and/or recognized to function in their respective roles as follows.

(1) Physicians must be currently licensed by the Texas Board of Medical Examiners and nurses must be currently licensed by the Texas Board of Nurse Examiners for Registered Nurses or Vocational Nurses. Physician assistants must be licensed by the Physician Assistant Advisory Council. All must meet the provider's qualifications.

(2) Other staff must be properly trained for the duties they are assigned.

(3) Performance of all medical duties by staff must be defined by the medical director and approved based upon the director or delegate's evaluation of the individual's education, experience, and clinical expertise.

(4) Documentation of educational credentials, professional training, licensure, certification, recognition, registration, and periodic work performance evaluations must be maintained in the personnel files of all staff.

§56.522. Community Outreach/Education. The provider must provide community education to inform the public of its

purpose, to disseminate basic family planning knowledge, to enlist community support, and to attract potential clients.

§56.523. Provider Protocols. The provider must have written protocols and standing delegation orders which are comprehensive enough to cover all services offered. They must be approved by the medical director, reviewed and signed at least annually by both the director and all appropriate staff. There must be a complete copy of the protocols and standing delegation orders at all clinical sites.

§56.525. Quality Assurance. The provider must have a written quality assurance plan which outlines a systematic approach to assess and monitor services provided and to correct problems identified in the assessment. The plan must include at least the following activities to occur at least annually:

- (1) formalized patient record review/audit;
- (2) staff performance review;
- (3) facility review;
- (4) formalized patient complaint process; and

(5) systematic review and follow-up for adverse patient outcomes. This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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 March 28, 1994.

TRD-9438196 Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: May 2, 1994

For further information, please call: (512) 458-7700

◆ ◆ ◆
• 25 TAC §§56.512-56.514, 56.516, 56.517, 56.520, 56.521

The amendments are proposed under the Health and Safety Code, §12.001(b), the Human Resources Code, §32.301, and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with

the Health and Human Services Commission to operate the Title XIX Family Planning Program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendments affect Chapter 32 of the Human Resource Code; and Texas Civil Statutes, Article 4413 (502), §16.

§56.512. Range of Methods. All [family planning services and] medically approved methods of contraception must be made available to the client, either directly or by referral to a subcontractor. [This does not mean that all] All brands of the different contraceptive methods need [to] not be made available, but each major contraceptive category must be made available.

§56.513. Confidentiality.

(a) The [agency] provider must ensure client confidentiality and provide safeguards for clients against the invasion of personal privacy.

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

(d) The [agency] provider must obtain the client's written consent to release information to specific persons [entity] or entities when [it] disclosure is requested.

(e)-(f) (No change.)

§56.514. Privacy.

(a) (No change.)

(b) There must be private offices, rooms, or areas for interviewing, counseling, educating, [informing] and referring clients.

(c) (No change.)

(d) The examining rooms or areas must permit complete privacy for the examination and any discussion between the client and the clinic staff [physician or nurse].

§56.516. Protection Against Discrimination.

(a) (No change.)

(b) The [agency] provider must have a written policy statement that prohibits discrimination on the basis of marital status, parenthood, handicap, age, color, religion, sex, sexual orientation, ethnicity, national origin, [or] contraceptive preference, or medical condition. This statement must be displayed in a public viewing area.

(c) (No change.)

(d) The provider must comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), §504 of the Rehabilitation Act of 1973 (Public Law

93-112), The Americans with Disabilities Act of 1990 (Public Law 101-336), including all amendments to each, and all regulations issued pursuant to these Acts.

§56.517. Voluntary Participation.

(a) Clients must not be subjected to any coercion to receive services[;], [Also] and acceptance of services must not be a prerequisite for eligibility for any other service or program.

(b) The [agency] provider must [have] adopt a policy [statement that] which prohibits coercion of clients to receive services or to use any particular method of contraception. [During the orientation of paid staff and volunteers, the agency] The provider must stress this policy during orientation of paid staff and volunteers.

§56.520. Staff Development.

(a) The [agency] provider must have a documented plan of organized staff development based on an assessment of training needs.

(b) The [agency] provider's plan for a staff development program must include orientation and inservice training for all personnel, including volunteers.

§56.521. Emergencies.

(a) (No change.)

(b) Each site must have a written plan for the management of onsite medical emergencies, [for] emergencies requiring ambulance services and hospital admission, and [for] emergencies requiring evacuation of the premises. Evacuation plans for the premises must be posted.

(c) (No change.)

(d) Each site must have [at least one] staff trained in cardiopulmonary resuscitation (CPR) [CPR] and emergency medical action. Staff trained in CPR must be present during all hours of clinic operation.

(e) (No change.)

(f) If sterilization procedures are performed in a free-standing surgical care center or on an inpatient basis in a hospital, [standards for the Joint Accreditation of Hospitals (JCAH) or] Medicare standards applicable to the facility and staff must be met.

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 March 28, 1994.

TRD-9438197 Susan K. Steeg
General Counsel

Earliest possible date of adoption: May 2,
1994

For further information, please call: (512)
458-7700

◆ ◆ ◆
Chapter 98. HIV and STD
Control

Subchapter C. Texas HIV
Medication Program

General Provisions

• 25 TAC §98. 101, §98.105

The Texas Department of Health (department) proposes an amendment to existing §98 105, concerning the Texas HIV Medication Program. The sections implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85 063, Subchapter C, concerning the Texas HIV Medication Program. The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover purpose, eligibility for participation, and medication coverage. The amendments expand the eligibility criteria for Zidovudine, Didanosine, Zalcitabine, SMZ-TMP, and Fluconazole. The drug Itraconazole is being adopted permanently in this issue effective 20 days after filing, it is adopted on an emergency basis at this time to ensure coverage during the interim before the effective date. These amendments are adopted on an emergency basis in this issue of the *Texas Register*

Anta Martinez, Chief of Staff Services for the Disease Control and Prevention Association, Texas Department of Health, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state government or local government as a result of enforcing or administering the section as proposed

Ms. Martinez has also determined that for each year of the first five-year period the section is in effect, the public benefit anticipated as a result of enforcing the section will be to expand the eligibility criteria for Zidovudine, Didanosine, Zalcitabine, SMZ-TMP, and Fluconazole to treat HIV program participants. There is no anticipated economic cost to small or large businesses to comply with the sections as proposed; no anticipated cost for individuals affected by this proposal, and no effect on local employment.

Comments on the proposal may be submitted to Charles E. Bell, M.D., Chief, Bureau of HIV & STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*

The amendments are proposed under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; and Health and Safety Code, 12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

This amendment effects Chapter 85 of the Health and Safety Code.

§98.101. Purpose and Scope.

(a) Purpose. These sections will implement the provisions of the Texas HIV Medication Program (program) as authorized by the Communicable Disease Prevention and Control Act, Health and Safety Code, §§85.061-85.066. The program shall assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in obtaining medications that have been shown to be effective in reducing hospitalizations due to [indicated by the Food and Drug Administration for the treatment of] HIV-related conditions and approved by the Texas Board of Health for program coverage.

(b) (No Change.)

§98.105. Drug specific eligibility criteria. A person is eligible for:

(1) Zidovudine, Didanosine, and Zalcitabine if he or she is younger than 18 years of age and has a diagnosis of HIV infection; or has a positive HIV antibody test and is classified in Group III or IV according to the Centers of Disease Control (CDC) classification system, or pending available funding classified in Group I or II with a CD4 cell count of 500 or less;

(2) Pentamidine for inhalation solution, sulfamethoxazole-trimethoprim (DS) tablets, and sulfamethoxazole-trimethoprim suspension if he or she is diagnosed with HIV infection and a CD4 cell count of 200 or less; or constitutional symptoms such as thrush or unexplained fever greater than 100 degrees F for greater than two weeks and children under the age of 13 with the following clinical indicators:

(A)-(D) (No Change.)

(3) Didanosine if he or she has advanced HIV infection and is intolerant of zidovudine therapy of who have demonstrated significant clinical or immunological deterioration during zidovudine therapy.]

(3) [(4)] Erythropoietin if he or she soon would be or is currently transfusion dependent, has a hematocrit less than

or equal to 25%, and has endogenous serum erythropoietin levels equal to or less than 500 mU/mL;

(4)[(5)] Immune Globulin Intravenous (Human) if he or she is diagnosed with HIV infection and is younger than 18 years of age;

(5) [(6)] Fluconazole if he or she has [an] established cryptococcal [infection] meningitis or candida esophagitis and for prophylaxis after diagnosis. The total amount to be expended on this drug is up to \$350,000, then pending available funding;

(6)[(7)] Acyclovir for the treatment of acute herpetic infections and chronic suppressive therapy for the treatment of recurrent disease

[(8)] Zalcitabine in combination with zidovudine is indicated for the treatment of adult patients with advanced HIV infection (CD4 cell count less than or equal to 300) who have demonstrated significant clinical or immunologic deterioration,]

(7)[(9)] IV Pentamidine for children 13 years of age or younger for the treatment of PCP and prophylaxis against PCP in HIV infected children;

(8)[(10)] Interferon-Alpha for the treatment of disseminated Kaposi's sarcoma in HIV infected persons with T-Cell counts over 500. The total amount to be expended on this drug is up to \$122,600. The requesting physician must complete a form to be returned to the program which will allow the program to evaluate the benefits of providing this medication.

(9)[(11)] Amphotericin-B for the treatment of patients with progressive, and potentially fatal disseminated fungal infections. The total amount to be expended on this drug is up to \$46,200. The requesting physician must complete a form to be returned to the program which will allow the program to evaluate the benefits of providing this medication;

(10)[(12)] Atovaquone for the oral treatment of acute mild to moderate Pneumocystis carini Pneumonia (PCP) in patients who are intolerant to sulfamethoxazole-trimethoprim (SMZ-TMP);

(11)[(13)] Rifabutin for the prevention of disseminated mycobacterium avium complex disease in patients with a CD4 cell count of 100 or less. The total amount to be expended on this drug is up to \$100,000, then pending available funding; and []

(12) Itraconazole for the treatment of Blastomycosis and Histoplasmosis.

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 March 28, 1994.

TRD-9438211

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

Earliest possible date of adoption: May 2, 1994

For further information, please call. (512) 458-7500



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note. As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code Board action taken under these articles is not subject to the Administrative Procedure Act

These actions become effective 30 days prior to final adoption

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin.)

The Commissioner of Insurance or his designee at a public hearing under Docket Number 2091 scheduled for May 2, 1994 at 8:30 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas will consider amendments proposed by the staff of the Workers' Compensation Division to the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Manual) pertaining to a transition period for the calculation of experience modifiers by the insurance companies. There are three phases to the proposed transition period.

For experience modifiers with an effective date of May 1, 1994- December 31, 1994, that are either issued or revised within the first 120 days of the inception date of the policy or within 120 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniversary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of May 1, 1994- December 31, 1994, that are either issued or revised after the first 120 days of the effective date of the policy or after 120 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

For experience modifiers with an effective date of January 1, 1995- June 30, 1995, that are either issued or revised within the first 90 days after the effective date of the policy or within 90 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniver-

sary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of January 1, 1995-June 30, 1995, that are either issued or revised after the first 90 days of the effective date of the policy or after 90 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

For experience modifiers with an effective date of July 1, 1995, or after that are either issued or revised within the first 60 days of the effective date of the policy or within 60 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniversary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of July 1, 1995 or after that are either issued or revised after the first 60 days of the policy or after 60 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

A copy of the amendments containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the amendments, please contact Ms. Angie Arizpe (512) 322-4147 (refer to Reference Number W-0394-08).

The staff and the Commissioner request that written comments to these proposed amendments be submitted prior to the public hearing on May 2, 1994. The written comments should be directed to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P. O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Nancy Moore Deputy Commissioner, Workers' Compensation, Texas Department of Insurance, P. O. Box 149092, MC 202-1A, Austin, Texas 78701-9092. Public testimony at the hearing on May 2, 1994 is also invited and encouraged.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure Act

This agency hereby certifies that the rule as

proposed has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

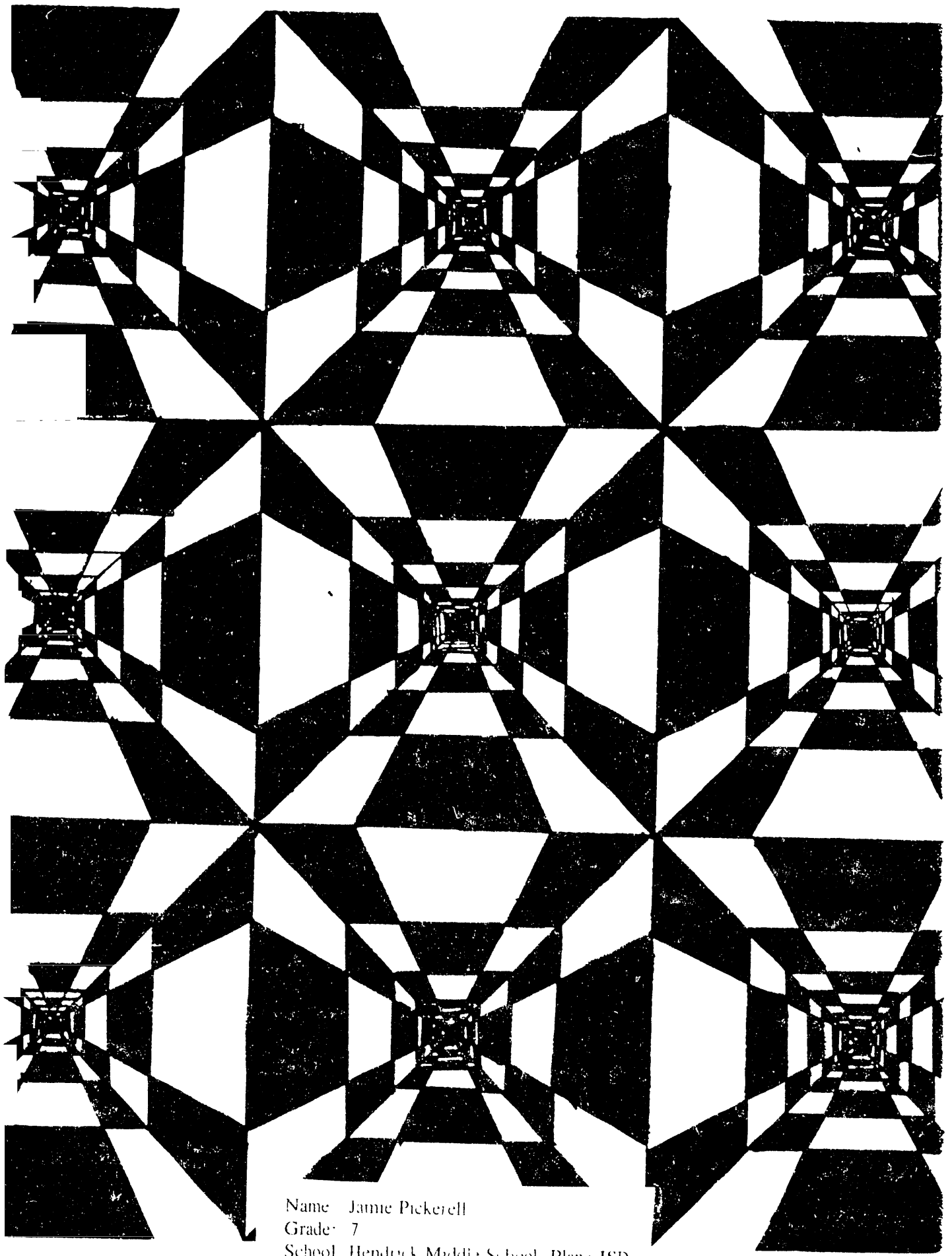
Issued in Austin, Texas, on March 28, 1994.

TRD-9438207

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

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





Name Jamie Pickerell
Grade 7
School Hendrick Middle School, Plano ISD

WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the **Texas Register**, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the **Texas Register**.

TITLE 22. EXAMINING BOARDS

Part XXX. Texas State Board of Examiners of Professional Counselors

Chapter 681. Professional Counselors

Subchapter G. Licensure Ex- aminations

• 22 TAC §681.97

The Texas State Board of Examiners of Professional Counselors has withdrawn from consideration for permanent adoption a proposed new §681.97, which appeared in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7111). The effective date of this withdrawal is March 23, 1994.

Issued in Austin, Texas, on March 21, 1994.

TRD-9438063

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Effective date: March 23, 1994

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



TITLE 25. HEALTH SER- VICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §98.104

The Texas Department of Health has withdrawn the emergency effectiveness of an amendment to §98.104, concerning the general provisions. The text of the emergency amendment appeared in the February 8, 1994, issue of the *Texas Register* (19 TexReg 855). The effective date of this withdrawal is April 17, 1994.

Issued in Austin, Texas, on March 28, 1994.

TRD-9438203

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: April 17, 1994

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



• 25 TAC §98.105

The Texas Department of Health has withdrawn the emergency effectiveness of an amendment to §98.105, concerning the general provisions. The text of the emergency amendment appeared in the February 8, 1994, issue of the *Texas Register* (19 TexReg 855). The effective date of this withdrawal is March 28, 1994.

Issued in Austin, Texas, on March 28, 1994.

TRD-9438204

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: March 28, 1994

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





Name. Carl Weaver
Grade 7
School Hendrick Middle School, Plano ISD

ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 5. Quarantines

Pink Bollworm Quarantine

• 4 TAC §5.178, §5.179

The Texas Department of Agriculture (the department) adopts amendments to §5.178 and §5.179, concerning the Pink Bollworm Quarantines. Section 5.179 is adopted with changes to the proposed text as published in the December 17, 1993, issue of the *Texas Register* (18 TexReg 9661). Section 5.178 is adopted without changes and will not be re-published.

The amendments are adopted to establish procedures for setting zone advisory committees and to specify stalk destruction methods.

The change in §5.179 is the deletion of the words "turned under" from subsection (a)(5)(A).

Comments from producers at the public hearing which was conducted by the department on January 10, 1994, in Pecos, Reeves County, Texas, suggested that the words "turned under" would require them to purchase new equipment to comply with the regulation. The department agrees and has made this change.

The amendments are adopted under the Texas Agriculture Code, §74.054, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the control and eradication of the pink bollworm.

§5.179. Authorized Planting and Stalk Destruction Dates.

(a) All cotton plants in any of the quarantine zones set forth in §5.178 of this title (relating to Quarantine Zones) must be planted and mechanically destroyed by the authorized planting and stalk destruction deadlines indicated for each zone. This must be accomplished by shredding or plowing out the plants in such a way as to absolutely prevent further growth and to the point where there are no standing cotton stalks or regrowth.

(1)-(4) (No change)

(5) Zone 5. Stalk destruction date: on or before February 1.

(A) Destruction shall be accomplished by complete shredding and plowing of stalks.

(B) Plowing shall be performed with an implement which dislodges the root and leaves the soil in a ridged and roughened condition.

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

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

Issued in Austin, Texas, on March 25, 1994.

TRD-9438146

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: April 15, 1994

Proposal publication date: December 17, 1993

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

TITLE 16. ECONOMIC REGULATIONS

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Records and Reports

• 16 TAC §23.11

The Public Utility Commission of Texas adopts an amendment to §23.11, with changes to the proposed text as published in the September 24, 1993, issue of the *Texas Register* (18 TexReg 6506)

The amendment clarifies certain ambiguities, deletes duplicative items, provides certain filing dates, and simplifies some of the filing requirements. The amendment provides that the annual reports for the preceding calendar year shall be filed with the Commission on

June 1 of each year; clarifies the filing requirements relating to affiliated interests; clarifies the filing requirements for payment of compensation to parties for legal and administrative matters in Texas; clarifies the filing requirements for other payments, including expenses for legislative matters in Texas; and deletes duplicative requirements for administrative and legislative matters in Texas.

Questions with a request for comments were published in the December 11, 1992, issue of the *Texas Register* (17 TexReg 8711). The proposed amendment to §23.11 was published in the September 24, 1993, issue of the *Texas Register* (18 TexReg 6506). Comments to the proposed amendments were filed by ten parties. The list of respondents includes: Houston Lighting and Power (HL&P), Texas Utilities Electric Company (TU Electric), Texas Electric Cooperatives (TEC), Central Power and Light Company, Southwestern Electric Power Company and West Texas Utilities Company (jointly referred to as the CSW Companies), Gulf State Utilities (GSU), Lower Colorado River Authority (LCRA), Texas Statewide Telephone Cooperative, Inc. (TSTCI), Office of Public Utility Counsel (OPC), Texas-New Mexico Power (TNP), and Southwestern Public Service Company (SPS). An initial recommendation for adoption was submitted to the Commission on January 21, 1994. Comments from TEC and GTE on the initial recommendation of the rule were received on February 7, 1994.

The following summarizes the comments of the parties, the issues, and the Commission's response to the comments.

TSTCI agrees with the June 1 due date for §23.11(f) and (g) reports, as specified in §23.11(d)(7), if the reports are to be required. TU Electric agrees that this change is appropriate. The CSW Companies agree with the change to specify a filing date for this subsection. OPC states that the due date of these reports should be consistent with the 100 day-due date of other reports, making this report due on April 10.

The Commission rejects OPC arguments for an earlier filing deadline. The Commission proposed a June 1 filing deadline because April is a busy month for utilities, due to the fact that utilities are required to make several filings with the Commission and with Federal agencies. The Commission prefers to give the utilities ample time so that they can file complete and accurate §23.11(f) and (g)

reports. The Commission adopts the proposed amendment to the rule as published

TSTCI recommends that §23.11(f) be repealed. However, if an annual report is required, TSTCI suggests that the Cost Allocation Manual should be referenced as the location for this information. TU Electric does not particularly oppose this reporting requirement because compliance is not costly. However, TU Electric suggests that it could be repealed because the information is included in the Shareholder Annual Reports required to be filed with the Commission under §23.11(d)(4), and this information is not pertinent except in the context of a rate case. TEC states that the proposed amendment to this section represents a definite improvement because the current rule is too vague and does not adequately define the utilities' reporting responsibility. TEC supports the proposed amendment to §23.11(f).

The Commission agrees that some of the information required by §23.11(f) is presented in different reports filed with the Commission. However, the filed information is not in the same format or level of detail required by the amendment. Moreover, the limited information referenced by the utilities is scattered in different reports. The Commission believes that the information required by this rule should be available to the public without excessive searching and compiling efforts. TSTCI stated that this information is also found in telephone utility Cost Allocation Manuals, and those manuals should be referenced as the location for this information. The Commission points out that, at present, telephone utilities are not required to file the Cost Allocation Manuals with the Commission. The Commission is currently in the process of a proposed rulemaking regarding the filing of a Cost Allocation Manual with the Commission. However, the rule as proposed would not provide the same level of detail that the Commission is currently seeking in this rule. TU Electric stated that this information is also found in the shareholder annual reports. The annual report however, does not report the information in the same format or level of detail that is required by this subsection. Also, not all utilities are either currently required to file this information or the reports mentioned previously do not apply to all utilities. For these reasons the Commission disagrees with the suggested changes and adopts §23.11(f)(1) of the rule as published.

TSTCI's concern with the proposed amendment to §23.11(f)(2) is the amount of work required and the cost involved. TSTCI recommends that the proposed amendment be rejected and that the rule be repealed. If an annual report concerning this information is necessary, TSTCI recommends that Schedule VI of the Earnings Monitoring Report should be referenced as the location for this information. TU Electric states that compliance with the interpretation of the current language is not particularly costly, and TU Electric would not oppose the requirement even though the information is not pertinent except in the context of a rate case. However, if the proposed language is intended to detail each and every separate transaction between a utility and its affiliates, TU Electric suggests that compliance will be very costly. TU Elec-

tric requests that this rule be repealed. As an alternative, TU Electric requests that the rule be clarified so that compliance will not be unduly costly, by requiring that the information be reported on an annual total basis. TNP states that the proposed amendments are unreasonably burdensome, administratively costly to produce, and duplicative of Schedules G-6, G-6.1, and G-6.2 of the electric utility rate filing package requirements. TNP states that expanding the current reporting requirements to include a complete delineation and/or narrative of each transaction between affiliates is simply an inefficient use of resources and is costly. TNP recommends deleting this onerous reporting requirement, or at a minimum, requiring only a report of affiliates on an annual total basis. The CSW Companies state that it is not clear that the reporting required by the first sentence of (f)(2) is specified by the last two sentences. The CSW Companies also state that the proposed amendment should be changed to make it clear that the contract amount for each cash and non-cash transaction with each affiliated interest is to be reported by total for each affiliate with regard to type of transaction, thereby making it consistent with the requirements for schedule G-6.1 of the electric utility rate filing package.

The Commission disagrees with these comments and believes that the information required by §23.11(f)(2) should be provided annually on a per transaction basis. Because the information required by this subsection is in an area that is heavily scrutinized not only by the Commission but also by other interested parties, the Commission believes that each transaction should be reported to provide a sufficient level of information. The assertion that some of this information is duplicative of the information filed in the rate filing package may be true; however, some utilities have never filed a rate filing package with the Commission. Also, utilities generally do not file a rate filing package annually. Finally, the information provided in the Earnings Monitoring Report is not in the same level of detail that this subsection requires.

GTE, in response to Staff's initial recommendation, expressed two concerns regarding the proposed amendment to §23.11(f)(2). First, the requirement to report "the contract amount" leaves uncertainty as to whether the utility is to file a schedule of contracted rates that were in effect during the reporting period, or a schedule of actual charges whether or not these transactions are covered by an existing written contract. Second, the requirement to report transactions with affiliate interests "by nature of the transaction" gives little guidance as to what level of detail is actually required. In GTE's opinion, the requirement to further categorize the amounts beneath the total amount by affiliate is burdensome, costly and unnecessary. GTE states that such information is available in the Earnings Monitoring Reports, and therefore urges that §23.11(f)(2) be repealed.

The Commission points out that §23.11(f) requires the utilities to reduce to writing any contracts or arrangements it may have with its affiliates. Further, it is implicit that the utilities file complete and accurate reports. It is possible for the contracting parties to de-

velop a myriad of arrangements and contractual scenarios that no rule can address with specificity. Therefore, it becomes essential that the utilities provide a short description of goods and services, and categorize the transactions by affiliated interest and by nature of the transaction as provided in the amendment to accurately report affiliate transactions in a manner that is understandable. In the scenario presented by GTE, it may be appropriate for a utility to describe the affiliate arrangement and provide contracted amounts as well as actual payments to compile an accurate report. The Commission finds GTE's arguments unpersuasive and adopts §23.11(f)(2) of the rule as published.

TSTCI fails to see the usefulness of the information required by the published §23.11(g) of the rule and believes that the request only creates work. TSTCI also believes that this information is of no value except when a utility is requesting a change in its rates. Therefore, TSTCI recommends that this rule be repealed. If the requirement is retained, TSTCI states that the information should be contained in the Earnings Monitoring Report. TU Electric states that compliance with this reporting requirement is costly and serves no useful purpose outside the context of a rate case. However, if this reporting requirement must remain, TU Electric urges that the threshold be increased to \$1,000 and that the information be reported on a per transaction basis instead of the proposed \$600 threshold per transaction or series of transactions to a single party. TEC supports the establishment of a minimum threshold for reporting compensation. TEC, however, would support a higher threshold amount, such as \$2,000, because the cost of most legal and administrative matters is likely to exceed that amount. With a \$600 minimum threshold, TEC believes it is likely that virtually every payment of compensation for legal and administrative matters will have to be reported. TEC appreciates the deletion of "legislative matters" from subsection (g) since it is duplicative of subsection (h). The CSW Companies agree with the \$600 level for individual payments of compensation to a single party but feel that clarification is needed as to what the Commission is requesting by the "in a series of payments of compensation to a single party totaling more than \$600." If it is intended to mean each payment, the CSW Companies request that this be changed to require that only the payee and the total be reported. OPC states that the current rule is patterned after PURA, §28(a)(7), which refers to "annual reports showing all payments of compensation . . ." OPC alleges that the proposed amendment is weaker than the statutory provision because the amendment sets a \$600 minimum payment before the payment has to be reported. OPC contends that the reporting requirement in the rule can not be weaker than the requirement set out in the statute, and that the Commission should reject the reference to a \$600 minimum payment. OPC further states that it does not object to moving the reporting requirement for legislative matters to subsection (h)(4), provided that all payments have to be reported.

OPC correctly points out that the published subsection (g) is patterned after PURA, §28(a)(7). However, OPC misconstrues the

scope of the statutory power granted to the Commission under PURA, §28(a) to mean it is a statutory mandate to the Commission to require utilities to report all payments of compensation. Such an interpretation is clearly erroneous. Rather, PURA, §28(a) grants the Commission the power to require, at its own discretion, that the utilities file the stated reports. Furthermore, OPC's suggestion is counterproductive in that it would require utilities to produce and report voluminous data to the Commission and consequently dissipate Commission resources by making it difficult for the staff and the public to extract meaningful information.

Because the Commission adopts a version of subsection (g), wherein the published subsections (g) and (h) have been consolidated as subsection (g), the Commission's response to other comments on the published subsections (g) and (h) is provided later in this preamble after summary of comments on the published subsection (h)

TSTCI recommends that the published §23.11(h) of the rule be repealed because the information is currently being provided in summary form on Schedule V of the Earnings Monitoring Report. TU Electric again believes that this rule should be repealed in its entirety because it is not only costly to comply with, but serves no useful purpose to the Commission outside the context of a rate case. However, if this reporting requirement must be retained, TU Electric contends that the \$250 threshold should be applied on a per payment basis rather than as an aggregated threshold. SPS states that the proposed amendment of this subsection, relating to legislative advocacy, goes beyond the will of the legislature as expressed in the Ethics Reform Act of 1990. SPS also states that this subsection should not be changed for three reasons: this change will increase paperwork and costs to the utility with no apparent benefit to the Commission; all legislative advocacy expenses are attributed to stockholders and not to the ratepayers and, therefore, serve no useful purpose to the ratemaking process; and the proposed rule change exceeds the requirements set out by the legislature. TEC states that there still appears to be a substantial overlap and duplicative reporting requirements between published subsections (g) and (h)(4). TEC states that the requirement of published subsection (h), for reporting expenditures related to representation before any governmental agency or body, overlaps with that of the published subsection (g), which requires the reporting of compensation for legal and administrative matters. TEC suggests that the proposed rule for the published subsection (h)(4) omit "or any governmental agency or body." The LCRA states that the dollar threshold of \$250 in published §23.11(h) is too low and suggests that reporting be required for expenditures exceeding \$600, the recommended limit in the published §23.11(g). TNP states that the proposed amendments to this subsection exceed the reporting boundaries enacted by the Texas legislature in passing the Ethics Reform Act of 1990. Section 305.024(a)(4) of the Texas Government Code limits reporting to annual expenditures to a single party of \$500. TNP, therefore, suggests raising the threshold to \$500, or, preferably, deleting this subsection

in its entirety. TNP also states that this information provides no useful purpose outside the context of a rate case and that similar information can be found in other reports. Finally, TNP states that the published §23.11(h)(4) reporting requirement's inclusion of representation before any governmental body or agency is clearly unnecessary and only serves to further compound the myriad of current reporting requirements. The CSW Companies propose that the threshold amount for this subsection be \$600, which would be consistent with published subsection (g), instead of \$250. Again, the CSW Companies propose that only the payee and the total amount paid to a single party be reported. The CSW Companies also urge that the information requested in published subsections (h) (1) and (3) not be included, since it is not required in the Commission's rate filing package and provides no beneficial information for earnings monitoring. Finally, the CSW Companies state that published subsection (h)(4), in part, appears to be duplicative of published subsection (g) and, therefore, should be eliminated. OPC states that published subsection (h) implements PURA, §30, which refers to reporting "all" expenditures. OPC therefore urges that the rule should not set out a threshold amount before the utility has to provide the detail. OPC contends the rule should track the statute, thus requiring the utility to list the detail of each expenditure. OPC states that the Commission should revise the proposed amendment to this subsection by deleting the following language: "or a series of expenditures made for a single party exceeding \$250." OPC also asks the Commission to delete the \$50 minimum payment referenced in the current rule. If the Commission retains the \$50 minimum or accepts the \$250 minimum, OPC urges the Commission to reject the proposed amendment to subsection (h)(4). If the Commission retains any minimum dollar amount for subsection (h), OPC contends that the language that the Commission is proposing to transfer from subsection (g) to subsection (h)(4) should remain in subsection (g). OPC further requests that if the Commission disagrees with OPC's proposals, then, pursuant to §2001.003(1)(C) of the Administrative Procedure Act, Texas Government Code Chapter 2001, the Commission should explain the basis for its disagreement.

TEC, in response to General Counsel's initial recommendation, stated that it is not clear that the published §23.11(h)(4) deals only with legislative advocacy and legislative matters, and expressed concern that the provision might be interpreted to require reporting of all expenditures exceeding \$250 for representation before any governmental agency, even though such expenditures have nothing to do with legislative advocacy. TEC stated that in the initial recommendation the General Counsel interpreted the phrase "or any governmental agency or body" to mean that legislative advocacy and/or legislative matters be reported if represented before other governmental agencies or bodies such as FCC, FERC, U.S. Congress, etc. To eliminate the stated confusion, TEC suggested alternative language containing specific references to the U.S. Congress, etc., as a substitute to the published §23.11(h)(4).

OPC correctly points out that the published subsection (h) is patterned after PURA, §30. However, OPC misconstrues the scope of the statutory power granted to the Commission under PURA, §30, to mean it is the Commission's statutory mandate to require utilities to report all of their expenditure. Such an interpretation is clearly erroneous. The Commission interprets PURA, §30, as granting the Commission the power to require, at its own discretion, that utilities file the stated reports. Furthermore, OPC's suggestion is counterproductive in that it would require utilities to produce and report voluminous data to the Commission and consequently dissipate Commission resources by making it difficult for the staff and the public to extract meaningful information.

A review of the history of the published subsection (h) indicates that the threshold amount of \$50 was established in 1976, when the rule was first adopted. The Commission believes that adjusting the threshold amount to \$250 is appropriate. Raising this amount to \$500 or \$600 will substantially diminish the amount and value of the information provided to the Commission and the public. Again, the information that is required to be reported for this published subsection is heavily scrutinized not only by the Commission but also by other interested parties and should therefore, be reported on a per transaction basis to provide an adequate level of information. The Commission agrees that the information in consolidated form is reported in the earnings monitoring report. However, the information is provided on an aggregate basis and not on a per transaction basis. Argument has been raised that this information is provided in the rate filing package. While this is true, not all utilities submit a rate filing package and, in any event, utilities do not file the package annually.

The Commission recognizes that the requirements in the published subsection (h)(4) may cause some degree of confusion with the requirements under published subsection (g). The Commission also recognizes difficulties and confusion arising out of two different threshold amounts, one of \$600 in the published subsection (g), and the second of \$250 in the published subsection (h), along with concerns expressed regarding reporting of legal expenses, "legislative advocacy," "legislative matters," and administrative expenses. Additional confusion appears to arise from difficulty in deciphering filing requirements where the reportable amounts fall between \$250 and \$600. To obviate these difficulties, the Commission believes that consolidating published subsections (g) and (h) into one subsection, and providing a single threshold amount of \$250, would eliminate a substantial degree of the confusion in reporting requirements. The categories defined in published subsections (g) and (h) are now consolidated into subsection (g), and appropriate contextual revisions to the language therein have been made. The consolidated subsection (g) provides for a single threshold amount of \$250 for all categories of reports. In addition, paragraphs (4), (5), and (8) of the consolidated subsection (g) are revised to enhance clarity of reporting requirements. The Commission interprets "legislative matters" in paragraph (4) to include "legislative advo-

cacy" and, for clarity, specifically includes language to that effect. The revised language of the consolidated subsection (g) clearly specifies that amounts disbursed for various categories pertain to Texas related matters. Therefore, expenditures relating to legislative matters relating to Texas, incurred anywhere, must be reported. Paragraph (5), relating to representation before any governmental body, now specifically includes municipalities. Reporting under paragraph (8), relating to payments for dues and membership, now requires that the component of such payments relating to paragraph (1)-(7) of this subsection must be identified, if known, following reasonable inquiry by the utility and paid to a trade association, industry group, or other organization formed to advance, or whose activities are or become primarily directed toward advancing, utility interests. The Commission anticipates that this requirement, for identification of the component of the payment relating to paragraphs (1)-(7), may generally be satisfied by enclosing an annual report of the payee (if the required information is contained therein) and making an unambiguous cross-reference to the required information in that enclosed report.

The Commission recognizes that not all representation made before the legislature amounts to advocacy of a position. The Commission clarifies that any interaction with the legislature (e.g., serving as an information resource without advocating a position) should be reported under consolidated subsection (g)(4). The Commission also recognizes that representation before an agency need not be "legislative advocacy" or on a "legislative matter" but includes any interaction with a governmental agency or body. The Commission also clarifies that the phrase "or any governmental agency or body" in consolidated subsection (g)(5) refers to such entities anywhere.

The Commission further clarifies that no duplication of information need be provided in the General Reports. Should legitimate confusion arise regarding filing of a particular information under one subsection or the other, the utilities may choose to file that information under either subsection, and provide an unambiguous cross reference to the location of such information in other section(s) causing the confusion, if any. The Commission adopts consolidated §23.11(g) of the rule.

All comments, including those not specifically addressed herein, were fully considered by the Commission.

The section is adopted under Texas Civil Statutes, Article, 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§23.11. General Reports.

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

(d) Due dates of reports. All periodic reports must be received by the commission on or before the following due dates unless otherwise specified in this section.

(1) monthly reports: 45 days after the end of the reported period;

(2) quarterly reports other than shareholder reports. 45 days after the end of the reported period;

(3) semi-annual and annual earnings reports: 100 days after the end of the reported period;

(4) shareholder annual reports: seven days from the date of mailing the same to shareholders;

(5) Securities and Exchange Commission filings: 15 days from the initial filing date with the Securities and Exchange Commission;

(6) special or additional reports: as may be prescribed by the commission, and

(7) annual reports required by subsections (f) and (g) of this section shall be due June 1 of each year and shall reflect the transactions for the most recent calendar year.

(e) (No change.)

(f) Relationships with affiliates. Copies of contracts or arrangements between any public utility and any affiliated interest shall be filed with the commission on request. If such contract or arrangement is not in writing, it shall be reduced to writing. The requirements of this subsection are not satisfied by the filing of an earnings report. The following information shall be reported annually:

(1) a narrative which details the names of each affiliated interest as defined in §23.3 of this title (relating to Definitions), and an organizational chart showing the relationship of each affiliated interest to the utility ; and

(2) the contract amount for each cash and non-cash transaction with each affiliated interest including, but not limited to, payments for costs of any goods and services, or any property, right, or thing, or for interest expense. These transactions shall be categorized by affiliated interest and by nature of the transaction. A brief description of each good and service shall be provided by affiliated interest.

(g) Payments, compensation, and other expenditures. An annual report shall be filed with the commission providing information for each of the following classes of payments, compensation (other than salary or wages subject to the withholding of federal income tax) and expenditures made relating to matters in Texas, and detailing (by payee) each expenditure (and for the purposes of this rule any series of expenditures) made to a single payee exceeding \$250 for:

(1) business gifts and entertainment;

(2) institutional, consumption-inducing, and other advertising expenses;

(3) public relations expenses;

(4) legislative matters, including advocacy before any legislative body;

(5) representation before any governmental agency or body, including municipalities;

(6) legal expenses not accounted for in other categories of this subsection;

(7) charitable, civic, religious, and political contributions and donations;

(8) all dues or membership fees paid, including an identification of that portion of those dues or membership fees paid to a trade association, industry group, or other organization formed to advance, or whose activities are or become primarily directed toward advancing, utility interests, which relate to activities listed in paragraphs (1)-(7) of this subsection if known following reasonable inquiry by the utility; and

(9) other expenses as deemed appropriate by the commission.

(h) Gross receipts assessment reporting. All utilities subject to the jurisdiction of the commission shall file a gross receipts assessment report with the state comptroller reflecting those gross receipts subject to the assessment stipulated in the Act on a form prescribed by the state comptroller. These reports shall be required on an annual basis for those companies that have elected to remit their assessment annually and on a quarterly basis for those companies that have elected to remit their assessment quarterly. Such reports and assessments shall be remitted in accordance with the Public Utility Regulatory Act, Article XII, §79.

(i) Information omitted from reports. The commission may waive the reporting of any information required in those sections if it determines that it is either impractical or unduly burdensome on any utility to furnish the requested information. If any such information is omitted by permission of the commission, a written explanation of the omission must be stated in the report.

(j) Special and additional reports. Each utility, including municipally owned utilities, shall report on forms prescribed by the commission special and additional information as requested which relates to the operation of the business of the utility.

(k) Service quality reports. Service quality reports shall be submitted quarterly on a form prescribed by the commission.

(l) Research and development reports. Research and development reports shall be submitted annually on a form prescribed by the commission

(m) Report amendments. Corrections of reports resulting from new information or errors shall be filed on a form prescribed by the commission

(n) Semi-annual and annual earnings report. Each utility shall report its semi-annual and annual earnings on forms prescribed by the commission as set out in §23.12 of this title (relating to Financial Records and Reports).

(o) Penalty for refusal to file on time. In addition to penalties prescribed by law, the commission may disallow for rate making purposes the costs related to the activities for which information was requested and not timely filed

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 March 23, 1994

TRD-9438058

John M Renfrow
Secretary
Public Utility Commission
of Texas

Effective date. April 13, 1994

Proposal publication date September 24, 1993

For further information, please call (512) 458-0100

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**Part IX. Texas Lottery
Commission**

**Chapter 401. Administration of
State Lottery Act**

**Subchapter B. Licensing of
Sales Agents**

- 16 TAC §§401.158, 401.159,
401.205, 401.206

The Texas Lottery Commission adopts amendments to §§401.158, 401.159, 401.205 and 401.206, with changes to the proposed text as published in the January 7, 1994, issue of the *Texas Register* (19 TexReg 143).

The amendments establish the particular notice procedures to be used in licensing procedures and identify the person within the agency who may initiate an administrative licensing proceeding and, also, who has the authority or delegated authority to make decisions on these matters

The amendments identify the proper notice procedures to be used in the event of a proposed denial of an application for a license or proposed suspension or revocation of a license. The amendments clarify that the

lottery director is the person who may summarily suspend a sales agent's license. Additionally, the amendments provide that under certain circumstances, the executive director may notify the sales agent of a proposed suspension or revocation of the sales agent's license. Further, the amendments provide that if the applicant or licensee requests a court reporter, the applicant or licensee shall deposit with the commission sufficient funds to cover the cost of the court reporter. Finally, the amendments clarify that motions for extension of the due date for submitting a request for hearing on the proposed denial of an application or proposed suspension or revocation of a license must be directed to the executive director

The Texas Lottery Commission did not receive any comments on the proposed amendments. However, the agency believes that minor changes to the language in the amendments is necessary for clarification. The language references the word "director" and due to a recent reorganization, the agency believes it is important to clarify that the word "director" means "Lottery Operations Division Director"

The amendments are adopted under the Texas Government Code, Title 4, Subtitle E, Chapter 466, §466.015, which provides authorization for the commission to adopt all rules necessary to administer the State Lottery Act.

§401.158 Suspension or Revocation of License

(a) The commission may suspend or revoke any license issued under this subchapter if the commission finds that any factor listed as grounds for denial of a license under §401.153(b) of this title (relating to Qualifications for License) or any factor listed in subsection (b) of this section apply to the licensee. The commission shall advise the sales agent in writing of the decision to suspend or revoke any of these reasons therefore. In addition, in the event of a license suspension under this section, the director of the Lottery Operations Division shall also advise the licensee of the terms under which the suspended license may be reissued.

(b) Without limiting the commission's ability to consider factors listed in §401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license based on finding any of the following:

- (1)-(16) (No change)

§401.159. Summary Suspension of License

(a) In addition to the authority to suspend a sales agent's license pursuant to §401.158 of this title (relating to Suspension or Revocation of License), the director of the Lottery Operations Division may suspend a sales agent's license subject to the limited notice and hearing procedures established under other rules to be adopted by the commission under this title for that pur-

pose, if the director of the Lottery Operations Division finds that the action is necessary to maintain the integrity, security, honesty, or fairness of the operation or administration of the lottery or to prevent financial loss to the state, and:

(1) the sales agent fails to deposit money received from ticket sales under the State Lottery Act, §5.01 (Texas Government Code, §466.351);

(2) an event occurs that would render the sales agent ineligible for a license under Rule 401.153(b) of this title (relating to Qualifications for License),

(3) the sales agent refuses to permit the director of the Lottery Operations Division, the executive director, or the state auditor to examine the agent's books, records, papers, or other objects or refuses to answer any question authorized under the State Lottery Act, §2.02(h) (Texas Government Code, §466.014(h)), or

(4) the director of the Lottery Operations Division learns the sales agent has failed to disclose information that would, if disclosed, render the sales agent ineligible for a license under §401.153(b) of this title

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

§401.205 Initiation of Hearing

(a) Denial of application or suspension or revocation of license

(1) If the director of the Lottery Operations Division determines that an applicant is not eligible for a license for reasons other than those set out in the State Lottery Act, §3.02 (Texas Government Code §466.155), the director will notify the applicant, in writing, by personal service or by registered or certified mail, return receipt requested, that the application has been denied and will state the reasons for the denial. The applicant may, within 15 days of the date of the notice of denial, make a written request for a hearing to contest the

denial. If the applicant does not request a hearing within 15 days of the date of the notice of denial, the hearing is waived and a final decision will be issued.

(2) If the director of the Lottery Operations Division proposes to deny an application for a license for reasons set out in the State Lottery Act, §3.02 (Texas Government Code, §466.155), the applicant is entitled to written notice of the time and place of the hearing. A notice may be served on the applicant personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the commission's records. A notice must be served or mailed not later than the 20th day before the hearing. After the hearing, the director of the Lottery Operations Division shall deny an application for a license if the director finds that any of the grounds for denial set out in the State Lottery Act, §3.02, exist.

(3) The executive director will notify the licensee in writing, by personal service or by registered or certified mail, return receipt requested, that the license will be suspended or revoked for reasons other than those reasons set out in the State Lottery Act, §3.02 (Texas Government Code, §466.155), and will state such reasons for the action. The licensee may, within 15 days of the date of the notice of suspension or revocation, make a written request for a hearing to contest the action. If the licensee does not request a hearing within 15 days of the date of the notice of suspension or revocation, the hearing is waived and a final decision will be issued by the executive director.

(4) If the commission proposes to suspend or revoke a license for reasons set out in the State Lottery Act, (Texas Government Code, §466.155), the licensee is entitled to written notice of the time and place of the hearing. A notice may be served on the licensee personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the commission's records. A notice must be served or mailed not later than the 20th day before the hearing. After the hearing, the commission shall suspend or revoke a license if the commission finds that any of the grounds for suspension or revocation set out in the State Lottery Act, (Texas Government Code, §466.155) exist.

(b) Court reporters and transcripts

(I) If the applicant or licensee requests a court reporter, he shall deposit with the commission an amount sufficient to cover the cost of the court reporter.

(2) (No change.)

§401.206. Extensions of Time

(a) Motions for extension of the due date for submitting a request for hearing on the proposed denial of an application or on the proposed suspension or revocation of a license may be granted in case of emergency or extraordinary circumstances. Motions for extension will not be routinely granted and each request will be closely scrutinized to insure that the applicant or licensee has made every effort to comply with the original deadline. Motions filed after the expiration of the original due date will not be considered. Motions must be directed to the executive director or his/her designee, who will grant or deny the motion.

(b) (No change)

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

Issued in Austin, Texas, on March 25, 1994

TRD-9438190

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission

Effective date: April 18, 1994

Proposal publication date: January 7, 1994

For further information, please call: (512) 323-3791

Subchapter F. ADA Requirements

• 16 TAC §§401.401-401.408

The Texas Lottery Commission adopts new §§401.401-401.408, concerning ADA requirements, with changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 318).

The sections allow lottery players with disabilities to have access to all locations where lottery tickets are sold.

The agency will conduct on-site inspections of each Lottery applicant for compliance with this subchapter prior to granting a permanent license. An agency employee who has completed ADA accessibility training will inspect the retailer's facility. If the agency determines that a lottery licensee or applicant is not in compliance with this subchapter, the licensee or applicant will be so notified and will be given a 60-day period to correct all deficiencies, and failure to do so will lead to the denial of an application for a license or the suspension or revocation of the license. If within this 60-day period, the licensee or applicant has not eliminated the identified deficiencies but has submitted a written request for an extension of time, the agency may grant a 30-day extension for good cause.

During a 30-day public comment period beginning January 18, 1994, the agency received written comments from three commenters. The three commenters Advocacy, Incorporated, Texas Department of Licensing and Regulations, and Diamond

Shamrock Refining and Marketing Company, ("Diamond Shamrock") made comments without stating either support or opposition to the proposed new sections. However, as a result of previous meetings and discussions regarding the proposed new sections, the agency believes Advocacy, Incorporated supports the proposed new sections.

Advocacy, Incorporated's comments urged the inclusion of references to exclusionary policies throughout the provisions of the new section, as applicable. Generally, this commenter wants the Lottery to require a Lottery licensee or applicant to modify exclusionary policies, to pursue complaints of a retailer's exclusionary policies, and to take disciplinary action against a Lottery licensee or applicant who does not modify its exclusionary policies. The agency does not believe this suggested requirement is necessary to achieve compliance by Lottery retailers with the State Lottery Act's provisions that require a Lottery applicant to certify its compliance with the ADA. Furthermore, the intent of an existing Lottery rule §401.158(b)(8) is to ensure all Lottery players, including players with disabilities, are provided courteous assistance by Lottery retailers. Another comment by Advocacy, Incorporated urged the inclusion of a statement like "the ADA applies to the Texas Lottery" in the preamble of new sections. The agency believes the State Lottery Act, (Texas Government Code Chapter 466) applies to the Texas Lottery. More specifically, §466.155(f) of the Texas Government Code, which provides that the Lottery "director may not issue a license to an applicant who fails to certify to the director the applicant's compliance with the federal Americans with Disabilities Act of 1990" applies to the Texas Lottery. However, the language suggested by Advocacy, Incorporated is too broad because it does not specify which of the Titles of the ADA apply. Further, at this time, the agency does not agree that Title 2 of the ADA applies to the Lottery retailers' locations, and, is not inclined to include a provision that is broad in its language, and, therefore, ambiguous. Another commenter, the Texas Department of Licensing and Regulation, expressed concern that while the proposed new sections "may fulfill statutory mandates with regard to language pertaining to the Americans with Disabilities Act, (they) sic do not address the fact that other state and local codes are also applicable." The agency does not agree that it should undertake to inspect its licensees and applicants' locations for compliance with other state and local codes. The agency agrees that it should comply with the provisions of the State Lottery Act, specifically §466.155(f); however, to broaden the scope of these new sections, as suggested by this commenter, may exceed the agency's statutory authority. Notwithstanding the agency's position on this issue, the Lottery agrees with the commenter that cooperation and communication with sister agencies regarding this issue is in the best interest of state government and will result in better accessibility for persons with disabilities. Therefore, the agency will undertake to inform its retailers that there may be state and local codes

gency with the provisions of the ADA and ADA regulations. Where such provisions of the new sections are inconsistent, the agency will revise the language in the new sections. Specifically, the words "aisles and" are deleted from §401.403(b) (4), and the words "providing alternate forms of communications with hearing impaired individuals" are deleted from §401.403(b)(8) and replaced with the following. "communicating with a Lottery player with a disability to the best of the ability of the Lottery retailer or the retailer's employee." Also, the commenter makes the same comment with regard to the phrase "communication practice or" contained in §401.407(b). The agency agrees with the comment and, as a result, deletes this phrase from §401.407(b).

Additionally, this commenter suggests that the word "facility" as used in §401.406 should be defined using the same definition as contained in the ADA regulations. However, the word "facility" as used in §401.406 is "lottery licensed facility" as previously referred to in the same sentence and as defined in §401.401, and, is limited to those portions of a public accommodation operated by a Lottery applicant or licensee to the extent used in the conduct of lottery activities. Therefore, the agency does not agree with this comment. Lastly, the commenter urges deletion of §401.408(b). This provision allows a complainant who disagrees with the agency's notice of apparent compliance issued to a Lottery retailer or is not satisfied with the suggested modifications to the Lottery retailer's facilities to request an administrative hearing. The commenter believes that the complainant should not have a right to overrule the Lottery Commission's determination and further, that the complainant is not required to follow any criteria or satisfy any burden of proof to show that the suggested modification is not in compliance. Further, the commenter believes the Lottery Commission should retain the authority to determine compliance. The agency agrees with this comment and will delete §401.408(b).

The new sections are adopted under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with authority to promulgate rules and regulations.

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

ADA—The Americans with Disabilities Act of 1990 (42 United States Code, §§12101-12213 and 47 United States Code, §§225 and §611)

Applicant—A person who has filed an application for a sales agent's license with the Lottery.

Disability—With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual, having had a record of such an impairment, or being regarded as having such an impairment.

Lottery licensed facility—A place of public accommodation operated by an applicant/lottery retailer, including all or any portion of buildings, structures, sites, complexes, equipment, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located, to the extent used in the conduct of lottery activities.

Lottery retailer—Any person or entity licensed under the State Lottery Act.

Readily achievable—Easily accomplished and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(A) the nature and cost of the action needed under this part.

(B) the overall financial resources of the site or sites involved in the action, the number of persons employed at the site, the effect on expenses and resources, legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(C) the geographic separateness and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(D) if applicable, the overall financial resources of any parent corporation or entity with respect to the number of its employees, the number, type, and location of its facilities; and

(E) if applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

Undue burden—Significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include:

(A) the nature and cost of the action,

(B) the overall financial resources of the site or sites involved in the action, the effect on expenses and resources, legitimate safety requirements that are necessary for safe operation, including crime prevention measures, or the impact otherwise of the action upon the operation of the site, and

(C) if applicable, the overall financial resources of any parent corpora-

tion or entity; the overall size of the parent corporation or entity with respect to the number of its employees, and the number, type, and location of facilities.

§401.402. General Requirements.

(a) **Prohibition of discrimination.** No lottery retailer shall discriminate against any individual on the basis of disability in the full and equal enjoyment of lottery related goods, services, facilities, privileges, advantages, or accommodations of any lottery licensed facility.

(b) **Integrated accessibility.** A lottery licensed facility shall afford lottery related goods, services, facilities, privileges, advantages, and accommodations to any individual with a disability in the most integrated setting appropriate to the needs of the individual.

(c) **Lottery licensed facility located in private residences.**

(1) When an applicant/lottery retailer is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the lottery licensed facility or that portion used both for the lottery licensed facility and for residential purposes is covered by this subchapter.

(2) The portion of the residence covered under paragraph (1) of this subsection extends to those elements used to enter the lottery licensed facility, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

(d) The agency shall inspect the site of each applicant for compliance with this subchapter prior to granting a permanent license. The agency will not grant a permanent license to an applicant who is not in compliance with this subchapter. For purposes of this subsection, the provisions of §§401.401-401.408 of this title (relating to ADA Requirements) apply.

(e) The agency shall inspect the site of each lottery retailer for compliance with this subchapter.

§401.403. Readily Achievable Barrier Removal.

(a) **General.** An applicant/lottery retailer shall remove architectural and communication barriers in a lottery licensed facility, where such removal is readily achievable.

(b) **Examples.** Examples of readily achievable steps to remove barriers include, but are not limited to, the following actions:

- (1) installing ramps;
- (2) making curb cuts in sidewalks and entrances;
- (3) creating designated accessible parking spaces;
- (4) widening doors,
- (5) rearranging tables, chairs, vending machines, display racks, and other furniture;
- (6) installing offset hinges to widen doorways;
- (7) installing accessible door hardware; and/or
- (8) modification of certain exclusionary policies such as:

(A) allowing service animals to enter the facility; and/or

(B) communicating with a Lottery player with a disability to the best of the ability of the Lottery retailer or the retailer's employee.

§401.404. Priority of ADA Compliance by Lottery Licensees. An applicant/lottery retailer will take readily achievable measures to comply with the barrier removal requirements of this subchapter in accordance with the following order of priorities.

(1) First, an applicant/lottery retailer will take measures to provide access to a lottery licensed facility from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, an applicant/lottery retailer will take measures to provide access to those areas of a lottery licensed facility where lottery goods and services are made available to the public.

(3) Third, an applicant/lottery retailer will take any other reasonable measures necessary to provide access to lottery goods and services

§401.405 Alternatives to Barrier Removal. Where an applicant/lottery retailer can demonstrate that barrier removal in its lottery licensed facility is not readily achievable in conjunction with federal guidelines, the applicant/lottery retailer shall make lottery related goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable. Examples of alternatives to barrier removal include, but are not limited to, the following actions:

- (1) providing curb service; and/or
- (2) relocating activities to accessible licensed locations.

§401.406. Future Alterations to a Lottery Licensed Facility. Any alteration to a lottery licensed facility shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities.

§401.407. Complaints Relating to Non-Accessibility.

(a) The agency will designate a specific employee or group of employees to receive and process all accessibility complaints concerning lottery retailers. Complaints must be in writing and, where possible, submitted on an agency ADA complaint form. As soon as practical, but not later than 30 days after the filing of a complaint each complaint filed with the agency will be investigated by agency personnel who have completed ADA accessibility training developed and administered by the agency, which training shall be based upon the text of the ADA, related rules and regulations promulgated by the federal government, and any technical assistance materials issued by the United States Department of Justice. As soon as practicable but not later than 15 days after the completion of the investigation, a letter of non-compliance will be issued to the lottery retailer/applicant and the complainant that filed the original Texas Lottery Commission Chapter 401. Administration of State Lottery Act complaint, if applicable, the agency determines that the applicant/lottery retailer is not in compliance with this subchapter. Regardless of whether a complaint has been filed, the agency will issue a letter of non-compliance within 15 days after the completion of an onsite inspection of the applicant/lottery retailer's physical location if the agency determines that the applicant/lottery retailer is not in compliance with this subchapter.

(b) If the letter of non-compliance shows deficiencies in the accessibility of the applicant/lottery retailer's physical location, the applicant/lottery retailer shall submit a plan to the agency within 30 days of the issuance of the letter of non-compliance. The plan shall describe in detail how the applicant/lottery retailer will achieve compliance with this subchapter within 60 days of the issuance of the letter of non-compliance. The agency may grant the applicant/lottery retailer additional time to submit the plan for good cause. Within ten days of the submission of the plan to the agency, the agency shall notify the applicant/lottery retailer of the agency's accep-

tance or rejection of the plan, and the reasons for such acceptance or rejection. Readily achievable modifications must be made within 60 days of the date the letter of non-compliance is mailed to the lottery retailer. If within the 60 days, the applicant/lottery retailer has not eliminated the deficiencies cited in the letter of non-compliance, but has submitted a written request for an extension of time, the agency may grant a 30-day extension for good cause. Notice of this extension will be sent to the complainant, if applicable, and the applicant/lottery retailer and any such extension will commence immediately upon expiration of the first 60-day period.

(c) If the corrective action taken by the applicant/lottery retailer corrects the deficiencies specified in the letter of non-compliance as originally issued or as later revised or reissued or if the on-site inspection of the applicant/lottery retailer's physical location reveals compliance with this subchapter, the agency will issue a notice of apparent compliance. Until this notice is issued, a complaint will be considered pending.

(d) Failure to make readily achievable modifications within the required time period will result in the initiation of proceedings to deny an application for a license or to suspend or revoke the lottery license by the agency pursuant to the procedural requirements of state law.

(e) The standards and priorities contained in §401.404 of this title (relating to Priority of ADA Compliance by Lottery Licensees) will be utilized by the agency in determining the applicant/lottery retailer's compliance with this subchapter. A license will be suspended if the agency determines that the lottery retailer has made significant progress toward correcting deficiencies listed in the compliance report under the order of priorities contained in §401.404 of this title but has not completed readily achievable barrier removal. If the agency determines that the retailer has not made a good faith effort to correct the deficiencies listed in the compliance report, this inaction will result in the revocation of the lottery license for that lottery licensed facility.

(f) While proceedings to suspend or revoke a lottery retailer's license are pending pursuant to this subchapter, and until a notice of apparent compliance is issued pursuant to subsection (c) of this section, the agency shall withhold incentive payments from the lottery retailer. In addition, if a license is revoked pursuant to this subchapter, and incentive payments and other privileges have been withheld from the affected retailer pending review of the complaint, the lottery retailer forfeits any claim to such incentive payments or other privileges.

§401.408. Requests for Hearings.

(a) If the agency proposes the denial of an application for a license or the suspension or revocation of a lottery retailer's license pursuant to this subchapter, the agency shall give the applicant/lottery retailer written notice of the time and place of the administrative hearing not later than the 20th day before the date of the hearing. Issues in controversy in the hearing will include, but are not limited to: the letter of non-compliance prepared by the agency, whether the requested modifications are readily achievable, and whether reasonable substituted modifications will fulfill the requirements of this Chapter.

(b) The administrative hearing authorized by this section shall be a contested case as provided by the Administrative Procedure and Texas Register Act and the Commission's Rules of Practice and Procedure, Texas Administrative Code, Title 16, Part IX, Chapter 401. All relevant rules of evidence and time limits established in those rules shall apply to hearings conducted under this subchapter. The scope of judicial review of a decision in a contested case under this subchapter shall be under the substantial evidence rule.

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 March 25, 1994.

TRD-9438192 Kimberly L Kiplin
General Counsel
Texas Lottery Commission

Effective date. April 18, 1994

Proposal publication date. January 18, 1994

For further information, please call: (512) 323-3791

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**TITLE 22. EXAMINING
BOARDS**

**Part XVII. Texas State
Board of Plumbing
Examiners**

Chapter 361. Administration

General Provisions

• 22 TAC §361.1

The Texas State Board of Plumbing Examiners adopts an amendment to §361.1, concerning definitions, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 703).

The rule is justified because it will enhance the public health, safety, and welfare by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended

cross-connection of breathable and lethal gasses.

The rule delineates further the permissible tasks a registered apprentice may perform with regard to medical gas systems.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

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 March 14, 1994.

TRD-9438171 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: April 15, 1994

Proposal publication date: February 1, 1994

For further information, please call (512) 458-2145

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**Chapter 363. Examinations
Qualifications**

• 22 TAC §363.1

The Texas State Board of Plumbing Examiners adopts an amendment to §363.1, concerning qualifications, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 703).

The rule is justified because it will enhance the public health, safety, and welfare by ensuring each person has access to clean water because of plumbing installed and maintained by well-trained and competent plumbers.

The rule requires that an applicant for the journeyman plumber's examination be a registered apprentice.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

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 March 14, 1994

TRD-9438170 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

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Proposal publication date. February 1, 1994

For further information, please call: (512) 458-2145

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• 22 TAC §363.11

The Texas State Board of Plumbing Examiners adopts an amendment to §363.11, concerning endorsement training programs, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 703).

The rule is justified because it will enhance the public health, safety, and welfare by ensuring medical gas training programs are offered equitably across the state such that installers of medical gas piping systems across the state install medical gas piping systems properly to prevent an unintended cross-connection of breathable and lethal gases

The rule authorizes the Board to review no less than once each year medical gas piping installation training programs to ensure the training programs are being provided equitably across the State of Texas

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

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 March 14, 1994.

TRD-9438169 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: April 15, 1994

Proposal publication date: February 1, 1994

For further information, please call (512) 458-2145

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Chapter 365. Licensing

**License Categories; Description;
Scope of Work Permitted**

• 22 TAC §365.3

The Texas State Board of Plumbing Examiners adopts an amendment to §365.3, concerning license qualifications, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 704)

The rule is justified because it will enhance the public health, safety, and welfare by ensuring each person has equitable access to clean water and appropriate plumbing facilities because of plumbing installed and maintained by well-trained and competent plumbers

The rule requires that an applicant for the journeyman plumber's examination be a registered apprentice, meet certain educational requirements, and meet certain training requirements as verified by either current and/or former employers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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 March 14, 1994.

TRD-9438168 Gilbert Kissing
Administrator
Texas State Board of
Plumbing Examiners

Effective date: April 15, 1994

Proposal publication date: February 1, 1994

For further information, please call: (512) 458-2145

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• 22 TAC §365.5

The Texas State Board of Plumbing Examiners adopts an amendment to §365.5, concerning renewals, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 704).

The rule is justified because it will enhance the public health, safety, and welfare by ensuring each person has access to clean water because of plumbing installed and maintained by well-trained and competent plumbers who will have undergone the mandatory continuing education training before reactivating their journeyman or master licenses

The rule requires any journeyman or master plumber no longer required to have a current license because of retirement or because of employment in an occupation which does not require the journeyman or master plumber license need not comply with the mandatory continuing education requirement and shall have his/her license marked inactive. However, should the individual return to the plumbing trade, he/she must satisfy the mandatory continuing education requirement before the journeyman or master license will be renewed

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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 March 14, 1994.

TRD-9438167 Gilbert Kissing
Administrator
Texas State Board of
Plumbing Examiners

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Proposal publication date: February 1, 1994

For further information, please call: (512) 458-2145

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• 22 TAC §365.11

The Texas State Board of Plumbing Examiners adopts an amendment to §365.11, concerning exemptions, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 705).

The rule is justified because it will enhance the public health, safety, and welfare by ensuring each person has access to clean water because of plumbing installed and maintained by well-trained and competent plumbers.

The amendment to §365.11 is a "cleanup" to make §365.11 consistent with §363.1 concerning the number of years (two) an individual must have held the journeyman's license before applying for the master plumber's examination and license

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

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 March 14, 1994

TRD-9438166 Gilbert Kissing
Administrator
Texas State Board of
Plumbing Examiners

Effective date: April 15, 1994

Proposal publication date: February 1, 1994

For further information, please call (512) 458-2145

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Chapter 367. Enforcement

General Provisions

• 22 TAC §367.4

The Texas State Board of Plumbing Examiners adopts an amendment to §367.4, concerning display of license, without changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 705)

The rule is justified because it will enhance public assurance that contracted plumbing is installed and maintained by well-trained, competent, and licensed plumbers

The rule requires that each master plumber engaged in plumbing contracting shall display his/her master license number and company name on both sides of all service vehicles used in conjunction with plumbing contracting by the master plumber. The display shall meet certain criteria set forth in the adopted rule.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law

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 March 14, 1994.

TRD-9438165 Gilbert Kissing
Administrator
Texas State Board of
Plumbing Examiners

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Proposal publication date: February 1, 1994

For further information, please call: (512) 458-2145

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §98.104, §98.105

The Texas Department of Health (department) adopts amendments to existing §98.104 and §98.105, with changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 855) The sections implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85.063, Subchapter C, concerning the Texas HIV Medication Program The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions Generally, the sections cover eligibility for participation and medication coverage The amendments expand coverage of the program to include Itraconazole for eligible participants

No comments were received on the proposed amendments The only change to the final rules is editorial!

The amendments are adopted under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program, and Health and Safety Code, 12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health

This amendment affects Chapter 85 of the Health and Safety Code

§98.104 Medication coverage The following medications will be provided to each eligible participant

(1)-(14) (No change)

(15) Itraconazole must be provided in increments of 30 capsules not to exceed 90 capsules per month

§98.105 Drug specific eligibility criteria A person is eligible for

(1)-(11) (No change)

(12) Atovaquone for the oral treatment of acute mild to moderate *Pneumocystis carinii* Pneumonia (PCP) in patients who are intolerant to sulfamethoxazole-trimethoprim (SMZ-TMP),

(13) Rifabutin for the prevention of disseminated mycobacterium avium complex disease in patients with a CD4 cell count of 100 or less. The amount to be expended on this drug is up to \$100,000, then pending available funding, and

(14) Itraconazole for the treatment of Blastomycosis and Histoplasmosis

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 March 28, 1994

TRD-9438205

Susan K Støeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Effective date April 18, 1994

Proposal publication date February 8, 1994

For further information, please call (512) 458-7500

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter A. Advisory Committees

• 25 TAC §401.23, §401.24

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts new §401.23 and §401.24 of Chapter 401, Subchapter A (relating to Advisory Committees) with changes to the proposed text as published in the January 28, 1994, issue of the *Texas Register* (19 TexReg 571).

The new sections recognize two newly created advisory committees concerning provider/authority roles and alternate uses for the Travis State School. The new sections outline the purpose, tasks, and duration of the committees, which are subject to all other requirements of Chapter 401, Subchapter A, concerning advisory committees

Both sections are revised to extend the lifespan of the respective committees to the end of the biennium (August 31, 1995) although the advisory committees may cease meeting prior to that date

No comments were received regarding adoption of the new sections

The new sections are adopted under the Texas Health and Safety Code, §532.015 (Texas Civil Statutes, Article 5547-202, §2.11), which provides the Texas Department of Mental Health and Mental Retardation with broad rulemaking powers

§401.23 Advisory Committee on Provider/Authority Roles

(a) The purpose of the Training Development Team is to explore the role of a state mental health and mental retardation authority and to recommend needed changes to ensure that TXMHMR can implement this role in a way which supports the department's vision for the future.

(b) Tasks of the Advisory Committee on Provider/Authority Roles include

(1) studying the organization of the TXMHMR service delivery system to identify the key organizational principles which should underlie the role of state mental health or mental retardation organizations and identify issues inherent in implementing this role while simultaneously serving as a provider of services,

(2) exploring organizational models (other state mh/mr systems, other service systems) which address these issues,

(3) recommending to the Board strategies to delineate and separate these roles, and

(4) recommending necessary actions to implement these strategies, including legislation, administrative changes, communication mechanisms, organization of functions, and others

(c) This advisory committee shall be abolished August 31, 1995, unless reauthorized

§401.24 Advisory Committee on Alternate Uses for the Travis State School

(a) The purpose of the Advisory Committee on Alternate Uses for the Travis State School is to develop for consideration by the TXMHMR Board recommendations for alternate use of the existing facilities and property at the Travis State School.

(b) Tasks of the Advisory Committee on Alternate Uses for the Travis State School include:

(1) determining if the proposed use(s) protects and serves the interests of the taxpayers of Texas;

(2) assessing the ability of the proposed use(s) to address the community's expressed needs and desires;

(3) considering the ability of the proposed use(s) to mitigate the economic impact of the closure upon the local community,

(4) assessing the ability of the proposed use(s) to provide the job opportunities for Travis State School employees affected by the closure;

(5) assessing the ability of the proposed use(s) to provide meaningful compensation to the department for the property and improvements at the Travis State School, and to enhance the value of any neighboring state-owned property; and

(6) addressing other relevant concerns

(c) This advisory committee shall be abolished August 31, 1995, unless reauthorized.

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 March 25, 1994.

TRD-9438123

Ann K Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date April 15, 1994

Proposal publication date January 28, 1994

For further information, please call (512) 206-4516

Subchapter B. Interagency Agreements

• 25 TAC §401.53

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts the repeal of §401.53, concerning the plan for new bed development in the Texas ICF/MR program, without changes to the proposed text as published in the January 7, 1994, issue of the *Texas Register* (19 TexReg 144).

The repeal of the plan for new bed development is consistent with the mandates of Senate Bill 160, which requires TXMHMR to develop a plan for long-term care which addresses the issues formerly addressed in the

plan for new bed development. The plan for long-term care became effective September 1, 1993.

No comments were received regarding adoption of the repeal.

The repeal of the sections is adopted under the Texas Health and Safety Code, §532.015 (Texas Civil Statutes, Article 5547-202, §2 11), which provides the Texas Department of Mental Health and Mental Retardation with broad rulemaking powers.

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 March 25, 1994

TRD-9438120 Ann K Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date April 15, 1994

Proposal publication date January 7, 1994

For further information, please call (512) 206-4516

Chapter 407. Internal Facilities Management

Construction Bidding Procedures

• 25 TAC §§407.51-407.57

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts the repeal of §§407.51-407.57, concerning construction bidding procedures without changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 883).

The sections are repealed to allow for the contemporaneous adoption of new sections which reflect current department procedures and terminology.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

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 March 25, 1994

TRD-9438122 Ann K Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date April 15, 1994

Proposal publication date February 8, 1994

For further information, please call: (512) 206-4670

• 25 TAC §§407.51-407.58

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts new §§407.51-407.58, concerning construction bidding procedures. Section 407.56 is adopted with changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 884). Sections 407.51-407.55 and §§407.57-407.58 are adopted without changes and will not be republished. Section 407.56 is adopted with changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 884). The new sections are adopted contemporaneously with the repeal of existing sections concerning the same.

The new sections reflect current department procedures and terminology. Language was added to §407.56 which requires an affidavit of eligibility to submit bids as required by the Texas Family Code, §14.52, to be submitted with all bid proposals.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§407.56 Submitting Bids

(a) A contractor's bid proposal shall be written on the form which is included with the bidding documents provided by the department or the consulting architect or engineer. The bid proposal shall be submitted in a sealed envelope to the announced place before the bids are scheduled to be opened.

(b) All bid proposals must include an affidavit of eligibility to submit bids as required by the Texas Family Code, §14.52. Failure to submit the required affidavit with the bid proposal will result in the rejection of the bid as non-conforming.

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 March 25, 1994

TRD-9438121 Ann K Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date April 15, 1994

Proposal publication date February 8, 1994

For further information, please call (512) 206-4670

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 290. Water Hygiene

The Texas Natural Resource Conservation Commission (Commission) adopts the repeal of §§290.1-290.19 and adopts new §§290.101-290.119, concerning drinking water standards and applicable reporting requirements for public water systems (PWS). The repeals to §§290.1-290.19 and new §§290.101, 290.105, 290.110, 290.111, 290.114, 290.115, 290.116, 290.118, and 290.119 are adopted without changes to the proposed text as published in the January 25, 1994, issue of the *Texas Register* (19 TexReg 468). Sections 290.102, 290.103, 290.104, 290.106, 290.108, 290.109, 290.112, 290.113, and 290.117 are adopted with changes to the proposed text.

The Commission received comment letters from the City of Fort Worth and the City of Dallas. The comment is addressed in this order concerning several sections of the proposal.

The commenter noted that the Federal maximum contaminant level (MCL) for Dibromochloropropane is 0.0002 mg/l rather than 0.002 mg/l as published. The Commission agrees and has modified §290.103 accordingly.

The commenter identified a spelling error in §290.104. The Commission has corrected the error.

The commenter pointed out a misreference in §290.106 to the term "reports" that should be "samples." The section has been modified to address the comment.

The commenter noted that §290.109 identifies certain point and non-point sources of contamination considered when monitoring waivers are granted. Since point source includes spills and leaks of chemicals at or near a water treatment facility, the commenter recommended that "drinking water source" be added to the list. The Commission agrees and has modified the section in several places in response to this comment.

The commenter submits that §290.111 does not fit within these rules and suggests the section be removed. The commission disagrees. The section sets forth a requirement integral to the regulation of new and upgraded water systems.

The commenter questioned the minimum residual disinfection levels found in §290.117 and §290.119. The commenter recommends the requirements mirror those prescribed by federal regulations. The Commission disagrees. The section sets forth a requirement that assures deactivation or killing of microorganisms within the distribution system and is consistent with good public health practices.

The second commenter suggested §290.103 be modified to include lead and copper.

Effective date: April 15, 1994

Proposal publication date: January 25, 1994

For further information, please call: (512)
463-8069

◆ ◆ ◆
• 30 TAC §§290.101-290.119

The new sections are adopted under the Texas Water Code, §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state and the Texas Health and Safety Code, Chapter 341, Subchapter C, which governs sanitary standards of drinking water, protection of public water supplies, and bodies of water

§290.102. Definitions The following definitions shall apply in the interpretation and enforcement of these standards.

Approved laboratory—A laboratory certified and approved by the Texas Department of Health to analyze water samples to determine their compliance with maximum allowable constituent levels.

Commission—The Texas Natural Resource Conservation Commission.

Community water system—A public water system which has a potential to serve at least 15 service connections on a year-round basis or serves at least 25 individuals on a year-round basis. Service connections shall be counted as one for each single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system

Compliance cycle—The nine-year (calendar year) cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar-year cycle begins January 1, 1993, and ends December 31, 2001, the second begins January 1, 2002, and ends December 31, 2010, the third begins January 1, 2011, and ends December 31, 2019

Compliance period—A three-year (calendar year) period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period is called the initial compliance period and runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998, the third from January 1, 1999 to December 31, 2001

Control tests—Chemical, physical or microbiological tests made by the operator of the water system to control the quality or quantity of water served to the public and recorded regularly in the operating records.

Drinking water—All water distributed by any agency or individual, public or pri-

These contaminants will be addressed in an upcoming comprehensive rulemaking package devoted to these items.

The commenter also suggested amending §290.103 to allow Commission consideration of supporting national data when reviewing applications for variances and/or exemptions. The Commission believes the current rule allows for consideration of the subject data and no modification to the section is necessary.

The commenter suggested §290.104 be modified to include a fluoride concentration in the list of daily chemical tests for systems that practice fluoridation. This activity is subject to the jurisdiction of another regulatory body. While report forms may be modified to include fluoride information, regulatory requirements must come from the agency with jurisdiction.

The commenter noted a formatting error in §290.106 which has been corrected

The commenter suggested §290.106 be modified to have the Commission authorize laboratories performing bacteriological analyses to invalidate samples in specified circumstances. The Commission does not believe this change is appropriate or necessary. Laboratories have the authority to invalidate samples in certain circumstances

The commenter questioned whether §290.107 was being proposed. Section 290.107 is being reserved for future use

The commenter suggested including lead and copper monitoring and reporting requirements in §290.108. Again, a comprehensive rulemaking package concerning lead and copper and related requirements is under development.

The commenter suggests that several subsections in §290.108 are out of order. The Commission disagrees and no modification is necessary.

The commenter submits that commission approval should not be required as set forth in §290.108 in cases where public water systems voluntarily conduct increased monitoring activities. The Commission is not opposed to increased monitoring by the system to be used in internal quality control. However, the rules are specific as to what sampling and analyses can be accepted as official compliance samples

The commenter request clarification of §290.110(c)(A) and (B) concerning quarterly sampling. The section has been modified to address the comment.

The commenter seeks clarification or definition of "source of supply" in §290.113. The commission has replaced the subject phrase with "drinking water supply" to provide clarification

The commenter questioned the range of levels for aluminum in §290.113. This regulation is consistent with federal requirements.

The commenter questions the fairness of §290.114 which requires public water systems to participate in joint monitoring programs with other interconnected water systems. Such monitoring would require a

commitment by multiple water systems to act as a single system for such purposes. Utility differences almost always preclude this option. Therefore §290.114 has not been modified.

The commenter suggests §290.117 concerning disinfection be modified to allow a substitute for tracer study data. The commission believes the commenters suggestion limits the use of hydrolic calculations where the existing rules allows greater flexibility. Therefore §290.117 has not been modified.

Section 290.102 is modified to provide clarity to the definition of human consumption

Section 290.103 is further modified to correct the acronym for polychlorinated biphenyls and to correct the spelling of phthalate. The reference to variance provisions in paragraph (4) has been corrected in §290.103(B)(B)(iii)(l) and §290.103(5)(D) has been modified to clarify specific notice content

Section 290.108 is modified to correct a grammatical error and specify the exact period of a compliance cycle as nine years. The conditions which enable a certain system to seek reductions in sampling frequency was inadvertently published in reverse. The section has been modified accordingly.

Section 290.109 is modified to reorganize paragraph (6), to correct section references, to make grammatical corrections, to correct typographical errors and to correct references to the regulatory authority.

Section 290.112 is modified to make a grammatical correction

Section 290.113 is modified to retitle the section making it more consistent with the requirements within the section and to reformat the table

Section 290.117 is amended in order to be consistent with subsection (a) and to provide a more realistic requirement for reporting of violations

Drinking Water Standards Governing Drinking Water Quality and Reporting Re- quirements for Public Water Supply Systems

• 30 TAC §§290.1-290.19

The repeals are adopted under Texas Water Code, §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state, and the Texas Health and Safety Code, Chapter 341, Subchapter C, which governs sanitary standards of drinking water, protection of public water supplies, and bodies of water

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 March 24, 1994

TRD-9438134

Mary Ruth Holder
Director, Legal Division

vate, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "Drinking Water" shall also include all water supplied for human consumption or used by any institution catering to the public.

Entry Point—An entry point to the distribution system is a point which is representative of the water from each well after treatment or for surface water systems or a combination of surface and ground water systems; a point which is representative of each source or treatment point after any application of treatment.

Executive Director—The Executive Director of the Commission.

Human consumption—Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to drinking, cooking, brushing teeth, bathing, washing hands, washing dishes and preparing foods.

MCL—Is an acronym for Maximum Contaminant Level.

Monthly Reports of Water Works Operations—The daily record of data relating to the operation of the system facilities compiled in a monthly report.

Non-community water system—Any public water system which is not a community water system.

Non-transient non-community water system or "NTNCWS"—A public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

Public water system—A system for the provision to the public of piped water for human consumption. Such a system must have a potential to serve at least 15 service connections or 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more water systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he resides in, uses as his place of employment, or works

in, a place to which drinking water is supplied from the system. A public water system is either a "community water system" or a "noncommunity water system" as defined in this section.

Repeat Compliance Period—Any subsequent compliance period after the initial compliance period.

Sanitary survey—An on-site review of the water source, facilities, equipment, operation and maintenance of a public water system, for the purpose of evaluating the adequacy for producing and distributing safe drinking water.

§290 103. Standards of Chemical Quality. All analyses to determine compliance shall be performed by an approved laboratory. Analyses shall be performed on treated water at all entry points to the distribution system except where otherwise stated.

(1) **Inorganic Chemicals** The maximum contaminant levels for inorganic contaminants listed below apply to community and non-transient, non-community water systems. The maximum contaminant levels for nitrate, nitrite and total nitrate and nitrite also apply to transient non-community water systems.

<u>Contaminant</u>	<u>MCL (mg/l)</u>
Antimony	0.006
Arsenic	0.05

Asbestos	7 million fibers/liter (longer than 10 μ m)
Barium	2.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2 (as free Cyanide)
Fluoride	4.0
Mercury	0.002
Nickel	0.1
Nitrate	10.0 (as Nitrogen)
Nitrite	1.0 (as Nitrogen)
Nitrate & Nitrite (Total)	10.0 (as Nitrogen)
Selenium	0.05
Thallium	0.002

(2) Fluoride. Maximum contaminant level for fluoride in community water systems is 4.0 mg/l. Also, see §290.113 of this title (relating to Recommended Secondary Constituent Levels Applicable to All Public Water Systems) which establishes a recommended secondary constituent level of 2.0 mg/l.

(3) Maximum Contaminant Levels (MCLs) for Organic Compounds

(A) Synthetic Organic Chemicals (SOCs). The following maximum contaminant levels for synthetic organic contaminants apply to community and non-transient, non-community water systems.

<u>Contaminant</u>	<u>MCL (mg/l)</u>
Alachlor	0.002
Aldicarb	0.003
Aldicarb Sulfoxide	0.004
Aldicarb Sulfone	0.002
Atrazine	0.003
Benzo[a]pyrene	0.0002
Carbofuran	0.04
Chlordane	0.002
Dalapon	0.2
Dibromochloropropane	0.0002
Di (2-ethylhexyl) adipate	0.4
Di (2-ethylhexyl) phthalate	0.006
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethylene dibromide	0.00005
Glyphosate	0.7
Heptachlor	0.0004
Heptachlor epoxide	0.0002
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05

Lindane	0.0002
Methoxychlor	0.04
Oxamyl (Vydate)	0.2
Pentachlorophenol	0.001
Picloram	0.5
Polychlorinated biphenyls (PCB)	0.0005
Simazine	0.004
Toxaphene	0.003
2,3,7,8-TCDD (Dioxin)	3 X 10 ⁻⁸
2,4,5-TP	0.05
2,4-D	0.07

(B) Volatile Organic Chemicals (VOCs). The following maximum contaminant levels for volatile organic contaminants apply to community and non-transient, non-community water systems

<u>Contaminant</u>	<u>MCL (mg/l)</u>
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.2
1,1,2-Trichloroethane	0.005
1,2-Dichloroethane	0.005
1,2-Dichloropropane	0.005
1,2,4-Trichlorobenzene	0.07
Benzene	0.005
Carbon tetrachloride	0.005
cis-1,2-Dichloroethylene	0.07

Dichloromethane	0.005
Ethylbenzene	0.7
Monochlorobenzene	0.1
o-Dichlorobenzene	0.6
para-Dichlorobenzene	0.075
Styrene	0.1
Tetrachloroethylene	0.005
Toluene	1.0
trans-1,2-Dichloroethylene	0.1
Trichloroethylene	0.005
Vinyl chloride	0.002
Xylenes (total)	10.0

(4) Variances and exemptions. Variances and exemptions, as defined in subparagraphs (A), (B), and (C) of this paragraph, may be granted at the discretion of the commission.

(A) Variance—An exception to one or more of the maximum allowable levels which is necessary because the condition of the system's raw water is such that the maximum allowable level cannot be met despite the application of the best available treatment techniques (taking costs into consideration) subject to the following conditions:

(i) the public water system requesting the variance was in operation on the date these standards became effective;

(ii) the granting of the variance will not result in an unreasonable risk to public health;

(iii) a schedule, including increments of progress, is established to bring the system into compliance with the standard in question.

(B) Exemption—Exception to a provision of these standards where, because of compelling factors (which may include economic), the system is unable to comply with a specified allowable level. An exemption may be granted only under the following circumstances:

(i) the public water system requesting the exemption was in operation

on the date these standards became effective, or for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system;

(ii) the granting of the exemption will not result in an unreasonable risk to public health;

(iii) a schedule is established to bring the system into compliance with the standard in question.

(C) Applications for such variances and/or exemptions must be submitted by the water system requesting a variance or exemption and must include the following:

(i) a statement of the standard which is not met;

(ii) an estimate of the risk involved to public health with supporting evidence from physicians or dentists in the area;

(iii) a long range plan for the correction of the problem. This plan or compliance schedule must be submitted within one year following written notification that a variance or exemption has been granted;

(iv) a detailed economic evaluation of the current and future situation.

(D) A variance or exemption covering a group or class of systems with a

common standard which is not met may be issued by the commission without individual application. However, individual compliance schedules will be required for each such system within one year following written notification by the commission that such a variance or exemption has been granted. After receiving notification from the commission that a group or class variance or exemption has been issued to their system, each system must submit the above items in accordance with subparagraph (C)(ii)-(iv) of this paragraph.

(E) The commission is required to act upon all requests for variances or exemptions within a reasonable time period, not to exceed 90 days.

(F) Procedures for public comment and public hearings on variances, exemptions, and compliance schedules as a condition of a variance or exemption will be as stated in the EPA National Primary Drinking Water Regulations, of 40 Code of Federal Regulations, §141.4 and §142.20.

(5) Public notification requirements.

(A) Maximum contaminant level (MCL), treatment technique, and variance and exemption schedule violations. The owner or operator of a public water system which fails to comply with an applicable MCL or treatment technique established by this chapter or which fails to comply with the requirements of any sched-

ule prescribed pursuant to a variance or exemption, shall notify persons served by the system as follows.

(i) Except as provided in clause (iii) of this subparagraph, the owner or operator of a public water system must give notice:

(I) by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after notification from the commission of the violation or failure. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area, and

(II) by mail delivery (by direct mail or with the water bill), or by hand delivery, not later than 45 days after the violation or failure. The commission may waive mail or hand delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The commission must make the waiver in writing and within the 45-day period, and

(III) for violations of the MCLs of contaminants that may pose an acute risk to human health, by furnishing a copy of the notice to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than 72 hours after the violation. The following violations are acute violations:

(-a-) any violations specified by the commission as posing an acute risk to human health,

(-b-) any violation of the MCL for nitrate or nitrite as defined in paragraph (1) of this section and determined according to §290.108 of this title.

(ii) Except as provided in clause (iii) of this subparagraph, following the initial notice given under clause (i) of this subparagraph, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

(iii) Alternate notification requirements shall be as follows:

(I) In lieu of the requirements of clause (i)(I) of this subparagraph, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper

of general circulation must give notice by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in clause (i)(III) of this subparagraph), or 14 days after notification from the commission of the violation or failure (for any other violation). Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(II) In lieu of the requirements of clause (i) and (ii) of this subparagraph, the owner or operator of a noncommunity water system may give notice by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in clause (i)(III) of this subparagraph) or 14 days after notification from the commission of the violation or failure (for any other violation). Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(B) Other violations, variances, exemptions. The owner or operator of a public water system which fails to perform monitoring required by these standards, fails to comply with a testing procedure established by this section, is subject to a variance or exemption granted under paragraph (6) of this section shall notify persons served by the system as follows:

(i) Except as provided in clause (iii) of this subparagraph, the owner or operator of a public water system must give notice within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general circulation in the area served by the system. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area.

(ii) Except as provided in clause (iii) of this subparagraph, following the initial notice given under clause (i) of this subparagraph, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given ev-

ery three months for as long as the variance or exemption remains in effect.

(iii) Alternate notification requirements shall be as follows:

(I) In lieu of the requirements of clauses (i) and (ii) of this subparagraph, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(II) In lieu of the requirements of clauses (i) and (ii) of this subparagraph, the owner or operator of a noncommunity water system may give notice, within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(C) Notice to new billing units. The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(D) General content of public notice. Each notice required by this paragraph must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar items that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning

the notice. Where appropriate, the notice shall be multi-lingual.

(E) Mandatory health effects language. In complying with subparagraph (D) of this paragraph, the owner or operator of a public water system shall include the language specified for each contaminant in 40 Code of Federal Regulations, §141.32 and available from the commission.

(F) Proof of public notification. Example copies of all notifications required under this paragraph must be submitted to the commission within ten days of its distribution as proof of public notification.

(6) Best available technology (BAT) for treatment of violations of MCL's set in this section are listed in 40 CFR §141.61 for organic contaminants and 40 CFR §141.62 for inorganic contaminants.

§290.104. Control Tests. These tests may be conducted by the operator of the system to judge variations in water quality, to identify objectionable water characteristics, and to detect the presence of foreign substances which may adversely affect the potability of the water. These control tests shall be performed in accordance with procedures approved by the commission. Operators of water treatment plants at all public water systems utilizing coagulation, settling, softening or filtration shall perform daily the following: chemical control tests on the filtered water, list results on the Monthly Report of Water Works Operation and copy to the commission after each month of operation.

§290.106. Bacteriological Monitoring.

(a) Routine monitoring.

(1) Public water systems must collect routine bacteriological samples at active service connections which are representative of water throughout the distribution system according to a written sample siting plan. Other sampling sites may be used if located adjacent to service connections. These plans are subject to review and revision by the Commission.

(2) The bacteriological monitoring frequency for community and noncommunity water systems is based on the population served by the system, in accordance with the following table:

<u>Population Served</u>	<u>Minimum Number of Samples per Month</u>
1 to 1,000-----	1
1,001 to 2,500-----	2
2,501 to 3,300-----	3
3,301 to 4,100-----	4
4,101 to 4,900-----	5
4,901 to 5,800-----	6
5,801 to 6,700-----	7
6,701 to 7,600-----	8
7,601 to 8,500-----	9
8,501 to 12,900-----	10
12,901 to 17,200-----	15
17,201 to 21,500-----	20
21,501 to 25,000-----	25
25,001 to 33,000-----	30
33,001 to 41,000-----	40
41,001 to 50,000-----	50
50,001 to 59,000-----	60
59,001 to 70,000-----	70
70,001 to 83,000-----	80
83,001 to 96,000-----	90
96,001 to 130,000-----	100
130,001 to 220,000-----	120
220,001 to 320,000-----	150
320,001 to 450,000-----	180

450,001 to 600,000-----	210
600,001 to 780,000-----	240
780,001 to 970,000-----	270
970,001 to 1,230,000-----	300
1,230,001 to 1,520,000-----	330
1,520,001 to 1,850,000-----	360
1,850,001 to 2,270,000-----	390
2,270,001 to 3,020,000-----	420
3,020,001 to 3,960,000-----	450
3,960,001 or more-----	480

The population for noncommunity systems will be based on the maximum daily population.

(3) The public water system must collect samples at regular time intervals throughout the month, except that a system which uses groundwater (except groundwater under the direct influence of surface water, as described in §290.42 of this title (relating to Rules and Regulations for Public Water Systems), and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

(4) Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, shall not be used to determine compliance with the MCL for microbiological contaminants

(b) Repeat monitoring

(1) If a routine sample is total coliform-positive, the public water system must collect a set of repeat samples within 24 hours of being notified of the positive result, or as soon as possible if the local laboratory is closed.

(A) A system which collects more than one routine sample per month must collect no fewer than three repeat samples for each total coliform-positive sample found

(B) A system which collects one routine sample per month must collect no fewer than four repeat samples for each total coliform-positive sample found.

(2) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If a fourth repeat sample is required, it must be collected within five service connections upstream or downstream. If the positive routine sample was collected at the end of the distribution line, one repeat sample must be collected at that point and all other samples must be collected within five connections upstream of that point

(3) The system must collect all repeat samples on the same day, except that a system with a single service connection may collect daily repeat samples until the required number of repeat samples has been collected

(4) If one or more repeat samples in the set is total coliform-positive, the public water system must collect an additional set of repeat samples in the manner specified in paragraphs (1)-(3) of this subsection. The additional samples must be collected within 24 hours of being notified of the positive result or as soon as possible if the local laboratory is closed. The system must repeat this process until either total

coliforms are not detected in one complete set of repeat samples or the system determines that the MCL for total coliforms has been exceeded.

(5) If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the commission does not invalidate the sample(s) in accordance with subsection (c) of this section, it must collect at least five routine samples during the next month the system provides water to the public.

(6) After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliform bacteria, then the system may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(7) Results of all routine and repeat samples not invalidated by the commission must be included in determining compliance with the MCL for total coliforms in accordance with §290.105 of this title (relating to Maximum Bacteriological Contaminant Levels (MCLs) for Microbiological Contaminants)

(c) Invalidation of total coliform samples.

(1) A total coliform-positive sample invalidated under this subsection does not count towards meeting the minimum monitoring requirements of this sec-

tion.

(2) The commission may invalidate a total coliform-positive sample only if one of the following conditions is met.

(A) the laboratory establishes that improper sample analysis caused the total coliform-positive result.

(B) the commission, on the basis of the results of repeat samples collected as required by this section, determines that the total coliform-positive sample resulted from a domestic or other nondistribution system plumbing problem. The commission cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. Under those circumstances, the system may cease resampling and request that the commission invalidate the sample. The system must provide copies of the routine positive and all repeat samples; or

(C) the commission has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by this section, and use them to determine compliance with the MCL for total coliforms in §290 105 of this title (relating to Maximum Contaminant Levels (MCLs) for Microbiological Contaminants). The system must provide written documentation which must state the specific cause of the total coliform-positive sample, and what action the system has taken, or will take, to correct this problem. The commission may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(3) If a laboratory invalidates a sample, the system must collect another sample from the same location as the original sample within 24 hours of being notified, or as soon as possible if the laboratory is closed, and have it analyzed for the presence of total coliforms. The system must continue to re-sample within 24 hours and have the samples analyzed until it obtains a valid result.

(d) Fecal coliform bacteria/*Escherichia coli* (*E. coli*) testing. If any routine or repeat sample is total coliform-positive, that total coliform-positive culture medium will be analyzed to determine if fecal coliforms or *E. coli* bacteria are present. If fecal coliforms or *E. coli* are pre-

sent, the system must notify the commission by the end of the day when the system is notified of the test result, unless the system is notified of the result after the commission office is closed, in which case the system must notify the commission before the end of the next business day.

(e) Notification to the Texas Natural Resource Conservation Commission (TNRCC).

(1) A public water system which has exceeded the MCL for total coliforms in §290.105 of this title (relating to Maximum Contaminant Levels for Microbiological Contaminants) must report the violation to the commission no later than the end of the next business day after it learns of the violation, and notify the public in accordance with §290 103(8) of this title (relating to Standards of Chemical Quality).

(2) A public water system which has failed to comply with a coliform monitoring requirement must report the monitoring violation to the commission within ten days after the system discovers the violation, and notify the public in accordance with §290 103(8) of this title (relating to Standards of Chemical Quality).

§290 108 Inorganic Chemical Monitoring and Analytical Requirements. Community water systems and non-transient, non-community water systems shall conduct monitoring to determine compliance with the maximum contaminant levels specified in §290 103 of this title (relating to Standards of Chemical Quality). Transient, non-community water systems shall conduct monitoring to determine compliance with the nitrate and nitrite maximum contaminant levels in §290 103 of this title (relating to Standards of Chemical Quality) (as appropriate) in accordance with this section.

(1) Monitoring locations for inorganic constituents other than asbestos shall be determined as follows:

(A) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system (hereafter called a sampling point).

(B) Surface water systems and systems using a combination of ground water and surface water sources shall take a minimum of one sample at every entry point to the distribution system (hereafter called a sampling point).

(C) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water

is representative of all sources being used).

(D) Systems shall take subsequent samples at the same sampling points unless conditions make another sampling point more representative of each source or treatment plant.

(E) The commission may reduce the total number of samples which must be analyzed by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory or in the field by commission staff.

(i) If the concentration in the composite sample is greater than or equal to the proportional contribution of the MCL of any inorganic chemical, then a follow-up sample must be collected within 14 days from each sampling point included in the composite, (i.e., 20% of MCL when five points are composited). These samples must be analyzed for the contaminant(s) which were excessive in the composite sample. Detection limits for each analytical method are as listed in 40 Code of Federal Regulations, §141.23(a)(4)(i).

(ii) Compositing may be permitted only at ground water sampling points within a single system.

(iii) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed within 14 days of the composite.

(2) The frequency of monitoring to determine compliance with the MCL for asbestos specified in §290 103 of this title (relating to Standards of Chemical Quality) shall be as follows:

(A) Each community and non-transient, non-community water system not receiving a waiver is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning with the initial compliance period.

(B) The commission may grant a waiver based on a consideration of the following factors:

(i) potential for asbestos contamination of the water source, and

(ii) the use of asbestos-cement pipe for finished water distribution and the corrosive nature of the water.

(C) A waiver remains in effect until the completion of the three-year

compliance period.

(D) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe, under conditions where asbestos contamination is most likely to occur.

(E) A system vulnerable to asbestos contamination due solely to source water shall monitor in accordance with the provisions of paragraph (1) of this section

(F) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe, under conditions where asbestos contamination is most likely to occur.

(G) A system which exceeds the MCL for asbestos as determined in paragraph (9) of this section shall monitor quarterly beginning in the next quarter after the violation occurs

(H) The commission may decrease the quarterly monitoring requirement to the frequency specified in paragraph (2)(A) of this section provided the commission has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the commission make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

(I) If monitoring data collected after January 1, 1990, are generally consistent with the requirements of paragraph (2) of this section (relating to Standards of Chemical Quality), then the commission may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period.

(3) Monitoring conducted to determine compliance with the maximum contaminant levels in §290.103 of this title (relating to Standards of Chemical Quality) for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium shall be as follows.

(A) Beginning in the initial compliance period, groundwater systems shall take one sample at each sampling point once every three years. Beginning in the initial compliance period, surface water systems (or combined surface/ground) shall take one sample annually at each sampling

point. Each of the sampling frequencies listed in this paragraph constitute one round of sampling for groundwater and surface water systems, respectively.

(B) The commission may grant waivers from the monitoring frequencies specified in subparagraph (A) of this paragraph. The term during which the waiver is effective shall not exceed one compliance cycle (nine years).

(C) A condition of the waiver shall be that a system must take a minimum of one sample while the waiver is effective.

(D) The commission may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring. (At least one sample shall have been taken since January 1, 1990.) Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the MCL. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed

(E) In determining the appropriate reduced monitoring frequency, the commission shall consider:

(i) reported contaminant concentrations from all previous monitoring;

(ii) the degree of variation in reported concentrations; and

(iii) other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in the flow or characteristics of a reservoir or stream used as the water source.

(F) If a decision by the commission is made to grant a waiver it shall be made in writing and shall set forth the basis for the determination. The determination may be initiated by the commission. The commission shall review and, where appropriate, revise the waiver of monitoring frequency when other data relevant to the system become available.

(G) Systems which exceed the IOC MCL's as calculated in paragraph (9) of this section shall monitor quarterly beginning in the next quarter after the violation occurs.

(H) The commission may decrease the quarterly monitoring requirement to the frequencies specified in subparagraphs (A) and (B) of this paragraph provided it has determined that the system is reliably and consistently below the MCL. In no case can the commission make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(4) All public water systems (community, non-transient, non-community, and transient, non-community) shall monitor to determine compliance with the maximum contaminant level for nitrate as follows.

(A) Community and non-transient, non-community water systems served by groundwater shall monitor annually beginning January 1, 1993; systems served by surface water shall monitor quarterly beginning January 1, 1993

(B) Each transient non-community water system shall monitor annually beginning January 1, 1993.

(C) The repeat monitoring frequency for community and non-transient, non-community groundwater systems shall be quarterly for at least one year following any one sample in which the concentration is $\geq 50\%$ of the MCL. The commission may allow a groundwater system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than the MCL.

(D) The commission may allow community and non-transient, non-community water systems to reduce the sampling frequency to annually if all analytical results from four consecutive quarters are less than 50% of the MCL. A surface water system shall return to quarterly monitoring if any one sample is greater than 50% of the MCL

(E) After the initial round of quarterly sampling for surface water systems is completed, any community or non-transient non-community system which is monitoring annually shall take subsequent samples during the quarter which previously resulted in the highest analytical result

(5) All public water systems (community, non-transient, non-community, and transient, non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrite as follows

(A) All public water systems

shall take one sample at each sampling point during the initial compliance period.

(B) After the initial sample, systems where the analytical result for nitrite is < 50% of the MCL shall monitor at the frequency specified by the commission

(C) The repeat monitoring frequency for nitrite for all public water systems shall be quarterly for at least one year following any one sample in which the concentration is \geq 50% of the MCL. The commission may allow a system to reduce the sampling frequency to annual after determining the system is reliably and consistently less than the MCL.

(D) Systems which are monitoring annually shall take each subsequent sample during the quarter which previously resulted in the highest analytical result.

(6) Confirmation sampling.

(A) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium indicate an exceedance of the MCL, one additional sample from the same sampling point shall be collected as soon as possible after the initial sample.

(B) Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement must immediately notify the consumers served by the public water system in accordance with §290.103(8)(A)(iii) of this title (relating to Standards of Chemical Quality). Systems exercising this option must take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.

(C) If a commission-required confirmation sample is taken for any contaminant, then the results of the initial and confirmation sample shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with paragraph (9) of this section. The commission has the discretion to delete results of obvious sampling errors.

(7) The commission may require more frequent monitoring than specified in paragraphs (2)-(5) of this section or may require confirmation samples for positive and negative results at its discretion.

(8) Systems may apply to the commission to conduct more frequent monitoring than the minimum monitoring frequencies specified in this section

(9) Compliance with §290.103 of this title (relating to Standards of Chemical Quality) (as appropriate) shall be determined based on the analytical result(s) obtained at each sampling point.

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium is determined by a running annual average at each sampling point. If the average at any sampling point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample below the method detection limit shall be calculated at zero for the purpose of determining the annual average.

(B) For systems which are monitoring annually, or less frequently, the system is out of compliance for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the commission, the determination of compliance will be based on the average of the two samples

(C) Compliance with the MCLs for nitrate and nitrite is based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate or nitrite exceed the MCLs in any sample, a confirmation sample is required in accordance with paragraph (6)(B) of this section, and compliance shall be based on the average of the initial and confirmation samples.

(D) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the commission may allow the system to give public notice to only the area served by that portion of the system which is out of compliance.

(10) Each public water system shall monitor at the time designated by the commission during each compliance period

§290.109. Organic Chemical (Other Than Trihalomethanes) Monitoring, Analytical Requirements and Treatment Techniques.

(a) Monitoring and analysis of the SOC contaminants listed in §290.103(3)(A)

of this title (relating to Standards of Chemical Quality) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows.

(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each subsequent sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each subsequent sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant

(3) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(4) Synthetic Organic Chemical (SOC) Monitoring Frequency

(A) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in §290.103(3)(A) of this title during each compliance period beginning with the initial compliance period

(B) Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period, may reduce the sampling frequency to a minimum of two consecutive quarterly samples in one year during each repeat compliance period

(C) Systems serving less than or equal to 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of one sample during each repeat compliance period

(5) The commission may grant a waiver from the requirement of paragraph (4) of this subsection after evaluating the following factors: Knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the water source(s). If a determination by the commission reveals no previous use of the contaminant within the watershed or zone of

influence, a waiver may be granted. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted.

(A) previous analytical results,

(B) the proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at drinking water sources, manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities. Non-point sources include the use of pesticides to control insects, weeds, or pests on agricultural areas, forest lands, home and garden property, or other land application uses;

(C) the environmental persistence and transport of the pesticide herbicide or contaminant,

(D) how well the water source is protected against contamination due to such factors as depth of the well, type of soil, and the integrity of well construction. Surface water systems must consider watershed vulnerability and protection;

(E) elevated nitrate levels at the water supply source, and

(F) use of PCBs in equipment used in the production, storage, or distribution of water (i.e., PCBs used in pumps, transformers, etc.)

(6) The commission will consider the waiver for each compliance period

(7) If an organic SOC contaminant listed in §290.103(3)(A) of this title is detected, as defined in 40 CFR §141.24(h)(18), in any sample, then

(A) The system must monitor quarterly at each sampling point at which a detection occurs.

(B) The commission may decrease the quarterly monitoring requirement specified in subparagraph (A) of this paragraph provided it has determined that the system is reliably and consistently below the MCL. In no case shall the commission make this determination unless a groundwater system takes a minimum of two consecutive quarterly samples and a surface water system takes a minimum of four consecu-

tive quarterly samples.

(C) After the commission determines that a system is reliably and consistently below the MCL, it may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(D) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the commission for a waiver as specified in paragraph (6) of this subsection

(E) If monitoring results in detection of one or more of certain related contaminants (aldicarb, aldicarb sulfone, aldicarb sulfoxide and heptachlor, heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants

(8) Systems which violate the MCL's of §290.103(3)(A) of this title as determined by paragraph (11) of this subsection must monitor quarterly. After a minimum of four quarterly samples show the system is in compliance and the commission determines the system is reliably and consistently below the MCL, as specified in paragraph (11) of this subsection, the system shall monitor at the frequency specified in paragraph (7)(C) of this subsection.

(9) The commission may require a confirmation sample for positive or negative results. If a confirmation sample is required by the commission, the result must be averaged with the first sampling result and the average used for the compliance determination as specified by paragraph (15) of this subsection. The commission has discretion to delete results of obvious sampling errors from this calculation.

(10) The commission may reduce the total number of samples required from a system for analysis by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collection.

(A) If, in the composite sample, a detection of one or more SOC contaminants listed in §290.103(3)(A) of this title occurs, then a follow-up sample must be taken from each sampling point included in the composite and analyzed within 14 days of collection

(B) If duplicates of the original sample taken from each sampling point used in the composite are available, the commission may use these duplicates instead of resampling. The duplicate must be

analyzed within 14 days of collection and the results reported to the commission.

(C) Compositing may only be permitted at sampling points within a single system.

(11) Compliance with the MCL's of §290.103(3)(A) of this title shall be determined based on the analytical results obtained at each sampling point.

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(B) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the commission, the determination of compliance will be based on the average of the two samples.

(C) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the commission may allow the system to give public notice to only that portion of the system which is out of compliance.

(12) If monitoring data collected after January 1, 1990, are generally consistent with the requirements of subsection (a) of this section, then the commission may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period.

(13) The commission may increase the required monitoring frequency, where necessary, to detect variations within the system (e.g. fluctuations in concentration due to seasonal use, changes in water source, etc.)

(14) The commission has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

(15) Each public water system shall monitor at the time designated by the commission within each compliance period.

(b) Beginning with the initial compliance period: sampling and analysis of the VOC contaminants listed in §290.103(3)(B) of this title, for the purpose of determining compliance with the MCLs shall be conducted as follows

(1) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each subsequent sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water systems (and combined surface/ground water systems) shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each subsequent sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(3) If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used)

(4) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in §290.103(3)(B) of this title during each compliance period, beginning with the initial compliance period

(5) If the initial monitoring for VOC contaminants listed in §290.103(3)(B) of this title as allowed in paragraph (16) of this subsection has been completed by December 31, 1992, and the system did not detect any contaminant listed in §290.103(3)(B) of this title then each ground and surface water system shall take one sample annually beginning with the initial compliance period.

(6) After a minimum of three years of annual sampling, the commission may allow groundwater systems with no previous detection of any contaminant listed for VOCs in §290.103(3)(B) of this title to take one sample during each compliance period.

(7) Each community and non-transient groundwater system which does not detect a contaminant listed in §290.103(3)(B) of this title may be granted a waiver from the requirements of paragraphs (5) and (6) of this subsection after completing the initial monitoring. (For the

purposes of this section, detection is defined as ≥ 0.0005 mg/l.) A waiver shall be effective for no more than six years (two compliance periods)

(8) The commission may grant a waiver after evaluating the following factor(s): the knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the water sources. If a determination by the commission reveals no previous use of the contaminant within the watershed or zone of influence, a waiver may be granted. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted.

(A) previous analytical results;

(B) the proximity of the system to a potential point or non-point source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at drinking water sources manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities,

(C) the environmental persistence and transport of the contaminants,

(D) the number of persons served by the public water system and the proximity of a smaller system to a larger system,

(E) how well the water source is protected against contamination (i.e., is it a surface or groundwater system). Groundwater systems must consider factors such as depth of the well, the type of soil, and well construction. Surface water systems must consider watershed protection.

(9) As a condition of the waiver a groundwater system must take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its vulnerability assessment considering the factors listed in paragraph (8) of this subsection. Based on this updated vulnerability assessment the commission must reconfirm that the system is not vulnerable. If the commission does not make this reconfirmation within three years of the initial determination, then the waiver is invalid and the system is required to sample annually as specified in paragraph (5) of this subsection.

(10) Each community and non-transient surface water system which does

not detect a contaminant listed for VOCs in §290.103(3)(B) of this title may be considered by the commission for a waiver from the requirements of paragraph (5) of this subsection after completing the initial monitoring. Systems meeting this criteria must be determined by the commission to be non-vulnerable based on a vulnerability assessment during each compliance period. Each system receiving a waiver shall sample at the frequency specified by the commission (if any).

(11) If a VOC contaminant listed in §290.103(3)(B) of this title is detected at a level exceeding 0.0005 mg/l in any sample, then.

(A) the system must monitor quarterly at each sampling point which resulted in a detection,

(B) the commission may decrease the quarterly monitoring requirement specified in subparagraph (A) of this paragraph provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the commission make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples,

(C) if the commission determines that the system is reliably and consistently below the MCL, the commission may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter which previously yielded the highest analytical result,

(D) systems which have three consecutive annual samples with no detection of a contaminant may apply to the commission for a waiver as specified in paragraph (7) of this subsection;

(E) groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the result of the first analysis does not detect vinyl chloride, the commission may reduce the quarterly monitoring frequency for vinyl chloride to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the commission.

(12) Systems which violate the VOC MCL's of §290.103(3)(B) of this title, as determined by paragraph (15) of this subsection, must monitor quarterly. After a minimum of four consecutive quarterly samples which show the system is in compliance as specified in paragraph (15) of this subsection and the commission determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph (11)(C) of this subsection.

(13) The commission may require a confirmation sample for positive or negative results. If a confirmation sample is required by the commission, the result must be averaged with the first sampling result and the average is used for the compliance determination as specified by paragraph (15) of this subsection. The commission has discretion to delete results of obvious sampling errors from this calculation.

(14) The commission may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collection.

(A) If the VOC concentration in the composite sample is ≥ 0.0005 mg/l for any contaminant listed in §290.103(3)(B) of this title, then a follow-up sample must be taken and analyzed within 14 days from each sampling point included in the composite.

(B) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicate must be analyzed and the results reported to the commission within 14 days of collection.

(C) Compositing may only be permitted by the commission at sampling points within a single system.

(D) Procedures for compositing VOC samples are as stated in 40 Code of Federal Regulations, §141.24(f)(14)(iv).

(15) Compliance with §290.103(3)(B) of this title shall be determined based on the analytical results obtained at each sampling point.

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately.

(B) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the commission, the determination of compliance will be based on the average of the two samples.

(C) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the commission may allow the system to give public notice to only that area served by that portion of the system which is out of compliance.

(16) The commission may allow the use of monitoring data collected after January 1, 1988 for purposes of initial monitoring compliance. If the data are generally consistent with the other requirements in this section, the commission may use these data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph (4) of this subsection. Systems which use these samples and do not detect any contaminant listed in §290.103(3)(B) of this title shall begin monitoring annually in accordance with paragraph (5) of this subsection beginning January 1, 1993.

(17) The commission may increase required monitoring where necessary to detect variations within the system.

(18) Each public water system shall monitor at the time designated by the commission within each compliance period.

(19) Analysis of unregulated contaminants shall be as specified in 40 Code of Federal Regulations (CFR), §141.40. The commission adopts by reference Federal Regulations referred to in this subsection. Copies are available for review in the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

(c) Acrylamide and Epichlorohydrin Treatment Techniques. Each public water system must certify annually to the commission (using third party or manufacturer's certification) that when acrylamide or epichlorohydrin are used in drinking wa-

ter systems, the combination (or product) of dose and monomer level does not exceed 0.05% dosed at 1 ppm (or equivalent) for acrylamide and 0.01% dosed at 20 ppm (or equivalent) for epichlorohydrin.

§290.112. *Recordkeeping and Reporting Required of Water Systems* Any owner or operator of a public water system subject to the provisions of this chapter shall retain on the water system premises or at a convenient location near the premises the following records

(1) Records of bacteriological analyses must be retained for no less than five years, and records of chemical analyses must be retained for no less than ten years.

(2) Records of action taken by the system to correct violations of primary drinking water regulations must be retained for at least three years after the last action taken with respect to the particular violation involved.

(3) Copies of written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by the commission shall be kept for a period not less than ten years after completion of the survey involved.

(4) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five years following the expiration of such variance or exemption.

(5) Any owner or operator of a public water system subject to the provisions of this chapter is required to report to the State the results of any test, measurement or analysis required to be made by these standards within ten days following such test, measurement or analysis.

§290.113 *Secondary Constituent Levels*

(a) The following secondary constituent levels are limits, applicable to all public water systems. No drinking water supply which does not meet the Secondary Constituent Levels may be used without written approval from the commission.

<u>Contaminant</u>	<u>Level</u>	(mg/l except where otherwise stated)
Aluminum	0.05 to 0.2	
Chloride	300	
Color	15 color units	
Copper	1.0	
Corrosivity	Non-corrosive	
Fluoride	2.0	
Foaming agents	0.5	
Hydrogen sulfide	0.05	
Iron	0.3	
Manganese	0.05	
Odor	3 Threshold Odor Number	
pH	≥7.0	
Sulfate	300	
Total Dissolved Solids	1,000	
Zinc	5.0	

(b) For all instances in which drinking water does not meet the recommended limits and is accepted for use by the commission, such acceptance is valid only until such time as water of acceptable chemical quality can be made available at reasonable cost to the area(s) in question.

(c) Community water systems that exceed the secondary maximum constituent level for fluoride but are below the level listed in §290.103 of this title (relating to Standards of Chemical Quality) must notify the public. The notice must be made annually by including it with the water bill or by separate mailing to all customers. The form and content of the notice shall be as prescribed by the commission.

§290.117. *Disinfection.*

(a) A system that uses a surface

water source must provide the disinfection treatment specified in subsection (b) of this section beginning July 1, 1993. A system that uses a groundwater source under the influence of surface water and provides filtration treatment must provide disinfection treatment as specified in subsection (b) of this section by July 1, 1993, or beginning when filtration is installed, whichever is later. Failure to meet any requirement of this section after the applicable date specified in this subsection is a treatment technique violation. Violation of any treatment technique of this section must be reported to the commission by the end of the next business day after the measurement was taken.

(b) Each public water system that utilizes surface water or groundwater under the influence of surface water must provide disinfection treatment as follows

(1) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9% (3-log) inactivation and/or removal of *Giardia lamblia* cysts and at least 99.99% (4-log) inactivation and/or removal of viruses, as determined by the commission.

(A) The disinfectant concentrations(s) within the treatment process shall not be allowed to fall below acceptable levels for more than four hours.

(B) Disinfection contact time will be based on tracer study data submitted by the system and approved by the commission. Acceptable tracer study data must be submitted to the commission no later than January 1, 1993.

(2) The residual disinfectant concentration in the water entering the distribution system measured as specified in §290.119 of this title (relating to Turbidity and Disinfection) shall not be less than 0.2 mg/l free chlorine or 0.5 mg/l chloramine for more than four hours.

(3) The residual disinfectant concentration in the distribution system, as specified in §290.119 of this title (relating to Monitoring Requirements for Systems Using Surface Water Treatment) shall not be less than 0.2 mg/l free chlorine or less than 0.5 mg/l chloramine in more than 5.0% of the samples each month, for any two consecutive months that the system serves water to the public.

Where:

the value "V" in the following formula shall not exceed five (5.0) percent per month for any two consecutive months --

$$V = \frac{b}{a} \times 100$$

Where:

- a = number of instances where the residual disinfectant concentration is measured;
- b = number of instances where the residual disinfectant concentration is measured but is detected at less than 0.2 mg/l free chlorine or less than 0.5 mg/l chloramine.

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 March 24, 1994.

TRD-9438177 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Effective date: April 15, 1994

Proposal publication date: January 25, 1994

For further information, please call: (512) 463-8069

◆ ◆ ◆
Chapter 291. Water Rates
Subchapter D. Records and
Reports

• 30 TAC §291.76

The Texas Natural Resource Conservation Commission (Commission) adopts new §291.76, concerning a regulatory assessment, without changes to the proposed text as published in the January 28, 1994, issue of the *Texas Register* (19 TexReg 572). The section incorporates into rule the existing procedural requirements related to the collection of a regulatory assessment, establishes a mechanism for enforcement of the collection and remittance provisions and establishes interest penalties for late payment.

A public hearing was held on February 22, 1994, and no persons wishing to give testimony appeared.

The Commission received one comment letter from an individual during the comment period. The individual suggested that a flat rate assessment be imposed rather than the percentage proposed. He was concerned that a percentage unduly influences commission decisions to grant rate increases given that

the assessment is based on the retail purchase price. The commission does not agree with this comment, because the measure of the assessment is established by statute and cannot be varied by rule.

The new section is adopted under the Texas Water Code, §5 235(n), which authorizes the Texas Natural Resource Conservation Commission to collect a regulatory assessment, and §5 103 and §5 105, which provide the Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, and to establish and approve all general policy of the Commission.

The adopted new section implements no other statutes.

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 March 24, 1994.

TRD-9438133

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

Effective date April 15, 1994

Proposal publication date: January 28, 1994

For further information, please call (512)
463-8069

◆ ◆ ◆
Chapter 293. Water Districts

The Texas Natural Resource Conservation Commission (Commission) adopts amendments to Chapter 293 concerning appointment of directors, issuance of bonds, purchases of facilities, other actions requiring commission consideration for approval, and definitions of terms. The amendment to §293.171 is adopted with changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9259). The amendments to §§293.34, 293.44, 293.45, 293.50, 293.51, 293.56, 293.59, 293.69, 293.82, 293.83, and 293.85 are adopted without changes and will not be re-published.

The Commission received one comment letter during the comment period from an individual. The individual asserted that the proposed definition of impact fee was not sufficiently specific. The commission agrees and modified the section accordingly.

Appointment of Directors

• 30 TAC §293.34

The amendment is adopted under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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 March 24, 1994

TRD-9438129

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

Effective date April 15, 1994

Proposal publication date December 14, 1993

For further information, please call (512)
463-8069

◆ ◆ ◆
Issuance of Bonds

• 30 TAC §§293.44, 293.45, 293.50,
293.51, 293.56, 293.59

The amendments are adopted under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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 March 24, 1994

TRD-9438130

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

Effective date April 15, 1994

Proposal publication date December 14, 1993

For further information, please call (512)
463-8069

◆ ◆ ◆
District Actions if the Commission Approves the Engineering Project and Issuance of Bonds

• 30 TAC §293.69

The amendment is adopted under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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 March 24, 1994

TRD-9438132

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

Effective date April 15, 1994

Proposal publication date December 14, 1993

For further information, please call (512)
463-8069

◆ ◆ ◆
Other Actions Requiring Commission Consideration for Approval

• 30 TAC §§293.82, 293.83, 293.85

The amendments are adopted under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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 March 24, 1994

TRD-9438131

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

Effective date April 15, 1994

Proposal publication date December 14, 1993

For further information, please call (512)
463-8069

◆ ◆ ◆
Petition for Approval of Impact Fees

• 30 TAC §293.171

The amendment is adopted under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

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

Impact fee-Impact fee means a charge or assessment imposed by a district against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development. A tap fee is not considered an impact fee provided the tap fee is based on the reasonable cost of providing the tap-related service.

Capital improvement plan-Capital improvement plan means a plan which identifies capital improvements or facility expansions pursuant to which impact fees may be assessed.

Capital improvements-Capital improvements means water supply, treatment,

and distribution facilities, wastewater collection and treatment facilities, stormwater, and drainage, and flood control facilities, including facility expansions, whether or not located within the service area, with a life expectancy of three or more years, owned and operated by or on behalf of a district with authorization to finance and construct such facilities, but such term does not include materials and devices for making connections to or measuring services provided by such facilities to district customers.

Connection-Connection means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards. Connections shall be described in terms of single family equivalent connections, living unit equivalents, or other generally accepted unit typically attributable to a single family household. The assumed population equivalent per service unit shall be indicated.

Service area-Service area means an area within or without the boundaries of a district to be served by the capital improvements specified in the capital improvements plan. The service area may include all or part of the land within a district or land outside a district served by the facilities identified in the capital improvements plan.

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 March 24, 1994.

TRD-9438128 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Effective date: April 15, 1994

Proposal publication date: December 14, 1993

For further information, please call: (512) 463-8069

◆ ◆ ◆
TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 9. Contract Management

• **43 TAC §9.21**

The Texas Department of Transportation adopts an amendment to §9.21, without changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9247).

At the time the current rules were adopted the

position of deputy executive director was the only second-tier management position in the department. Due to the reorganization of the department which established six second-tier management positions, with all six on an equivalent level of authority, it is necessary to amend §9.21 to include all six second-tier management positions. The amendment will assure that the emergency contracting procedures continue without interruption, thereby protecting the vital interests, safety, and welfare of the taxpayers and the traveling public.

Section 9.21 is amended to revise the definition of deputy executive director. The department presently has rules for emergency contracting procedures, codified at 43 TAC §§9.20-9.22, which provide that the executive director or his designee not below the level of deputy executive director must certify the fact and nature of the emergency giving rise to the award of a contract under these sections, and that the executive director or his designee not below the level of deputy executive director may authorize the waiving of bonds or insurance requirements.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6674h-2, which authorize the department to establish rules for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws.

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 March 24, 1994.

TRD-9438094 Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: April 14, 1994

Proposal publication date: December 14, 1993

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

◆ ◆ ◆
Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin)

The Commissioner of Insurance at a public hearing under Docket Number 2087 on March 21, 1994 at 8:30 a.m. and continued on March 23, 1994 at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas adopted amendments to the Texas Basic Manual of Rules, Classifications and Experi-

ence Rating Plan for Workers' Compensation and Employers' Liability Insurance (Manual) pertaining to the calculation of experience modifiers and the making of ownership rulings by the insurance companies.

The following is a summary of the adopted amendments to the rules in the Manual:

1. The rules require that at least 60 days prior to the anniversary rating date, the company insuring all or part of a risk shall furnish one copy of the experience modifier calculation, free of charge, to the insured. A plain

language transmittal letter shall be sent to the insured explaining the modifier calculation, the insured's right of appeal and advising that one copy of the unit statistical data used in the calculation will be furnished to the insured upon request, at no charge. Each insurance company shall file a copy of its standard transmittal letter and experience rating form, if other than ERM 1.2, with the Department prior to use. Such form and letter may be disallowed by the Commissioner.

2. Any insurance company requesting either unit statistical data or a copy of an insured's experience modifier calculation from another insurance company must send a copy of the current policy information page if it is the current insurer or furnish a letter of authority from the insured. A request for data shall be responded to in a timely manner, but in all instances within 30 days of receipt of the request. No charge may be made for this information.

3. The anniversary rating data is the effective month and day of the policy in effect and each annual anniversary thereafter. A material change of ownership accompanied by a substantial change in operations may cause a new anniversary rating date to be established.

4. The rules contain an appeal provision that requires that any issue that arises as a result of a rule set forth in the plan that cannot be resolved to the satisfaction of all affected parties shall be resolved by first making a good faith effort to resolve the dispute between the parties. Either party may then file a written request for a ruling by the Deputy Commissioner of Workers' Compensation that fully explains that party's position. The Deputy Commissioner will allow the parties to informally provide arguments, either in person or by telephone. The Deputy Commissioner shall issue a ruling in writing and shall inform the parties of their right to appeal, the deadlines to appeal and the right to waive a hearing. Either party may appeal the decision of the Deputy Commissioner to the Commissioner of Insurance by filing a written appeal with the Chief Clerk's office within 30 days of receipt of the ruling. The appeal shall be *de novo* and the hearing will be conducted by the State Office of Administrative Hearings. If all parties file a waiver of hearing, no hearing will be held and the Commissioner will issue a decision based on the written arguments of the parties.

5. A substantial change of operations is defined as a change in the type of business enterprises in which an entity is engaged. Such a change may include, but is not limited to, a change in the entity's workers' compensation governing classification or a change in products or services produced by the entity.

6. Experience used to determine the modifier is calculated by the insuring company for the insured on form ERM 12 or any other experience rating form that includes at least the same information as contained in ERM 1.2.

7. Another reason has been added to the list of permissible reasons to revise the value of losses. The additional reason is where an investigation reveals that unreasonably high reserves have been set for a particular claim. The current rating and the two immediately preceding ratings shall be recalculated by the affected insuring company upon receipt of the corrected or revised unit statistical data showing the change in value of a loss.

8. Throughout the rules, the words "experience modification" have been changed to "experience modifier," where applicable, and "carrier" has been amended to either "insurance company" or "insuring company."

9. The insuring company is responsible for making ownership rulings once the required information is received.

10. The Supplement to the Experience Rating Plan provides that a separate Texas modifier may be calculated for a risk subject to interstate rating upon written request of the insured to the insuring company or Bureau having jurisdiction. If a separate modifier is calculated in accordance with the rules, the Texas modifier shall apply for the full rating period for which such modifier was calculated.

11. In addition to the adopted changes in the rules, one endorsement and four forms are adopted to reflect the changes in the rules.

The Commissioner of Insurance adopted this matter pursuant to the Insurance Code, Articles 5.96 and 5.60.

The Commissioner of Insurance adopted the amendments to the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance as summarized previously and attached hereto and incorporated by reference, by Commissioner's Order Number 94-0297.

A copy of the amendments containing the full text of the adopted amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333, Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the amendments, please contact Angie Arizpe (512) 322-4147 (refer to Reference Number W-0294-04).

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

It is therefore the ORDER of the Commissioner of Insurance that the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance pertaining to the calculating of experience modifiers and the making of ownership rulings by the insurance companies is amended to be effective May 1, 1994. The Commissioner instructed the staff to propose an amendment to the rules adopted under this Order to reflect a transition period for implementation of these changes by amending Rule V, E. & G. of the Texas Experience Rating Plan to include a 120-day transition period for increasing premium due to the application of a debit modifier. A separate hearing will be held on this proposed amendment on May 2, 1994 at 8:30, a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

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 March 28, 1994.

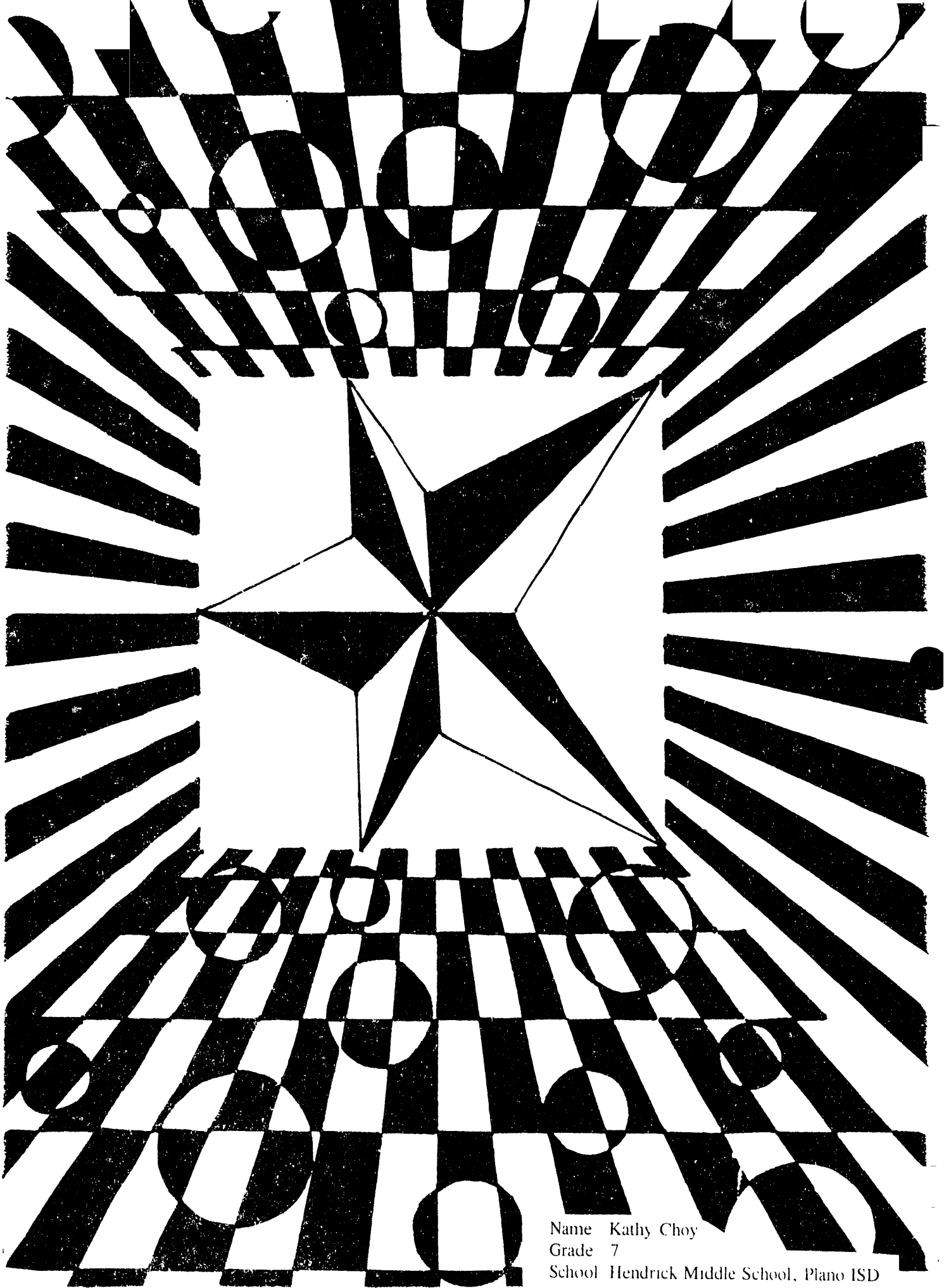
TRD-9438208

Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

Effective date: May 1, 1994

For further information, please call: (512) 463-6328





Name Kathy Choy
Grade 7
School Hendrick Middle School, Plano ISD

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Advisory Commission on State Emergency Communications

Wednesday, April 6, 1994, 10:00 a.m.

15th Street and North Congress Avenue,
John H. Reagan Building, Room 103

Austin

According to the complete agenda, the Poison Control Coordinating Committee will call the meeting to order and recognize guests; hear public comment; election of new PCCC chair; hear committee reports; consider approval of March meeting minutes; report from the Department of Health representative on any actions taken at their last meeting regarding the PCCC; report from the Advisory Commission on State Emergency Communications representative on any actions taken at their last meeting regarding the PCCC; report on public hearing scheduled regarding the rules for grants (April 12, 1:30 p.m., John H. Reagan Building, Room 101); and adjourn.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 28, 1994, 5:06 p.m.

TRD-9438274

Texas Department on Aging

Tuesday, April 5, 1994, 1:15 p.m.

1949 South IH-35, Third Floor Large Conference Room

Austin

According to the complete agenda, the Planning Committee will consider and possibly act on: call to order; minutes of February 9, 1994, meeting; review of TDoA planning process and information and comments received; discuss and approve changes to strategic plan; discuss and approve Position Paper on Health Care Reform; approve area plan for Middle Rio Grande Valley Area Agency on Aging; review first quarter Legislative Budget Board Performance report; review quarterly Discretionary Grants report; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: March 28, 1994, 2:42 p.m.

TRD-9438259

Texas Department of Agriculture

Thursday, April 21, 1994, 10:30 a.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982), by H.D.K. Corporation doing business as Big K Produce as petitioned by Valley Onions, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: March 25, 1994, 3:34 p.m.

TRD-9438147

Thursday, April 21, 1994, 11:00 a.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982), by Fresco Produce as petitioned by Griffin and Brand of McAllen, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: March 25, 1994, 3:34 p.m.

TRD-9438148

Thursday, April 21, 1994, 1:30 p.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982), by Fresco Produce as petitioned by James C. Hanka doing business as Hanka Farms.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: March 25, 1994, 3:45 p.m.

TRD-9438151

Thursday, April 21, 1994, 3:00 p.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§103 001-103 015 (Vernon 1982), by Fresco Produce as petitioned by Chilinos Produce.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: March 25, 1994, 3:45 p.m.

TRD-9438152

Thursday, April 21, 1994, 4:00 p.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §§103 101-103 015 (Vernon 1982), by Valley Central Sales, Inc as petitioned by Carl Bauer

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: March 25, 1994, 3:48 p.m.

TRD-9438153

Thursday, May 5, 1994, 10:00 a.m.

Texas Department of Agriculture, 8918 Tesoro Drive, Suite 120

San Antonio

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103 001-103.015 (Vernon 1982), by Jones Produce as petitioned by Delta Brokerage, Inc. doing business as Delta Produce Marketing

Contact: Joyce Arnold, P O Box 12847, Austin, Texas 78711, (512) 475-1668

Filed: March 24, 1994, 3:25 p.m.

TRD-9438098

Thursday, May 12, 1994, 10:00 a.m.

Texas Department of Agriculture, 1720 Regal Row, Suite 118

Dallas

According to the complete agenda, the Office of Hearings will hold an administrative

hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982), by H.D.K. Corporation doing business as Big K Produce as petitioned by Crawford Produce Company.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: March 24, 1994, 3:25 p.m.

TRD-9438099

Thursday, May 12, 1994, 1:00 p.m.

Texas Department of Agriculture, 1720 Regal Row, Suite 118

Dallas

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982), by H.D.K. Corporation doing business as Big K Produce as petitioned by Harrington Produce Company.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: March 24, 1994, 3:30 p.m.

TRD-9438100

Thursday, May 19, 1994, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of 4 Texas Administrative Code §7.22(1) and Texas Agriculture Code, §76.116(a)(1) by Tommy Janek.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668

Filed: March 24, 1994, 3:30 p.m.

TRD-9438101

Thursday, May 26, 1994, 10:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B

Austin

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of 4 Texas Administrative Code, §§6.1-6.4, by John Rabius.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: March 25, 1994, 3:06 p.m.

TRD-9438143

State Banking Board

Tuesday, April 5, 1994, 2:00 p.m.

2601 North Lamar Boulevard

Austin

According to the agenda summary, the State Banking Board agenda will include: review and approval of minutes of previous meeting; consideration of charter application for Texas Security Bank, Bryan, Texas; consideration of conversion application for Farmers & Merchants Bank, Mart, Texas; consideration of change of domicile application for First State Bank, Junction, Texas; consideration of interim charter applications for Interim Gonzales Bank, Gonzales, Texas; and New Eldorado State Bank, Eldorado, Texas; review of the status of other pending applications; and the Board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of TBC.

Contact: Lynda A. Drake, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: March 25, 1994, 10:45 a.m.

TRD-9438118

Council on Competitive Government

Wednesday, April 6, 1994, 9:00 a.m.

Capitol Extension Building, Room E2.026

Austin

According to the agenda summary, the Council on Competitive Government will discuss action items: approval of minutes of February 24, 1994, meeting; consideration of approval of plan developed by the General Services Commission for consolidating state agency print shops in Travis County; consideration of approval of plan developed by the General Services Commission regarding outgoing mail; consideration of approval of plan developed by the Department of Information Resources to subject the service bureau to competition and to make their PC/LAN and application development support services available for purchase using the catalogue purchase procedure; consideration of adopting recommendations proposed by the General Services Commission on consolidating prevailing wage rate determinations; consideration of adopting changes proposed by the General Services Commission to Council Rule §401.22(a), dealing with designees; consideration of adopting proposed procedures to assist employees affected by competitive reviews; briefing items: briefing by the Comptroller of Public Accounts on new issues being studied—vehicle fleet management and laundry services; briefing by the Health and

Human Services Commission on consolidation of toll free (1-800) telephone numbers; briefing by the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID) on the goods and services offered by the TDCJ-ID; public comment; and set date and time for next meeting.

Contact: John Poulard, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: March 25, 1994, 2:02 p.m.

TRD-9438126

Texas Employment Commission

Tuesday, April 5, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the Texas Employment Commission will consider prior meeting notes; staff reports; consideration and possible approval of bid for interior renovation at the TEC headquarters building, 101 East 15th Street; internal procedures of Commission Appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 14; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 28, 1994, 4:02 p.m.

TRD-9438268

General Land Office

Tuesday, April 5, 1994, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Rooms 118 and 831

Austin

According to the complete agenda, the School Land Board will consider approval of previous board meeting minutes; opening and consideration of bids received for the April 5, 1994, oil, gas, and other minerals lease sale; pooling applications, Giddings (Austin Chalk-3), Fayette County; Morrison Ranch (Morrow, Lower), Roberts County; Brookeland (Austin Chalk, 8880), Newton County; applications to lease highway rights of way for oil and gas, Goliad County, Wilson County, and Washington County; final adoption of amendment to §9.7(b)(3), Chapter 9, and §10.8, Chapter 10, Title 31, Texas Administrative Code; consideration of staff recommendation to deposit monies received from the Terrel Lane Basin Wastewater Interceptor Agreement, Smith School Tract, Travis County, into escrow account as authorized by Texas Natural Resources Code, §51.401; consideration of correction to amendment to service drive easement on

TXMHMR lands, Travis County; direct land sale, Sutton County; Coastal public lands-commercial lease amendment, Clear Lake Channel, Harris County; commercial lease renewals, adjacent to South Padre Island, Nueces County; Offats Bayou, Galveston County; commercial easement application, Neches River, Jefferson County; structure permit terminations and requests, Laguna Madre, Kenedy County; and Laguna Madre, Kleberg County; structure permit renewals, Laguna Madre, Kleberg County; Laguna Madre, Kenedy County; Laguna Madre, Cameron County; Laguna Madre, Willacy County; Corpus Christi Bay, Nueces County; Bastrop Bay, Brazoria County; Aransas Bay, Aransas County; executive session-pending and proposed litigation; executive session-consideration of land acquisition, Texas State Library lands, Travis County; open session-consideration of land acquisition, Texas State Library lands, Travis County.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: March 25, 1994, 4:29 p.m.

TRD-9438164

Friday, April 8, 1994, 9:30 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

According to the complete agenda, the Veterans Land Board will consider approval of the March 10, 1994, minutes of the Veterans Land Board meeting; consideration of and action on resolution: authorizing the issuance and sale of State of Texas Veterans Housing Assistance Taxable Refunding Bonds, Series 1994A, in an amount not to exceed \$176 million (the "Refunding Bonds"); approving the sale of Refunding Bonds pursuant to a bond purchase contract with the following underwriting syndicate: Bear Stearns and Company, Inc.; Stephens, Inc.; First California; Alexander Brown and Sons, Inc.; First American Municipals, Inc.; CS First Boston; Morgan Stanley and Company, Inc.; Walton Johnson and Inc.; and WR Lazard and Company; designating the initial paying agent(s) and initial registrar(s) with respect to the Refunding Bonds; authorizing, ratifying and approving Preliminary Official Statement and Final Official Statement with respect to the Bonds; and authorizing other matters in connection therewith; consideration of and action on resolution authorizing matters in connection with State of Texas Veterans' Housing Assistance Bonds, Series 1994A-2/B; and consideration of bond counsel fees with respect to the State of Texas Veterans' Land Bonds, Series 1994 transaction.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: March 28, 1994, 11:19 a.m.

TRD-9438243

Tuesday, April 19, 1994, 12:30 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

According to the complete agenda, the Veterans Land Board will consider approval of the April 8, 1994, minutes of the Veterans Land Board meeting; consideration of and action on resolution: authorizing the issuance and sale of Texas Veterans Land Bonds, Series 1994, in an amount not exceed \$50 million (the "Bonds"); awarding sale of the Bonds pursuant to a bond purchase contract with the following underwriting syndicate: Grigsby Brandford and Company, Inc.; Merrill Lynch and Company; Artemis Capital Group, Inc.; Dean Witter Reynolds Inc.; Dillon, Read and Company, Inc.; Donaldson, Lufkin and Jenrette Security Corporation; and PaineWebber Inc.; designating the initial paying agents and the initial registrars with respect to the Bonds; authorizing, ratifying and approving Preliminary Official Statement and Final Official Statement with respect to the Bonds; and authorizing other matters in connection therewith; and consideration of and action on resolution authorizing matters in connection with State of Texas Veterans' Housing Assistance Bonds, Series 1994A-2/B.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: March 28, 1994, 11:19 a.m.

TRD-9438242

Texas Growth Fund

Wednesday, April 6, 1994, 10:30 a.m.

1000 Red River

Austin

According to the agenda summary, the Board of Directors will review and approve minutes of the February 22, 1994, special meeting; review and approve treasurer's report; review and approve reimbursement expense reports from the current and former trustees; receive an activity report from TGF Management Corporation; review and approve expenses incurred by TGF Management Corporation in retaining employees; review and approve proposed investment(s); and such other matters as may come before the Board of Trustees.

Contact: Janet Waldeier, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: March 28, 1994, 12:07 p.m.

TRD-9438246

Texas Department of Health

Wednesday, April 6, 1994, 10:00 a.m.

Room T-607, Texas Department of Health,
1100 West 49th Street

Austin

According to the complete agenda, the Texas Statewide Health Coordinating Council will discuss the approval of the minutes from the July 30, 1993, meeting and discuss and possibly act on: mission statement and the role of the Statewide Health Coordinating Council (SHCC); SHCC bylaws and rules; overview of health issues; development of 1995-2001 Texas State Health Plan; selection of committee members (legislative, rules and bylaws; and nominating); and next meeting date.

Contact: Trish O'Day, 1100 West 49th Street, Austin, Texas 78756, (512) 458-2167. For ADA assistance, contact Richard Butler (512) 458-7695 or T. D.D. (512) 458-4588 at least two days prior to the meeting.

Filed: March 28, 1994, 4:06 p.m.

TRD-9438271

Texas Higher Education Coordinating Board

Friday, April 15, 1994, 10:00 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive

Austin

According to the complete agenda, the Universities Committee will meet for consideration of role and mission materials for several border universities; rules and procedures for SPRE; a proposal to offer the complete MBA degree program on a military base; a request from a consortium of universities to offer masters programs through videotaped courses; and proposals from universities in two other states to offer programs in Texas via telecommunications technology.

Contact: Bill Sanford, P.O. Box 12788, Austin, Texas 78711, (512) 483-6200.

Filed: March 28, 1994, 1:42 p.m.

TRD-9438248

Texas Department of Insurance

Monday, April 4, 1994, 1:00 p.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will con-

sider whether Southland Lloyds Insurance Company has complied with the abatement requirements set forth in the Supervision Order.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438182

Tuesday, April 5, 1994, 9:00 a.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider the request by Champion Parts, Inc. for an appeal hearing regarding employee classification codes applicable to workers' compensation insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438181

Wednesday, April 6, 1994, 9:00 a.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider the application of David L. Elliott, Richardson, Texas, for a Group II, Insurance Agent's License.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438180

Wednesday, April 6, 1994, 1:00 p.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider whether U.S. Fidelity Life Insurance Company has complied with the abatement requirements set forth in the Supervision Order.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438179

Thursday, April 7, 1994, 9:00 a.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider the application by Preferred Risk Mutual Insurance Company for a homeowners rate filing decrease pursuant to Article 5.101, §3(g).

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438178

Thursday, April 7, 1994, 10:00 a.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider the application by Preferred Abstainers Insurance Company for a homeowners rate filing decrease pursuant to Article 5.101, §3(g).

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438183

Thursday, April 7, 1994, 11:00 a.m.

State Office of Administrative Hearings,
300 West 15th Street, Fourth Floor, Suite 408

Austin

According to the agenda summary, the Texas Department of Insurance will consider the application by Midwest Mutual Insurance Company for a homeowners rate filing decrease pursuant to Article 5.101, §3(g).

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 25, 1994, 3:30 p.m.

TRD-9438184

Tuesday, April 12, 1994, 10:00 a.m.

William P. Hobby Building, 12th Floor, 333 Guadalupe Street

Austin

According to the agenda summary, the Board of Directors: Texas Title Insurance Guaranty Association will consider and approve minutes from previous meeting; SDR report; title examiner's report; financial report; conservator's report; counsel's report; Financial Committee report regarding title

agency issues; and possible action on continuing education for title examiners.

Contact: Burnie Burner, 301 Congress Avenue #800, Austin, Texas 78701, (512) 474-1587.

Filed: March 28, 1994, 2:53 p.m.

TRD-9438263

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**Texas Juvenile Probation
Commission**

Wednesday, April 6, 1994, 4:30 p.m.

2015 South IH-35

Austin

According to the complete agenda, the Budget Committee will call to order; excuse absences; policy for reimbursement of board members; approval of a revision for fiscal year 1994 administrative budget-telephone system, Article V Appropriation Reduction Riders; legislative appropriation request instructions; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: March 28, 1994, 2:42 p.m.

TRD-9438258

Wednesday, April 6, 1994, 7:00 p.m.

Driskill Hotel, 604 Brazos

Austin

According to the complete agenda, the Board will call to order; excused absences; approval of February 24, 1994, minutes; Texas Juvenile Probation Commission/State Board of Education Joint Committee report; Budget Committee report; Internal Audit Committee report; Director's report-findings of Title IV-E reading on juvenile probation records; briefing on Harris County Waiver of Standards Application and Management Study of the Department, briefing on public hearings for probation standards; update on Legislative subcommittee hearings, TJPC/TYC subcommittee staff report; public comment; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: March 28, 1994, 1:55 p.m.

TRD-9438252

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**Texas Board of Professional
Land Surveying**

Friday, April 8, 1994, 9:00 a.m.

7701 North Lamar Boulevard, Suite 400

Austin

Revised Agenda and Rescheduled from April 1, 1994

According to the complete agenda, the Board will meet to approve the minutes of the previous meeting; to consider and act upon Complaints #92-22 and 25, #93-28, and #94-21; to consider Board Rule §563.17 and new rule §661.42; to hear a presentation from Ron Hall; to hear presentations of all active complaints and show cause actions; to hear presentation of committee reports; to discuss correspondence; to discuss old business and to consider new business. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Sandy Smith at (512) 452-9427 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: March 25, 1994, 2:12 p.m.

TRD-9438137

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**Texas Department of Licens-
ing and Regulation**

Wednesday, April 6, 1994, 9:00 a.m.

E.O. Thompson Building, Room 1012, 920 Colorado

Austin

According to the complete agenda, the Manufactured Housing Inspections and Investigations Committee will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Greg Hinojosa for violation of the Texas Revised Civil Statutes Annotated Article 5221f, §7(d), Article 9100, 16 T.A.C., §69.125(e)(1) and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: March 24, 1994, 4:11 p.m.

TRD-9438104

Tuesday, April 12, 1994, 9:00 a.m.

E.O. Thompson Building, Third Floor, 920 Colorado

Austin

According to the complete agenda, the Property Tax Consultant Inspections and Investigations Committee will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Phil M. Ballard doing business as John Lilburne Associates for violation of the Texas Civil Statutes, Article 8886,

§2(c), Article 9100, 16 T.A.C., Chapter 66 and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: March 24, 1994, 4:11 p.m.

TRD-9438103

Wednesday, April 13, 1994, 9:00 a.m.

E.O. Thompson Building, Room 1012, 920 Colorado

Austin

According to the complete agenda, the Boiler Inspections and Investigations Committee will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Larry Floyd doing business as High Point Cleaners for violation of the Texas Civil Statutes, Article 9100, Texas Health and Safety Code, §755.021, 16 T.A.C., §65.20(c)(1)(C) and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: March 24, 1994, 4.12 p m

TRD-9438105

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**Texas State Board of Medi-
cal Examiners**

Thursday, March 24, 1994, 3:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Meeting

According to the complete agenda, the Disciplinary Panel called to order; roll call; consideration of the temporary suspension of the license of Olivia I. Finley, M.D., license #G-6105; and adjourned.

Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b), §2.09(o), Texas Civil Statutes, regarding pending litigation.

Reason for emergency: Information came to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: March 24, 11:25 a.m.

TRD-9438089

Texas Natural Resource Conservation Commission

Wednesday, April 6, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Office Building, Room 118
Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission will consider approving the following matters: water utility matters; district matters; settled hearings; water quality enforcement, solid waste enforcement; rules; 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: March 28, 1994, 10:10 a.m.

TRD-9438213

Thursday, April 7, 1994, 1:30 p.m.

Building A, Room 202, 12100 Park 35 Circle

Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission will be briefed on the Employee Assistance Program by agency staff and representatives from Workers Assistance Program, Inc.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: March 28, 1994, 2:43 p.m.

TRD-9438260

Wednesday, April 13, 1994, 5:30 p.m.

Cesar Chavez and Trinity Streets, Austin Convention Center

Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission will participate in the annual Employee Recognition Program and present awards to agency employees.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: March 28, 1994, 2:02 p.m.

TRD-9438253

Thursday, May 12, 1994, 9:00 a.m.

Maverick County Courthouse, District Courtroom, 500 Quarry Road

Eagle Pass

According to the agenda summary, the Office of Hearings Examiners will hold a hearing on an application made by City of

Eagle Pass for an amendment to Permit Number 10406-02 to authorize a variance to the buffer zone. The permit authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 6,000,000 gallons per day and allows spray irrigation of sludge at an irrigation rate not to exceed 3.7 acre-feet/acre/year. The facilities are on FM Road 1021, approximately five miles south-east of the intersection of FM Road 375 and FM Road 1021 in Maverick County, Texas.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: March 25, 1994, 4:25 p.m.

TRD-9438161

Thursday, May 19, 1994, 9:00 a.m.

Texas City/La Marque Chamber of Commerce, Chambers Conference Room, 8419 Emmett F. Lowry Expressway

Texas City

According to the agenda summary, the Office of Hearings Examiners will hold a hearing on an amendment to Permit Number 10410-01 in order to combine the wastewater treatment plants permitted under Permit Numbers 10410-01 and 10410-02 into one single outfall. The proposed outfall would authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 2,800,000 gallons per day. The proposed amendment would also enforce more stringent effluent limitations and requirements as needed. The facility is at the intersection of Campbell and Sixth Street in Galveston County, Texas.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: March 25, 1994, 4:24 p.m.

TRD-9438158

Texas Board of Nursing Facility Administrators

Thursday-Friday, April 7-8, 1994, 10:00 a.m.

Room S-400, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Texas Board of Nursing Facility Administrator will discuss and possibly act on: nomination and election of board officers; appointment of committees/description of duties; waiver requests (pending applications); acceptance of out-of-state internships; acceptance of out-of-state degrees; continuing education sponsors; reciprocity with the state of Louisiana for continuing education; preceptor issues; and in-state internship is-

sues); draft rules; committee assignments and setting of dates for committee meetings; and setting of next board meeting date and time. (Note: Friday, April 8, 1994, at 10:00 a.m. meeting may be needed to complete the agenda items.)

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 28, 1994, 4:06 p.m.

TRD-9438270

State Pension Review Board

Tuesday, April 5, 1994, 3:00 p.m.

William P. Clements Building, Fourth Floor, Room 406, 300 West 15th Street

Austin

According to the complete agenda, the Actuarial Review Subcommittee-Telephone Conference will discuss and prepare recommendations to the board on the selection for actuarial services for a special study for the period ending August 31, 1994, with the provision that, at the board's discretion, the contract expiration can be extended to August 31, 1995, to cover actuarial activities during the legislative session. (Additional telephone will be available for conference call.)

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: March 25, 1994, 9:51 a.m.

TRD-9438111

Texas Department of Public Safety

Wednesday, April 6, 1994, 10:30 a.m.

La Fonda Ranch (Walter Umphrey, owner), FM 693, Approximately 11 miles Southwest of Bracketville

Bracketville

According to the complete agenda, the Public Safety Commission will consider approval of minutes; budget matters; internal audit report; personnel matters; pending and contemplated litigation; real estate matters; public comment; and miscellaneous and other unfinished business.

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: March 28, 1994, 2:43 p.m.

TRD-9438261

Public Utility Commission of Texas

Saturday, April 9, 1994, 10:00 a.m.

Dallas Community Center for the Deaf,
4215 Maple Avenue

Dallas

According to the agenda summary, the Relay Texas Advisory Committee, which was appointed by the Public Utility Commission pursuant to House Bill 174, passed by the 71st Texas Legislature, will meet to hear welcome and opening remarks; consider minutes; old business; PUC report; Sprint report; and public comment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 28, 1994, 11:19 a.m.

TRD-9438241

Monday, April 11, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold an interim hearing in Docket Numbers 12820, 12821, 12835, and 12596. Docket Number 12820—petition of the General Counsel for an inquiry into the reasonableness of the rates and services of Central Power and Light Company. Docket Number 12821—petition of the Office of Public Utility Counsel for an inquiry into the reasonableness of the rates and services of Central Power and Light Company. Docket Number 12835—appeal and petition of Central Power and Light Company from the ratemaking decisions of the Cities of Pharr, Edinburg, Mission, Weslaco, McAllen, and Alton, Texas. Docket Number 12596—complaint of James O. Bryant against Central Power and Light Company, Inc.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 28, 1994, 11:19 a.m.

TRD-9438240

Wednesday, April 13, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12855—application of Southwestern Electric Power Company to reconcile fuel costs and request for accounting order.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 25, 1994, 4:04 p.m.

TRD-9438156

Friday, April 15, 1994, 1:00 p.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12476: complaint of Amberwood, Inc. against Houston Lighting and Power Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 28, 1994, 9:58 a.m.

TRD-9438209

Tuesday, June 7, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12738—complaint of Claybar Concrete Products, Inc. against Jasper-Newton Electric Cooperative.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 25, 1994, 4:04 p.m.

TRD-9438155

Thursday, June 9, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12728—application of Guadalupe Valley Electric Cooperative, Inc. for authority to change tariff.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 24, 1994, 11:24 a.m.

TRD-9438086

Tuesday, June 28, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12361—application of Medina Electric Cooperative, Inc. for reconciliation fuel costs and refund of fuel cost overrecovery.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 25, 1994, 1:04 p.m.

TRD-9438124

Tuesday, August 2, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12784—Southwestern Bell Telephone Company statement of intent to change and restructure the company's local transport and directory transport categories of its switched access service.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 28, 1994, 3:20 p.m.

TRD-9438264

Texas Racing Commission

Monday, April 4, 1994, 10:00 a.m.

John H. Reagan Building, Room 101, 105 West 15th Street

Austin

According to the complete agenda, the Texas Racing Commission will call to order; roll call; vote to propose and adopt the following amendments and new sections: §§305.35, 305.44, 305.45, 305.49, 311.106, 321.109, 321.273, 303.202, 305.43, 311.1, 311.2, 311.4-311.6, 311.8-311.11, 303.43, 309.199, 311.53, 319.111, 309.152, 311.157, 313.1, 313.2, 313.41, 321.234, 321.235, 309.355, 311.172; update by staff on strategic planning process; consideration of and action on TxRC Cause Number 93-02-04, in reference: the appeal by Earnest Richard from Stewards' Ruling Trinity 1098 after remand to State Office of Administrative Hearings; executive session pursuant to Government Code, §551.071, to consider: Sam Houston Race Park Commission contracts; Retama Park totalisator contract; Gulf Greyhound Park amended management agreement; consideration of and action on the following: Lubbock Downs' reinstated license and possible conversion to permanent license; request by Sam Houston Race Park for exemption to §309.153; request by Retama Park Association for change of ownership; old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78701, (512) 794-8461.

Filed: March 25, 1994, 2:01 p.m.

TRD-9438125

Railroad Commission of Texas

Tuesday, April 5, 1994, 9:30 a.m.

1701 North Congress Avenue, 12th Floor Conference Room 12-100

Austin

According to the agenda summary, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: March 25, 1994, 10:17 a.m.

TRD-9438115

Texas House of Representatives

Thursday, April 14, 1994, 2:00 p.m.

300 West 15th, Street Committee Room One

Austin

According to the agenda summary, the Select Committee on Qualified Health Providers will organize the committee; adopt rules, introduce committee members; discuss staffing the committee; and receive brief testimony from the Texas Department of Insurance.

Contact: Lisa Edmondson, P.O. Box 2910, Austin, Texas 78768, (512) 463-0480.

Filed: March 28, 1994, 10 10 a.m.

TRD-9438212

Texas Senate

Monday, April 4, 1994, 1:30 p.m.

1400 Congress Avenue, E2.010

Austin

Revised Agenda

According to the agenda summary, the Joint Committee Historically Underutilized Businesses will consider welcome and review of the committee charge, briefing on HUB certificate programs Dr. Lee Elliott Brown, Director, City of Houston Affirmative Action and Contract Compliance,

overview of the legal aspects of HUB programs and update on the progress of the state's capacity/disparity study: Dr. David Evans, Vice-President, National Economic Research Associates, Inc. (NERA); briefing on the Governor's Executive Order, Number AWR 93-7, promoting greater use of HUBs: Mr. Carl Richie, Deputy Chief of Staff, Office of the Governor; briefing on the state's HUB program and review of the 1993 HUB report: Mr. John Poulard, Executive Director, General Services Commission, and Mr. Darrell Pierce, HUB Administrator, General Services Commission; and public testimony.

Contact: Julie Ius, One Capitol Square, Austin, Texas 78701, (512) 463-0100.

Filed: March 25, 1994, 4:30 p.m.

TRD-9438185

Wednesday, April 13, 1994, 10:00 a.m.

211 South Cooper Street, UT Arlington, School of Social Work Auditorium

Arlington

According to the agenda summary, the Joint Interim Committee on the Family Code will call to order; roll call and opening remarks; address committee charge, invited testimony; public testimony; other business; and adjourn.

Contact: Becki Gregg, P.O. Box 12068, Austin, Texas 78711, (512) 463-0385.

Filed: March 28, 1994, 2:42 p.m.

TRD-9438257

Thursday, April 14, 1994, 2:00 p.m.

300 West 15th Street, Committee Room One

Austin

According to the agenda summary, the Joint Interim Committee on Qualified Health Care Providers will call to order; organize the committee; adopt committee rules; introduce committee members, discuss committee staffing; receive brief testimony from the Texas Department of Insurance; and adjourn.

Filed: Lisa Edmondson, P.O. Box 2190, Austin, Texas 78768-2910, (512) 463-0480

Filed: March 28, 1994, 2:42 p.m.

TRD-9438256

State Board of Examiners for Speech Language Pathology and Audiology

Saturday, April 9, 1994, 2:00 p.m.

Room W-101, Tarrant County Convention Center Arena, 11111 Houston Street

Fort Worth

According to the agenda summary, the State Board of Examiners for Speech Language

Pathology and Audiology will conduct a question and answer session concerning licensing and regulations of speech-language pathologists and audiologists.

Contact: Dorothy Cawthon, 1100 West 49th Street, Austin, Texas 78756, (512) 824-6627. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 28, 1994, 4:05 p.m.

TRD-9438269

Boards for Lease of State-Owned Lands

Wednesday, April 6, 1994, 10:00 a.m.

General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833

Austin

According to the complete agenda, the Board for Lease of Texas Department of Criminal Justice will consider approval of previous board meeting minutes; and consideration and approval of bids received for the April 5, 1994, oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: March 28, 1994, 11:40 a.m.

TRD-9438245

Texas Sustainable Energy Development Council

Tuesday, April 5, 1994, 3:30 p.m.

7800 Shoal Creek Boulevard, Public Utility Commission, Commissioner's Hearing Room

Austin

According to the complete agenda, the Texas Sustainable Energy Development Council will call to order, staff report on milestones accomplished; report on LCRA 250 MW Wind Development; transmission working group report; discuss administrative matters; Executive Committee report; discuss authorizations for Executive Committee; discuss strategic planning; schedule next council meeting; and adjourn.

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: March 24, 1994, 2:36 p.m.

TRD-9438090

The Texas A&M University System, Board of Regents

Thursday, March 31, 1994, 10:00 a.m.

1700 Bank One Center, 910 Travis-Conference Room B

Houston

According to the complete agenda, the Executive Committee considered any and all things leading to the selection of the President of Texas A&M University.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 25, 1994, 10:10 a.m.

TRD-9438113

Tuesday, April 5, 1994, 10:00 a.m.

1700 Bank One Center, 910 Travis-Conference Room B

Houston

According to the complete agenda, the Executive Committee will consider any and all things leading to the selection of the President of Texas A&M University.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 25, 1994, 10:10 a.m.

TRD-9438112

University of North Texas

Tuesday, April 5, 1994, 3:00 p.m.

5505 Keller Springs Road

Dallas

According to the complete agenda, the Board of Regents, Advancement Committee will consider UNT Capital Campaign (Phase II) planning.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: March 25, 1994, 4:03 p.m.

TRD-9438154

University of Texas at Arlington

Wednesday, May 11, 1994, 12:45 p.m.

Room 323, Life Science Building, Psychology Department, U.T. Arlington

Arlington

According to the complete agenda, the Institutional Animal Care and Use Committee will consider approval of minutes of December 10 meeting; discussion of findings

of facility inspection; and discussion of departmental orientation session for all animal research personnel held on March 2, 1994.

Contact: Dr. Verne C. Cox, UT Arlington, Arlington, Texas 76019, (817) 273-3164.

Filed: March 28, 1994, 2:46 p.m.

TRD-9438262

The University of Texas Health Center at Tyler

Thursday, April 7, 1994, 11:30 a.m.

Biomedical Research Building, Room 116, UTHCT, Highway 155 at 271

Tyler

According to the agenda summary, the Animal Research Committee will consider approval of minutes; chair report; veterinarian's report; old business; new business; and adjournment.

Contact: Joe Godwin, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7156.

Filed: March 25, 1994, 3:16 p.m.

TRD-9438145

University of Texas at El Paso

Wednesday, April 6, 1994, 2:00 p.m.

Psychology Conference Room 310, UTEP Psychology Building

El Paso

According to the complete agenda, the Institutional Animal Care and Use Committee will call to order by Chairman James V. Devine; approval of November 17, 1993, meeting minutes; introduction of new member; discussion of annual report; and other business initiated by committee members.

Contact: Dr. James V. Devine, Department of Psychology, The University of Texas at El Paso, El Paso, Texas 79968, (915) 747-5551.

Filed: March 28, 1994, 1:44 p.m.

TRD-9438251

Regional Meetings

Meetings Filed March 24, 1994

The Dawson County Central Appraisal District Board of Directors will meet at 1806 Lubbock Highway, Lamesa, April 6, 1994, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9438088.

The Deep East Texas Regional MHMR Services Board of Trustees met in the Ward R. Burke Community Room-Administration Facility, 4101 South Medford Drive, Lufkin, March 29, 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-9438097.

The Golden Crescent Regional Planning Commission Board of Directors met at the Regional Airport, Building 102, Victoria, March 30, 1994, at 5:00 p.m. Information may be obtained from Rhonda Stastny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9438087.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, March 28, 1994, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9438102.

Meetings Filed March 25, 1994

The Andrews Center Board of Trustees met at 2323 West Front Street, Board Room, Tyler, March 31, 1994, at 4:00 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9438136.

The Education Service Center, Region XVI Board of Directors met at the Region XVI Education Service Center, Conference Room J, 1601 South Cleveland, Amarillo, March 31, 1994, at 6:00 p.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9438117.

The Heart of Texas Council of Governments Executive Committee met at 300 Franklin Avenue, Waco, March 31, 1994, at 10:00 a.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9438110.

The Heart of Texas Region MHMR Center Board of Trustees met at 110 South 12th Street, Waco, March 31, 1994, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451, Ext. 290. TRD-9438163.

The Lower Colorado River Authority Retirement Benefits Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 29, 1994, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9438140.

The Martin County Appraisal District will meet at 308 North St. Peter, Stanton, April 7, 1994, at 7:00 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9438107.

The San Antonio-Bexar County Metropolitan Planning Organization Bicycle Mobility Plan Oversight Committee will meet in the VIA Metropolitan Transit Board Room, 800 West Myrtle, San Antonio, April 5, 1994, at 1:30 p.m. Information may be obtained from Dan Hebner, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9438114.

The South Texas Private Industry Council, Inc. met at 901 Kennedy Street, Zapata, March 31, 1994, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9438127.

The Tarrant Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, April 21, 1994, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9438157.

The Wheeler County Appraisal District Board of Directors will meet at the District's Office, County Courthouse Square, Wheeler, April 4, 1994, at 6:30 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9438108.

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**Meetings Filed March 28,
1994**

The Ark-Tex Council of Governments Board Meeting met at the Two Senioritas, Mount Pleasant, March 31, 1994, at 5:30 p.m. in a revised agenda. Information may be obtained from Pam Koelling, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636. TRD-9438272.

The Andrews Center (Revised Agenda.) Board of Trustees met in the Board Room, 2323 West Front Street, Tyler, March 31, 1994, at 4:00 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9438238.

The Central Appraisal District of Taylor County Board of Directors met at 1534 South Treadaway, Abilene, March 31, 1994, at 2:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9438239.

The Central Texas Area Consortium Bluebonnet Health and Human Services, Inc. Mill meet at the Hallmark Restaurant, Sixth Street at IH-35, Belton, April 1, 1994, at noon. Information may be obtained from Wynonah Wineman, Box 937, Belton, Texas 76513, (817) 933-8663, or fax (817) 933-8665. TRD-9438186.

The Lower Rio Grande Valley Development Council Board of Directors met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, March 31, 1994, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9438214.

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, Millersview, April 4, 1994, at 8:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438 TRD-9438193.

The San Antonio-Bexar County Metropolitan Planning Organization Technical Advisory Committee Work Session met in the MPO Conference Room, 434 South Main, Suite 205, San Antonio, March 31, 1994, at 1:30 p.m. Information may be obtained from Michael C Riojas, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9438247

The South Texas Private Industry Council, Inc. met in the Commissioners Court Annex, Zapata, March 31, 1994, at 4:00 p.m. The emergency revised agenda was due to Zapata County Court Public Library being fumigated; please note this is a location change. Information may be obtained from Myra V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9438273.

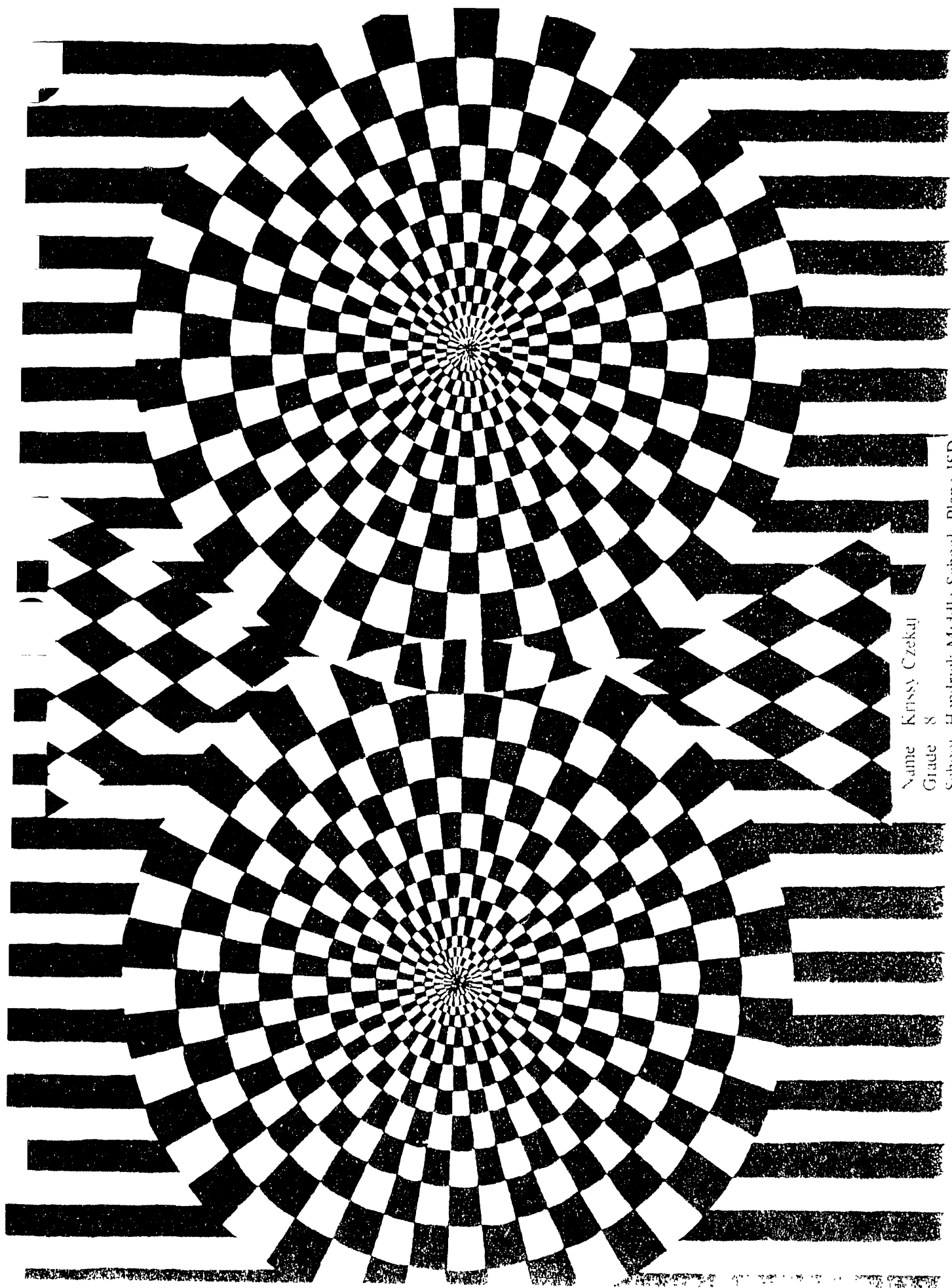
The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, April 7, 1994, at 4:00 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9438265.

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**Meetings Filed March 29,
1994**

The Brazos River Authority Lake Management Committee Board of Directors will meet at 4400 Cobbs Drive, Waco, April 4, 1994, at 9:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441 TRD-9438276.

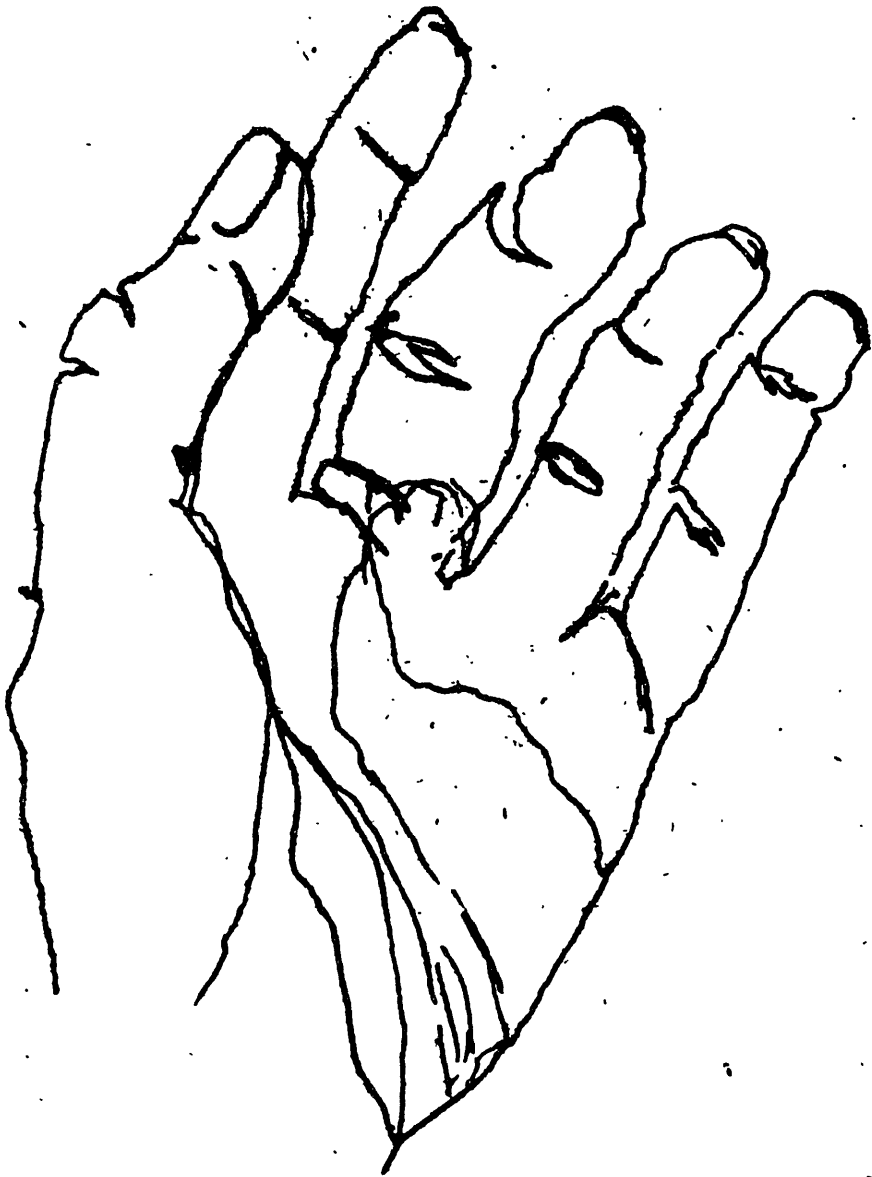
The Brazos River Authority Water Utilization Committee Board of Directors will meet at 4400 Cobbs Drive, Waco, April 4, 1994, at 10:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9438277.

The Brazos River Authority Water Resource Development Committee Board of Directors will meet at 4400 Cobbs Drive, Waco, April 4, 1994, at 11:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9438278



Name Krissy Czekaj
Grade 8

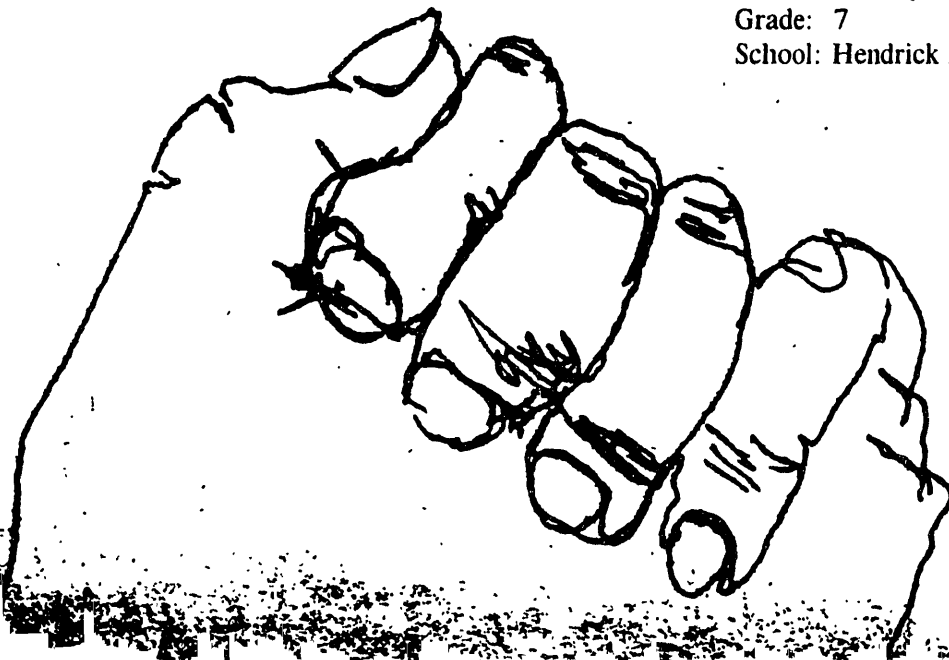
School Hendrick Middle School, Plano ISD



Name: Lindsay Allen

Grade: 7

School: Hendrick Middle School, Plano ISD



IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

State Banking Board

Notice of Hearing Cancellation

As no opposition has been noted in the application for American National Bank, Corpus Christi, Texas, to convert to a state charter under the name of American Bank, LBA, the hearing previously scheduled for Wednesday, March 30, 1994, has been canceled.

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

TRD-9438138 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: March 25, 1994

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Texas Department of Commerce

Correction of Error

The Texas Department of Commerce submitted a notice of Request for Proposals for Older Individual Programs - Titled IIA 5.0% Set Aside. The notice was published in the March 8, 1994, *Texas Register* (19 TexReg 1696).

Due to errors in the agency's submission, the date of the deadline for receipt of proposals was incorrect. The correct date is Friday, April 29, 1994, at 4:00 p.m. The date of the Bidders' Conference is Tuesday, March 29, 1994, at 9:00 a.m.

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Office of Consumer Credit

Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in 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)	03/28/94-04/03/94	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	04/01/94-04/30/94	10.00%	10.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on March 24, 1994

TRD-9438096 Al Endsley
Consumer Credit Commissioner

Filed: March 24, 1994

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Employees Retirement System of Texas Contract Award

The Employees Retirement System of Texas (ERS) published a Request for Proposals in the December 10, 1993, issue of the *Texas Register* (18 TexReg 9219) to obtain a private consultant to assist the ERS with a flexible benefits

program. The consultant services consist of providing ongoing support and technical assistance in the maintenance of a flexible benefits program for state employees.

The proposal selected was that of the Segal Company, 6300 South Syracuse Way, Suite 200, Englewood, Colorado 80111-6722. The term of the contract is February 1, 1994-January 31, 1995, and the total cost of the contract is an amount not to exceed \$17,400.

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

TRD-9438194 Charles D Travis
Executive Director
Employees Retirement System of Texas

Filed: March 28, 1994

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General Land Office Notice of Negotiated Rulemaking

The Texas General Land Office is conducting negotiated rulemaking for the promulgation of procedures and protocols for assessing natural resource damages resulting from coastal oil spills. Participants in the rulemaking group are representatives from the Texas General Land Office, the Texas Natural Resource Conservation Commission, the Texas Parks and Wildlife Department, the Texas Mid-Continent Oil and Gas Association, the Texas Waterways Operators Association, the Galveston Bay Foundation and the Galveston Bay National Estuary Program. This rulemaking is authorized pursuant to the Oil Spill Prevention and Response Act (Texas Natural Resources Code Annotated, Chapter 40), §40.107.

The negotiated rulemaking process is expected to continue through June, 1994. The meetings are open to the public. Any person interested in receiving copies of draft regulations or the schedule of meetings should contact Diane Campbell, Texas General Land Office, 1700 North Congress Avenue, Room 735, Austin, Texas 78701-1495, (512) 305-9176.

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

TRD-9438082 Deborah B. Schilling
Staff Services Officer II
General Land Office

Filed: March 24, 1994

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Governor's Office Consultant Proposal Request-Transportation Efficiency

This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. Historically Underutilized Businesses (HUBS) are encouraged to bid, and all businesses that bid are encouraged to give particular attention in preparing their bids to include HUBS as subcontractors and material providers at the first tier. The State of Texas operates under the basic principles of free and vigorous competition. In accordance with House Bill 2626, 73rd Legislature, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBS. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers, or material providers.

The State Energy Conservation Office (SECO) on behalf of the Sustainable Energy Development Council invites proposals from qualified firms, non-profit organizations, state and local government agencies, institutions of higher education, or individuals to develop a realistic and reliable estimate of the technical and economic potential for energy and energy cost savings in the Texas transportation sector from a multimodal perspective.

Background. The Sustainable Energy Development Council (the Council) was established by Governor Ann W. Richards and is funded for two years by the Texas Legislature using a portion of the oil overcharge funds returned to the state pursuant to the Exxon Court Order. A major

objective of the Council is to integrate sustainable energy concepts and opportunities into the state's current and near-term energy policy. During the first year, the Council will solicit several studies to provide information on various aspects of the regulatory and economic climate. The second phase will be devoted to development of a strategic plan to ensure optimum utilization of the state's renewable energy and energy efficiency resources.

Budget. The maximum budget for this study is \$190,000.

Services to be Performed. The successful proposer will be expected to perform the following services:

1) conduct an assessment of near-term options for increasing energy efficiency in the transportation sector. The assessment should estimate the impact of anticipated technology improvements as well as a variety of mode shifts and incentive programs, such as telecommuting from home; telecommuting from distributed offices; bicycles and other human-powered transport; payments in lieu of parking; auctioning of congestion rights; reduced-cost parking for low-emission vehicles; mass transit incentives; dedicated carpool lanes; alternate uses of school buses; planned-route recycling materials pickups in rural areas; land use designs for walk-to-work/shop/entertainment; electric recharge facilities based on wind, solar, or biomass technologies; hybrid electric vehicles; common carrier regulation of goods and passengers; ranking of infrastructure improvements for road, trucking, intermodal transfer (passengers and materials) and rail (e.g., upgrading existing railbeds for medium-speed passenger trains);

2) develop and apply a computer model to examine transportation in Texas from a multimodal (water, air, rail, highway, and off-road) perspective. The approach should incorporate all cost components, including infrastructure, operations, and social costs.

The model should consider, at a minimum, the following items:

- a. passenger movement by end mode;
- b. motive capacity (e.g., aircraft, bus, rail, vanpool capacity);
- c. freight movement by weight and value;
- d. commodity flow data;
- e. travel speeds.

3) prepare a realistic and reliable estimate of the technical and economic potential for energy savings and energy cost savings in the Texas transportation sector;

4) prepare a final report of recommendations for increasing energy efficiency in the transportation sector. The report should include a ranking and characterization of policy steps and recommended infrastructure improvements, such as high-impact linkages or upgrading existing rights of way;

5) provide preliminary briefings and interim reports to the Council;

6) release copies of the draft reports for public comment and incorporate comments received into the final report.

Contact Person. Additional information concerning this project may be obtained by contacting Don Cook, Sustainable Energy Development Council, at (512) 305-8993.

Closing Date. Seven copies of the sealed proposal should be mailed to Grace Rios at the State Energy Conservation Office, P.O. Box 13047, Austin, Texas 78711-3047. For

hand deliveries, SECO is located in the Insurance Annex Building, Suite 200, 221 East 11th Street, Austin, Texas 78701. In order to be considered, proposals must be received or postmarked by April 28, 1994. Proposals postmarked or hand delivered after that date and proposals submitted by fax will not be considered.

All potential proposers are encouraged to attend a pre-proposal conference in Austin from 10:00 a.m. to Noon in Room 101, John H. Reagan State Office Building located on the southwest corner of 15th Street and Congress Avenue. The purpose of this meeting is to answer any questions regarding the consultant proposal request, the required format, or the evaluation process.

Contractor selection will be made on or before June 7, 1994, and the contract period will extend from the date of signing through April 30, 1995. The schedule for this project requires substantial completion by December 1994.

Format. The submittal shall be organized in the following sequence described, and when appropriate, should include reference to the specific section being addressed by number and title.

1) Proposer's Ability to Assign Qualified Personnel to the Project.

a. **Business Organization.** State the full name and address of the Proposer's organization and identify parent company if applicable. Specify the branch office or other subordinate element which will perform, or assist in performing, the work described herein. Indicate whether the firm operated as a partnership, corporation, or sole proprietorship. Identify the state in which incorporated or licensed to operate. State the number of years the firm has been in business.

b. **Project Management Structure.** Provide an explanation, using charts or other exhibits if necessary, which specifies project leadership and reporting responsibilities, and interface with SECO. Provide a description of the methods which will be employed to organize, direct, monitor, control schedules and costs, and otherwise manage resources under the Proposer's control in the performance of the work. If the use of subcontractors is proposed, identify their placement in the primary project structure, and provide an internal management description for each subcontractor.

c. **Authorized Negotiator.** Include name and address, and telephone number of the person in Proposer's organization who is authorized to negotiate contract terms and render binding decisions on contract matters.

2) Relevant Background of Assigned Personnel and Familiarity with Similar Work.

a. **Prior Experience.** Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe all energy-related work. Do not include details of experience prior to 1988. Supply the project title, year, and reference name, title, present address, and phone number of principal party for whom prior projects were accomplished.

b. **Personnel.** Include names, qualifications and copies of resumes for all professional personnel who will be assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

3) Proposed Work Plan and Ability to Complete Tasks in a Timely Manner.

a. Proposed work plan, including a description of proposed methodologies to be employed.

b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Specify the number of personnel, both technical and clerical who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. Three references willing to attest to the proposers timely completion of similar projects should be specified.

4) Soundness of Budget. The proposed budget should be detailed and reasonable.

5) Conflicts of Interest. Describe the quantity and nature of any work, interest in work, partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work. Persons employed within the past 12) months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite offices are not eligible to participate in SECO contracts.

Selection Criteria. The Contractor selected will possess a comprehensive knowledge of transportation energy use and strategies for reducing the use of depletable transportation fuels.

Proposals will be reviewed by a committee of staff and Council representatives, and evaluation scores will be based on the following criteria:

1) proposers' ability to assign qualified personnel to the project--(0-20 points);

2) relevant background of assigned personnel and familiarity with transportation energy use and efficiency--(0-20 points);

3) proposed work plan and sequence of activities--(0-40 points);

4) proposer's ability to complete the project in a timely manner--(0-10 points);

5) soundness of budget--(0-10 points). Selection of a contractor will be based on the recommendations of the review panel. The review panel may require that finalists meet in Austin for a formal interview prior to selection of a contractor. Selection for interviews will be based on the proposer's ability to satisfy the five criteria previously listed, and interviews will focus on published selection criteria. Recommendations of the review panel are not subject to appeal.

SECO reserves the right to negotiate both budget and scope of work with the finalist(s). SECO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of the Consultant Proposal Request.

No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal.

This Consultant Proposal Request was funded with 100 of PVE-Exxon and 0% of Non-PVE funding authorized through the U.S. Department of Energy, Texas SECP/Sustainable Energy Development Council and through the administration of the Texas Governor's Office.

Issued in Austin, Texas, on March 15, 1994.

TRD-9438144

David A. Talbot
General Counsel
Governor's Office

Filed: March 25, 1994

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Texas Department of Health
Correction of Error

The Texas Department of Health adopted 25 TAC §§229.401-229.412, concerning Minimum Standards for Licensure of Tattoo Studios. The rules appeared in the February 15, 1994, *Texas Register* (19 TexReg 1110).

In the preamble on page 1111, concerning §229.402, the agency omitted the word "of". "...and in the types of pigments used."

On page 113, first column, second response to comments, the word "is" should be omitted as follows: "The department disagrees with the first two commenters, since the statute does not provide for exceptions....The department does not believe that it is the intent of the statute *is* to prohibit medical procedures."

On page 1113, second column, fifth response to comments, the word "agrees" should read "agrees". "The department disagrees with the first four commenters, since reporting and tracking of adverse reactions to pigments.... The department *disagrees* with the last commenter at this time...."

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Interagency Council on Early Childhood
Intervention Funding

The Texas Interagency Council on Early Childhood Intervention (ECI) announces an application for continuation funding for the current Texas Early Childhood Intervention providers. The application will be mailed to all current providers. All applications to be considered for funding must be received at the Texas Early Childhood Intervention Program by 5:00 p.m. on May 6, 1994, or be postmarked by May 5, 1994. Applications should be mailed to: Texas Early Childhood Intervention Program, 1100 West 49th Street, Austin, Texas 78756. Inquiries regarding this application should be directed to the ECI administrative office at (512) 502-4930. Funding is available contingent upon continued state and federal legislative appropriations. Funding will be effective September 1, 1994.

Issued in Austin, Texas, on March 28, 1994.

TRD-9438199

Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 28, 1994

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The Texas Interagency Council on Early Childhood Intervention (ECI) announces an application for continuation funding for the current Milestones projects. The application will be mailed to all current providers. All applications to be considered for funding must be received at the Texas Early Childhood Intervention Program by 5:00 p.m. on May 13, 1994, or be postmarked by May 12, 1994.

Applications should be mailed to: Texas Early Childhood Intervention Program, 1100 West 49th Street, Austin, Texas 78756. Inquiries regarding this application should be directed to the ECI administrative office at (512) 502-4920. Funding is available contingent upon continued state and federal legislative appropriations. Funding will be effective September 1, 1994.

Issued in Austin, Texas, on March 28, 1994.

TRD-9438198

Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 28, 1994

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Notice of Intent to Revoke Radioactive
Material License

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Corpus Christi Healthcare Group, Corpus Christi, L03827.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the licensee for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material license will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 28, 1994.

TRD-9438200

Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 28, 1994

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Notice of Revocation of Certificates of
Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Memorial Medical Center, Corpus Christi, R00467; Tri-City Regional Hospital, Pasadena, R01383; Gulf Coast Physicians, P.A., Houston, R03050; Boydie E. Fereday, D.D.S., Houston, R07618; The Woodlands Chiropractic

Center, Inc., Spring, R09294; Ronald J. Smith, D.D.S., Humble, R10694; Kuykendahl Dental Associates, Houston, R13688; Patrick W. Wills, M.D., Houston, R14461; Heritage Chiropractic, Inc., Bedford, R19127; Test Equipment Distributors, Troy, Michigan, R19198.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on March 28, 1994.

TRD-9438201

Susan K. Steeg
General Counsel
Texas Department of Health
Filed: March 28, 1994

Texas Department of Insurance Notice of Hearing

The Commissioner of Insurance or his designee at a public hearing under Docket Number 2091 scheduled for May 2, 1994, at 8:30 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas will consider amendments proposed by the staff of the Workers' Compensation Division to the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Manual) pertaining to a transition period for the calculation of experience modifiers by the insurance companies. There are three phases to the proposed transition period.

For experience modifiers with an effective date of May 1, 1994-December 31, 1994, that are either issued or revised within the first 120 days of the inception date of the policy or within 120 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniversary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of May 1, 1994-December 31, 1994, that are either issued or revised after the first 120 days of the effective date of the policy or after 120 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

For experience modifiers with an effective date of January

1, 1995-June 30, 1995, that are either issued or revised within the first 90 days after the effective date of the policy or within 90 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniversary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of January 1, 1995-June 30, 1995, that are either issued or revised after the first 90 days of the effective date of the policy or after 90 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

For experience modifiers with an effective date of July 1, 1995, or after that are either issued or revised within the first 60 days of the effective date of the policy or within 60 days of the anniversary rating date, the increase in premium due to the application of the modifier is applicable retroactive to the inception date of the policy or the anniversary rating date, if different than the effective date of the policy. For experience modifiers with an effective date of July 1, 1995, or after that are either issued or revised after the first 60 days of the policy or after 60 days of the anniversary rating date, the increase in premium due to the application of the modifier is computed pro rata from the date the modifier is either issued or revised.

A copy of the amendments containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the amendments, please contact Angie Arizpe (512) 322-4147 (refer to Reference Number W-0394-08).

The staff and the Commissioner request that written comments to these proposed amendments be submitted prior to the public hearing on May 2, 1994. The written comments should be directed to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P. O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Nancy Moore Deputy Commissioner, Workers' Compensation, Texas Department of Insurance, P. O. Box 149092, MC 202-1A, Austin, Texas 78701-9092. Public testimony at the hearing on May 2, 1994, is also invited and encouraged.

Issued in Austin, Texas, on March 28, 1994.

TRD-9438208

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

Filed: March 28, 1994

Texas Natural Resource Conservation Commission Enforcement Orders

An agreed enforcement order was entered regarding James Trudell (TNRCC Operator Certificate Number 381464270) on March 11, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

Notice of Application for Waste Disposal Permits

Attached are Notices of Application for waste disposal permits. These notices were issued during the period of March 14-March 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 conditions which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 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.

David P. and William C. De Jong, Horizon Dairy; the dairy is on the north side of FM Road 219, approximately three and one half miles south of the intersection of FM Road 219 and U.S. Highway 281 in Hamilton County, Texas; new; 03672.

City of Fort Stockton; the wastewater treatment facility and irrigation site; are northeast of the City of Fort Stockton at a site approximately one mile east of FM Road 1053 and two miles north of U.S. Highway 290 in Pecos County, Texas; amendment; 10708-01.

City of Houston; the Southeast Water Purification Plant; the plant site is at 3100 Genoa-Red Bluff Road in Harris County, Texas; new sludge permit; 03523.

Hall Country Ranch, Inc.; a farrow hog and cattle slaughtering operation producing meat cuts; the plant site is east of FM 3176, approximately three miles south of the intersection of IH-35 and FM 3176, Frio County, Texas; new; 03617.

Lower Neches Valley Authority and Neches River Treatment Corporation; the Lower Neches Valley Authority North Regional Treatment Plant; the plant site is on Smith Island, approximately 2.5 miles east of the intersection of U.S. Highway 90 and State Highway 380, Jefferson County, Texas; amendment; 01727.

An agreed enforcement order was entered regarding Chateau Woods MUD (No Permit) on March 11, 1994, assessing \$1,080 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurie Jelinek, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-6639.

Issued in Austin, Texas, on March 21, 1994.

TRD-8438020
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: March 23, 1994

An agreed enforcement order was entered regarding Guardian Savings and Loan Association (No Permit) on March 18, 1994, assessing \$2,160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pamela Campbell, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-4592.

An agreed enforcement order was entered regarding International Estate Corporation (No Permit) on March 18, 1994, assessing \$1,080 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pamela Campbell, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-4592.

An agreed enforcement order was entered regarding Robert Pine doing business as Willow Manor Mobile Home Park (No Permit) on March 18, 1994, assessing \$100,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Geoff Petrov, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0677.

A corrected enforcement order was entered regarding Ashland Katy Company (Permit Number 11073-01) on December 3, 1993, assessing \$12,700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0678.

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

TRD-8438159
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: March 25, 1994

McCombs Enterprises, Inc.; the wastewater treatment facility and subsurface disposal site; are 2.6 miles northwest of the intersection of State Highway 71 and Ranch Road 620, and at the southwest corner of the intersection of Lohmans Crossing Road and Ranch Road 620 in Travis County, Texas; new; 13706-01.

Maxim Production Co., Inc.; the poultry operation; is on the north side of the intersection of FM Road 442 and FM Road 1096 in Wharton County, Texas; amendment; 03357.

Meklo, Incorporated; a facility primarily engaged in receiving drummed classified waste materials which are accumulated, segregated, stored and then transported to final disposal facilities; the plant site is at 4050 Homestead Road in the City of Houston, Harris County, Texas; renewal; 03047.

North Texas Municipal Water District; the Seis Lagos Wastewater Treatment Facilities; the plant site is at 1007 Riva Ridge in the Seis Lagos Development, approximately 0.8 mile southeast of the intersection of FM Road 1378 and FM Road 3286 in Collin County, Texas; renewal; 11451-01.

Northwest Harris County Number 15; the wastewater treatment facilities; are approximately 24 miles northwest of downtown Houston, 4.5 miles south of the City of Tomball, and one mile west of the intersection of Gregson Road and State Highway 249 in Harris County, Texas; renewal; 11939-01.

City of Port Neches; has requested a two-year period temporary variance to the existing water quality standards for the perennial Jefferson County Drainage District Canals of the Neches-Trinity Coastal Basin; the Main Plant Wastewater Treatment Facilities; are approximately one mile northwest of the intersection of State Highway 347 and State Highway 73 in the 6100 block of Georgia Street in Jefferson County, Texas; renewal; 10477-04.

Port O'Connor Municipal Utility District; the wastewater treatment facilities; are north of and adjacent to State Highway 185 and approximately 1,000 feet northwest of the Port O'Connor Airport in Calhoun County, Texas; new; 13693-01.

U.S. Department of the Airforce and Lockheed Corporation; an aircraft and missile manufacturing plant with scientific research and development activities; the plant site is on the south shore of Lake Worth, approximately seven miles west of downtown Fort Worth; bordered on the east by Carswell Air Force Base, and on the south and west by the City of White Settlement, Tarrant County, Texas; renewal; 01764.

XCL Feeders, Inc.; a cattle feedlot; the cattle feedlot is on the south side of FM Road 1058 at the intersection of FM Roads 1058 and 1057, approximately six and one half miles west of the City of Hereford, in Deaf Smith County, Texas; new; 03618.

Hampshire Chemical Corporation; the waste disposal wells; authorize subsurface disposal of non-hazardous wastewaters from the manufacture of organic chemicals and would also be revised to authorize the disposal of two additional waste streams; are located on company property at the Deer Park Plant, approximately three miles northeast of Deer Park in Harris County, Texas; renewal; Permit Numbers WDW-222 and WDW-223.

Power Resources, Inc.; the two wells authorize subsurface disposal of non-hazardous wastewaters from the permittee's cogeneration facility; the two wells are associ-

ated with Power Resources' electrical power cogeneration facility, approximately 2.5 miles northeast of Big Spring, Howard County, Texas; amendments; WDW-180 and WDW-281.

Witco Corporation; the waste disposal wells; authorize subsurface disposal of hazardous wastewaters from the manufacture of organic peroxides, are located on company property at the Witco chemical plant approximately 4.4 miles north-northwest of the City of Marshall in Harrison County, Texas; renewal; Permits Numbers WDW-180 and WDW-243.

Issued in Austin, Texas, on March 25, 1994.

TRD-9438160 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed, March 25, 1994

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**Notice of Opportunity to Comment on
Permitting Actions**

The following applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing", a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application, a description of the location of your property relative to the applicant's operations, and your proposed conditions which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Application by North Texas Municipal Water District, Application Number 08-2410C to amend Certification of Adjudication Number 08-2140, as amended. Certification of Adjudication Number 08-2140, as amended, authorizes the diversion of water for municipal and industrial purposes from Lake Lavon on the East Fork Trinity River, tributary of the Trinity River, in Collin County, approximately 13 miles southeast of McKinney, Texas. The applicant seeks to add an additional diversion point on the lake

and to increase the maximum diversion rate from the lake for municipal purposes by 432 cubic feet per second. The diversion will be via an intake/wetwell which will be approximately two miles northeast of Wylie, Texas and located approximately 150 feet from the shore of Lake Lavon on a peninsula west of East Fork Park.

Application by El Campo Farm Company, Application Number 23-2786A to amend Certificate of Adjudication Number 23-2786. Certificate Number 23-2786 authorizes the diversion and use of 854 acre-feet of water per annum from the Rio Grande to irrigate 335 acres of land out of two tracts totaling 358.34 acres approximately 15 miles northwest of Zapata, Zapata County, Rio Grande, Rio Grande Basin. The applicant seeks to amend the certificate by authorizing the irrigation of an additional 45 acres of land, located just south of the currently authorized land.

Application by Texas-New Mexico Power Company, Application Number 5148B to amend Water Use Permit Number 5148, as amended. Permit Number 5148, as amended, authorizes the diversion and use of not to exceed 236 acre-feet of water per annum from a pond (Pond 001) on Dry Branch for industrial use at the TNP ONE Power Plant; 152 acre-feet of water per annum from a pond (Pond 002) on an unnamed tributary of Bee Branch for industrial use at the plant and 70 acre-feet of water per annum from a pond (Pond 003) on a separate unnamed tributary of Bee Branch for industrial use at the plant in Robertson County, Brazos River Basin. Applicant seeks to amend Permit Number 5148, as amended, by allowing the diversion and use of the total amount of water currently authorized (458 acre-feet per annum) from any of the three reservoirs.

Application by Florence G. Arce, Application Number 23-2711A to amend Certificate of Adjudication Number 23-2711. Certificate of Adjudication Number 23-2711 authorizes the diversion and use of not to exceed 80.667 acre-feet of water per annum from the Rio Grande to irrigate 30 acres of land in Webb County, Rio Grande, Rio Grande Basin. Applicant seeks to amend Certificate Number 23-2711, to change, for a five-year period, the purpose of use of five acre-feet of the 80.667 acre-feet irrigation right to mining use.

Application of CWS Dessau Associates, Ltd., Application Numbers 30311-C and 30312-C for approval of Water Certificate of Convenience and Necessity Number 12729 and Sewer Certificate of Convenience and Necessity Number 20779 in Travis County, Texas.

Permit Number 5314 by C. D. (Josh) Ham, a Texas Water Code, §11.145 Extension of Time Application. Applicant seeks an extension of time for the completion date for the proposed project authorized by Permit Number 5314 from December 20, 1994 to December 20, 1998, East Fork Angelina River, Neches River Basin, Rusk County, Texas.

Application by Phillips Petroleum Company for a Minor Amendment to Permit Number 00721, in order to include whole effluent toxicity limits at Outfall 001. The permit authorizes: a discharge of treated process wastewater at a volume not to exceed an average flow of 7.4 millions gallons per day via Outfall 001; intermittent, flow variable discharges of stormwater runoff via Outfalls 002 and 003; and an intermittent, flow variable discharge of stormwater runoff and boiler blowdown via Outfall 005. The applicant operates the Sweeny Oil Refinery and Petrochemical Complex and the San Bernard Terminal. The plant site is approximately 3.5 miles northwest of the City of Sweeny and southwest of the intersection of State Highway 35 and FM Road 524. The San Bernard Terminal is on an extension of Avenue A, about 1.5 miles northeast of the City of Sweeny, Brazoria County, Texas.

Issued in Austin, Texas, on March 25, 1994.

TRD-9438162 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed, March 25, 1994

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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 in an update to the first PEL published to include additional sites identified and to delete sites cleaned up. Fourteen additional sites have been added and 11 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) 908-6001.

SITES ADDED

PRIORITY ENFORCEMENT LIST

<u>Site #</u>	<u>Rank</u>	<u>County</u>	<u>Name</u>	<u>#Tires</u>
70647	36	HARRIS	HESTER	5000
70648	29	TARRANT	ENCHANTED ACRES ESTATES	1700
70649	39	BEXAR	FERGUSON SITE	2500
70650	30	PARKER	BOB LILLARD	9000
70651	27	PARKER	GLADYS DODSON	650
70652	28	HARRIS	SWANNER SITE	600
70653	36	HARRIS	INGRAM SITE	6000

70654	28	HARRIS	HOWTON TWO	600
70655	31	CASS	BOBBY JOE MATHEWS	2000
70656	31	SMITH	VERNON SADLER	3500
70657	27	BRAZORIA	ENCOAT SITE	3000
70658	23	NUECES	WAYNE LUNDQUIST	575
70659	31	BURNET	STONEHILL SHOOTING RANCH	10000
70660	31	TARRANT	DIVISION ST. GO-KART	3500

SITES DELETED

PRIORITY ENFORCEMENT LIST

<u>Site #</u>	<u>Rank</u>	<u>County</u>	<u>Name</u>	<u>#Tires</u>
70232	27	ROBERTSON	THOMAS E. MORAN	2000
70361	20	LAMPASAS	MARVIN ROSS	1200
70364	33	TARRANT	GREEN OAKS BLVD.	3500
70424	29	ARANSAS	DAVID MAGUGLIN	10000
70431	32	MIDLAND	ANDERSON	1000
70453	33	JACK	GRACE RANCH	5000
70468	25	MONTGOMERY	CRYSTAL CREEK	700
70485	38	BEXAR	JACKSON	20000
70543	34	SAN	GATEWAY CHURCH OF CHRIST	3000
70566	34	BEXAR	HENDERSON	2500
70572	27	HARRIS	FRANCES WALLER	500

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

TRD-9438135

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

Filed: March 25, 1994

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**North Central Texas Council of
Governments**

Request for Consultant Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

NCTCOG is requesting proposals from consultants to conduct a regional commuter rail feasibility assessment. This study will determine the feasibility of providing commuter rail services or some other service (e.g., high occupancy vehicle lanes, bicycle/pedestrian facilities, etc.) along several railroad corridors in the Dallas-Fort Worth area. This study will also refine a commuter rail system that will effectively serve the growing transportation needs of the region.

Contract Award Procedures. The firm selected to perform this study will be recommended by the Project Review Committee. The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the PRC's recommendation and, if found acceptable, will issue an award of contract.

Regulations. NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

Due Date. Proposals must be submitted no later than noon, Friday, April 15, 1994, to Julie K. P. Dunbar, Principal Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P. O. Box 5888, Arlington, Texas 76005-5888. For more information and copies of the Request for Proposals, contact Shirley Henry, (817) 695-9243.

Issued in Arlington, Texas, on March 24, 1994.

TRD-9438187

Mike Eastland
Executive Director
North Central Texas Council of
Governments

Filed: March 28, 1994

**Texas Department of Public Safety
Correction of Error**

The Texas Department of Public Safety adopted an amendment to 37 TAC §15. 92, concerning interstate and armed forces reciprocity. The rule appeared in the March 18, 1994, *Texas Register* (19 TexReg 2010).

In the second paragraph of the preamble the word "adopts" should read "adoption".

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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 pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Texas Commission on Fire Protection, Austin, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Texas Commission on Fire Protection pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 12860.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Texas Commission on Fire Protection. The geographic service market for this specific service is the Austin, Texas area.

Persons who wish to comment upon the action 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 March 24, 1994.

TRD-9438149

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 25, 1994

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**Public Utility Commission Requests
Comments on Electric Utility
Switchovers and Line Extensions**

The Public Utility Commission of Texas has established a project (Project Number 12805) to review its policies concerning electric utility switchovers and line extensions. The Commission seeks comments from interested parties in response to the following questions. Parties are encouraged to respond to the questions in the following order in which they are presented and are encouraged to include an executive summary of their comments.

1. Does the Public Utility Regulatory Act, §58(a) authorize the Commission to adopt a rule that would either allow or prohibit switchovers?

2. Should customers desiring to change from one electric utility provider to another within multi-certificated areas be assessed an exit fee (also known as a "switchover fee")?

3. What limitations, if any, other than payment of appropriate fees, should be imposed on customers desiring to change from one electric utility provider to another within multi-certificated areas?

4. When customers change from one electric utility provider to another within multi-certificated areas, i.e., exit, are utilities placed in jeopardy of not fully recovering the original investment cost of the facilities rendered idle? If so, how should such potentially "stranded" investment be identified?

5. What principles should govern the recapture of potentially "stranded" investment? Which, if any, of the unrecovered costs of facilities rendered idle or other costs at the time of exit should be recovered in a fee assessed on the exiting customer? Should facilities (or costs) which serve only the exiting customer be treated differently than facilities (costs) shared with non-exiting customers?

6. Should certain costs of potentially stranded investment be shared between the utility and exiting customer(s)? If so, which costs? Should the calculation of an exit fee vary depending upon whether one or many customers exit over a short period of time?

7. Should the calculation of an exit fee differ if the utilities in the multi-certificated areas are a) investor owned, b) public or cooperatively-owned, or c) both (a) and (b)? Should the direction of the transaction matter?

8. What policy goals may be advanced by choice of the level and structure of an exit fee and/or line extension charge? If, in the absence of an exit fee and/or line extension charge, the customer is switching from a "higher total bill" to a "lower total bill" supplier, what policy, if any, should the Commission have for defining the proper relationship between the exit fee and the line extension charge?

9. Should the Commission ensure that its line extension/switchover rule rewards efficiency in the provision of electric service? If so, how?

10. Should the Commission set a fixed fee that would be applicable to all switchovers subject to the Commission's jurisdiction? If yes, what dollar amount should that fee be and why is that amount appropriate?

11. What rules, regulations, statutes or policies, if any, are utilized by other states to address the issues of switchovers and line extensions in multi-certificated areas? Identify any of these rules, regulations, statutes or policies from other states that would be desirable and more appropriate for Texas than the approach currently utilized in this state? Please explain.

12. Should a utility in a multi-certificated area be required to inform applicants for service that other electric utilities are authorized to provide service in the same area? Should a utility in multi-certificated area be required to inform applicants for service that if they take service from the utility, and subsequently change to another utility authorized to service in the same area, an exit fee will be assessed? If so, how?

13. Should the Commission impose the exit fee on the utility gaining the customer and require the gaining utility

to recover the cost of the exit fee through a line extension charge?

14. For persons requesting service that will require a line extension, should utilities be required to provide the persons information on alternatives to the line extension, such as distributed generation? If so, what information should be required to be provided?

15. Should the Commission standardize the circumstances under which utilities can charge for all or part of the cost of a line extension? If yes, what should the circumstances be? Should the Commission standardize the method of calculating an appropriate line extension fee?

16. If, through payment of a line extension fee, a customer pays for facilities that are later used in common with other customers, should the customer who originally paid for the facilities receive a refund? If yes, what limitations, if any, should the Commission place on such refunds?

Issued in Austin, Texas, on March 25, 1994.

TRD-9438150

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 25, 1994

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Public Utility Commission Requests
Comments on Integrated Services
Digital Network (ISDN)

The Public Utility Commission of Texas (the Commission) has established a project (Project Number 12756) to examine Integrated Services Digital Network (ISDN) issues. The Commission seeks comments from interested parties in response to the following questions. If your answers would differ depending upon timeframe considerations, please provide answers for each timeframe. Parties are requested to organize their comments to address the specific questions asked in the order asked and are encouraged to include an executive summary emphasizing the main points of their comments to each question.

1. To which local exchange carriers (LECs) should a rule on ISDN apply? Why?

2. Should ISDN-based services be considered to be a replacement of or successor for "plain old telephone service"? Why?

3. Should all Texas customers and customer classes have access to ISDN? Why? If not, why not? What policies should be adopted by the Commission regarding customer access to ISDN? Why?

4. What are the policies which the Commission should adopt regarding the determination of costs and the pricing of ISDN and ISDN-based services? Explain why. Provide detailed cost information for each position if available.

5. Should the manner in which ISDN is deployed affect the price? How?

6. Should the Commission grant regulatory incentives, penalties, or flexibility in exchange for a LEC's provision of ISDN? Why? If yes, describe the incentives, penalties, or flexibility.

7. Does the Commission have jurisdiction to compel the provision of ISDN? Why? Explain the legal basis for your position.

8. Should the LECs be required to provide ISDN services in a manner that is conducive to competition in the provision of ISDN? Why? If so, how?

9. What policies should the Commission adopt regarding the deployment of ISDN? Should the Commission directly mandate deployment, require deployment to be driven by customer demand, or require deployment in some other manner? Why? Describe in detail how.

10. Describe in detail how these policies regarding deployment should be implemented and enforced.

11. If customer driven demand deployment was ordered by the Commission, should the trigger for deployment be 30 customer requests for ISDN per central office? Why? If not, why not, and provide evidence to support your position. If 30 requests is not the appropriate number, explain what is.

12. Should LEC compliance with deployment requirements be monitored on a periodic basis by the Commission? If so, explain in detail how and why.

13. What are the appropriate timeframes for completion of deployment of ISDN in a LEC's service territory and in the entire state, respectively? Why?

14. What are the technological options of the LECs with respect to the system upgrades necessary to deploy ISDN within their service areas? Explain in detail how the costs should be determined and reported to the Commission.

15. Are there any other policies, aspects, technical characteristics, costs, or obstacles (e.g. switch architecture, software, or SS7) regarding deployment that the Commission should consider? If yes, list and describe each and explain why. Provide detailed cost information for each item if available.

16. What policies regarding ISDN standards should be adopted by the Commission? Why?

17. To what standards (e.g. National ISDN, ITU/T standards, etc.) should the Commission require ISDN be deployed and provided? Why?

18. What specific service capabilities (e.g. bearer services, teleservices, supplementary services, etc.) should be required to be provided to customers? Why?

19. How should the policies regarding ISDN be implemented by the Commission? Why? If tariff filings were required, what should they contain? Why?

20. What end-user applications (e.g. telemedicine, distance learning, telecommuting, and video conferencing) using ISDN are available? Will these applications be available using technology other than ISDN? Should the Commission consider this in its rulemaking? Why?

21. Does Texas need ISDN to compete with other states? Why?

22. Would the widespread availability of ISDN have a beneficial impact (e.g., through telecommuting, video conferencing, etc.) on Texas' compliance with the Clean Air Act? Explain how.

23. Are there any other aspects or characteristics of providing ISDN that should be considered by the Commission? If yes, describe each and explain why.

Parties interested in providing additional comments are welcome to do so. The Commission also welcomes data and documentation supporting the parties' comments. General Counsel and staff will review the comments and

use them in preparing a recommendation to the Commission.

Comments (13 copies) should contain a reference to Project Number 12756 and should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice. Reply comments should be submitted within 45 days of the date of publication of this notice.

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

TRD-9438095

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 24, 1994

Texas Rehabilitation Commission Intent to Award Grants

The Texas Rehabilitation Commission announces its intention to award a grant on behalf of the Texas Planning Council for Developmental Disabilities to Walsh Public Relations, Research and Counseling, to continue support to the DD Program for the activity "Partners in Policymaking."

Walsh Public Relations, Research and Counseling, submitted a proposal in response to a Request for Proposals for Support for Training Activities repost in the August 9, 1991, issue of the *Texas Register* (16 TexReg 4376). That RFP invited proposals for a grant project that would provide support and assistance to the DD Program for coordination of the activity entitled "Partners in Policymaking." Pursuant to the aforementioned RFP, in August 1992, a replacement award was made to Walsh Public Relations, Research and Counseling, due to an emergency. The Texas Planning Council for Developmental Disabilities intends to award a grant to Walsh Public Relations, Research and Counseling, to continue their support of the "Partners in Policymaking" training activity because of their experience and contributions towards the success of that program.

Description of Project. The project will provide support and assistance to the DD Program for coordination of the activity entitled "Partners in Policymaking." The project will provide support functions related to training sessions and special assignments for people with developmental disabilities and their family members. The DD Program will maintain final authority for dates, content, and agendas of each event, determination of topics and presenters, and approval of all payments. The grantee will provide staff resources for support activities, such as acquiring meeting space and facilities, coordinating registration, coordinating equipment needs, processing timely reimbursements to participants, facilities, and presenters, and arranging travel and transportation for presenters and participants.

Terms and Funding. The project will be funded for one year. The budget period will be from July 1, 1994-May 31, 1995. The level of funding is expected to be in the range of \$191,174 annually and is contingent on the availability of funds.

For information on any aspect of this announcement, contact: Lester Sanders, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Boulevard,

Austin, Texas 78751-2399, (512) 483-4084.

Issued in Austin, Texas, on March 25, 1994.

TRD-9438188 Charles Schlessler
Associate Commissioner for Legal Services
Texas Rehabilitation Commission

Filed: March 28, 1994

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Center for Rural Health Initiatives
Request for Proposal

The Center for Rural Health Initiatives (CRHI) is extending the period of time allowed for the review of the request for proposal published in the January 14, 1994, issue of the *Texas Register* (19 TexReg 300). The review of the proposal shall be completed by April 11, 1994. Applicants will be notified in writing as to the outcome of their request.

Issued in Austin, Texas, on March 25, 1994.

TRD-9438142 Mary S Campbell
Rural Health Specialist
Center for Rural Health Initiatives

Filed: March 25, 1994

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Texas Department of Transportation,
Division of Aviation
Notices of Contract Award

Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the *Texas Register* on September 24, 1993 (18 TexReg 6576)

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 95-17-041, Pleasanton Municipal Airport.

The engineering firm for these services is: Espey, Huston and Associates, Inc., 206 Wild Basin Road, Suite 300, Austin, Texas 78746.

The total value of the contract is \$11,070 and the contract period starts on March 10, 1994, until the completion of the project.

Issued in Austin, Texas, on March 15, 1994.

TRD-9438091 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: March 24, 1994

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Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the *Texas Register* on September 21, 1993 (18 TexReg 6489)

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 94-31-043, Dublin Municipal Airport.

The engineering firm for these services is: KSA Engineers, P.O. Box 1552, Longview, Texas 75606-1552.

The total value of the contract is \$33,638 and the contract period starts on March 22, 1994, until the completion of the project.

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

TRD-9438092 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: March 24, 1994

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Request for Proposals

The following requests for qualifications for providing professional engineering services are filed under the provision of Texas Civil Statutes, Article 664-4.

The Aviation Division will solicit and receive qualifications for professional services for the design and construction administrative phases for the following projects.

TxDOT Project Number: 94-42-051; Airport Sponsor: City of Center; Project Scope: At the Center Municipal Airport, the design and construction phases for improvements to the runway, taxiways, and apron pavements including site preparation, drainage construction and markings; extend runway 16; construct turnaround; overlay runway; reconstruct apron and hangar access taxiway; extend runway lighting system; install rotating beacon and tower, taxiway reflectors, fencing, and erosion/sedimentation controls; clear and grub runway protection zone; and associated appurtenances.

Estimated total cost of the project is \$2,566,000; Project Manager: John Wepryk.

TxDOT Project Number: 95-07-061; Airport Sponsor: City of Del Rio; Project Scope: At the Del Rio International Airport, the preliminary design report phase, design phases and construction phase for improvements to the runway and taxiway including site preparation and earthwork for runway and taxiway construction; construct and mark new runway and taxiway pavements; install runway lighting, REILs, and PAPI-4s for RW 13-31; install segmented circle, lighted windcone, taxiway reflectors, fencing, drainage structures, and erosion/sedimentation controls; relocate MALS and localizer; and associated appurtenances.

Estimated total cost of the project is \$4,438,000; Project Manager: John Wepryk.

Those interested consulting engineers should submit for each project two unfolded copies of pages 1-3 of TxDOT, Aviation Division Form 439 (dated August, 1993) to the Texas Department of Transportation, Aviation Division, Attention: Grant Administration, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262, 1-800-68-PILOT, or 410 East Fifth Street, Austin, Texas 78701, (512) 476-9262, 1-800-68-PILOT.

Those firms which do not already have a copy of Form 439 (dated August 1993) should request one from the above address. Qualification will not be accepted in any other format.

1994 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1994 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on March 11, July 22, November 11, and November 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Tuesday, January 4	Wednesday, December 29	Thursday, December 30
2 Friday, January 7	Monday, January 3	Tuesday, January 4
3 Tuesday, January 11	Wednesday, January 5	Thursday, January 6
4 Friday, January 14	Monday, January 10	Tuesday, January 11
5 Tuesday, January 18	Wednesday, January 12	Thursday, January 13
Friday, January 21	1993 ANNUAL INDEX	
6 Tuesday, January 25	Wednesday, January 19	Thursday, January 20
7 Friday, January 28	Monday, January 24	Tuesday, January 25
8 Tuesday, February 1	Wednesday, January 26	Thursday, January 27
9 Friday, February 4	Monday, January 31	Tuesday, February 1
10 Tuesday, February 8	Wednesday, February 2	Thursday, February 3
11 Friday, February 11	Monday, February 7	Tuesday, February 8
12 Tuesday, February 15	Wednesday, February 9	Thursday, February 10
13 Friday, February 18	Monday, February 14	Tuesday, February 15
14 Tuesday, February 22	Wednesday, February 16	Thursday, February 17
15 *Friday, February 25	Friday, February 18	Tuesday, February 22
16 Tuesday, March 1	Wednesday, February 23	Thursday, February 24
17 Friday, March 4	Monday, February 28	Tuesday, March 1
18 Tuesday, March 8	Wednesday, March 2	Thursday, March 3
Friday, March 11	NO ISSUE PUBLISHED	
19 Tuesday, March 15	Wednesday, March 9	Thursday, March 10
20 Friday, March 18	Monday, March 14	Tuesday, March 15
21 Tuesday, March 23	Wednesday, March 16	Thursday, March 17
22 Friday, March 25	Monday, March 21	Tuesday, March 22
23 Tuesday, March 29	Wednesday, March 23	Thursday, March 24
24 Friday, April 1	Monday, March 28	Tuesday, March 29
25 Tuesday, April 5	Wednesday, March 30	Thursday, March 31
26 Friday, April 8	Monday, April 4	Tuesday, April 5
27 Tuesday, April 12	Wednesday, April 6	Thursday, April 7
Friday, April 15	FIRST QUARTERLY INDEX	
28 Tuesday, April 19	Wednesday, April 13	Thursday, April 14

29 Friday, April 22	Monday, April 18	Tuesday, April 19
30 Tuesday, April 26	Wednesday, April 20	Thursday, April 21
31 Friday, April 29	Monday, April 25	Tuesday, April 26
32 Tuesday, May 3	Wednesday, April 27	Thursday, April 28
33 Friday, May 6	Monday, May 2	Tuesday, May 3
34 Tuesday, May 10	Wednesday, May 4	Thursday, May 5
35 Friday, May 13	Monday, May 9	Tuesday, May 10
36 Tuesday, May 18	Wednesday, May 11	Thursday, May 12
37 Friday, May 20	Monday, May 16	Tuesday, May 17
38 Tuesday, May 24	Wednesday, May 18	Thursday, May 29
39 Friday, May 27	Monday, May 23	Tuesday, May 24
40 Tuesday, May 31	Wednesday, May 25	Thursday, May 26
41 *Friday, June 3	Friday, May 27	Tuesday, May 31
42 Tuesday, June 7	Wednesday, June 1	Thursday, June 2
43 Friday, June 10	Monday, June 6	Tuesday, June 7
44 Tuesday, June 14	Wednesday, June 8	Thursday, June 9
45 Friday, June 17	Monday, June 13	Tuesday, June 14
46 Tuesday, June 21	Wednesday, June 15	Thursday, June 16
47 Friday, June 24	Monday, June 20	Tuesday, June 21
48 Tuesday, June 28	Wednesday, June 22	Thursday, June 23
49 Friday, July 1	Monday, June 27	Tuesday, June 28
50 Tuesday, July 6	Wednesday, June 29	Thursday, June 30
51 *Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	SECOND QUARTERLY INDEX	
52 Friday, July 15	Monday, July 11	Tuesday, July 12
53 Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	NO ISSUE PUBLISHED	
54 Tuesday, July 26	Wednesday, July 20	Thursday, July 21
55 Friday, July 29	Monday, July 25	Tuesday, July 26
56 Tuesday, August 2	Wednesday, July 27	Thursday, July 28
57 Friday, August 5	Monday, August 1	Tuesday, August 2
58 Tuesday, August 9	Wednesday, August 3	Thursday, August 4
59 Friday, August 12	Monday, August 8	Tuesday, August 9
60 Tuesday, August 16	Wednesday, August 10	Thursday, August 11
61 Friday, August 19	Monday, August 15	Tuesday, August 16
62 Tuesday, August 23	Wednesday, August 17	Thursday, August 18
63 Friday, August 26	Monday, August 22	Tuesday, August 23
64 Tuesday, August 30	Wednesday, August 24	Thursday, August 25
65 Friday, September 2	Monday, August 29	Tuesday, August 30
66 Tuesday, September 6	Wednesday, August 31	Thursday, September 1
67 *Friday, September 9	Friday, September 2	Tuesday, September 6

68 Tuesday, September 13	Wednesday, September 7	Thursday, September 8
69 Friday, September 16	Monday, September 12	Tuesday, September 13
70 Tuesday, September 20	Wednesday, September 14	Thursday, September 15
71 Friday, September 23	Monday, September 19	Tuesday, September 20
72 Tuesday, September 27	Wednesday, September 21	Thursday, September 22
73 Friday, September 30	Monday, September 26	Tuesday, September 27
74 Tuesday, October 4	Wednesday, September 28	Thursday, September 29
75 Friday, October 7	Monday, October 3	Tuesday, October 4
Tuesday, October 11	THIRD QUARTERLY INDEX	
76 Friday, October 14	Monday, October 10	Tuesday, October 11
77 Tuesday, October 18	Wednesday, October 12	Thursday, October 13
78 Friday, October 21	Monday, October 17	Tuesday, October 18
79 Tuesday, October 25	Wednesday, October 19	Thursday, October 20
80 Friday, October 28	Monday, October 24	Tuesday, October 25
81 Tuesday, November 1	Wednesday, October 26	Thursday, October 27
82 Friday, November 4	Monday, October 31	Tuesday, November 1
83 Tuesday, November 8	Wednesday, November 2	Thursday, November 3
Friday, November 11	NO ISSUE PUBLISHED	
84 Tuesday, November 15	Wednesday, November 9	Thursday, November 10
85 Friday, November 18	Monday, November 14	Tuesday, November 15
86 Tuesday, November 22	Wednesday, November 16	Thursday, November 17
87 Friday, November 25	Monday, November 21	Tuesday, November 22
Tuesday, November 29	NO ISSUE PUBLISHED	
88 Friday, December 2	Monday, November 28	Tuesday, November 29
89 Tuesday, December 6	Wednesday, November 30	Thursday, December 1
90 Friday, December 9	Monday, December 5	Tuesday, December 6
91 Tuesday, December 13	Wednesday, December 7	Thursday, December 8
92 Friday, December 16	Monday, December 12	Tuesday, December 13
93 Tuesday, December 20	Wednesday, December 14	Thursday, December 15
94 Friday, December 23	Monday, December 19	Tuesday, December 20
95 Tuesday, December 27	Wednesday, December 21	Thursday, December 22
96 *Friday, December 30	Friday, December 23	Tuesday, December 27