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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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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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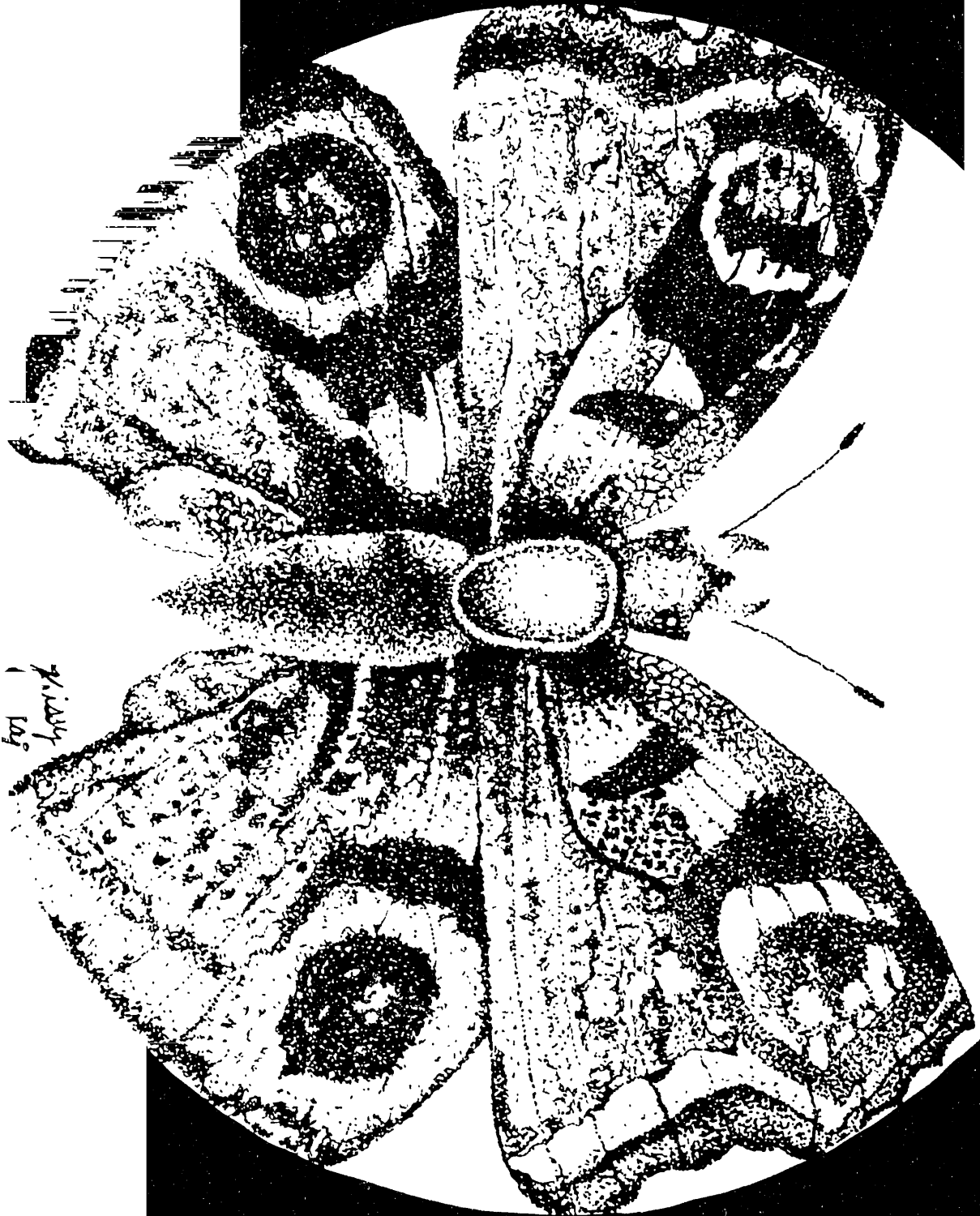
Texas State Board of Registration for Professional Engineers

Correction of Error 4041



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10/9

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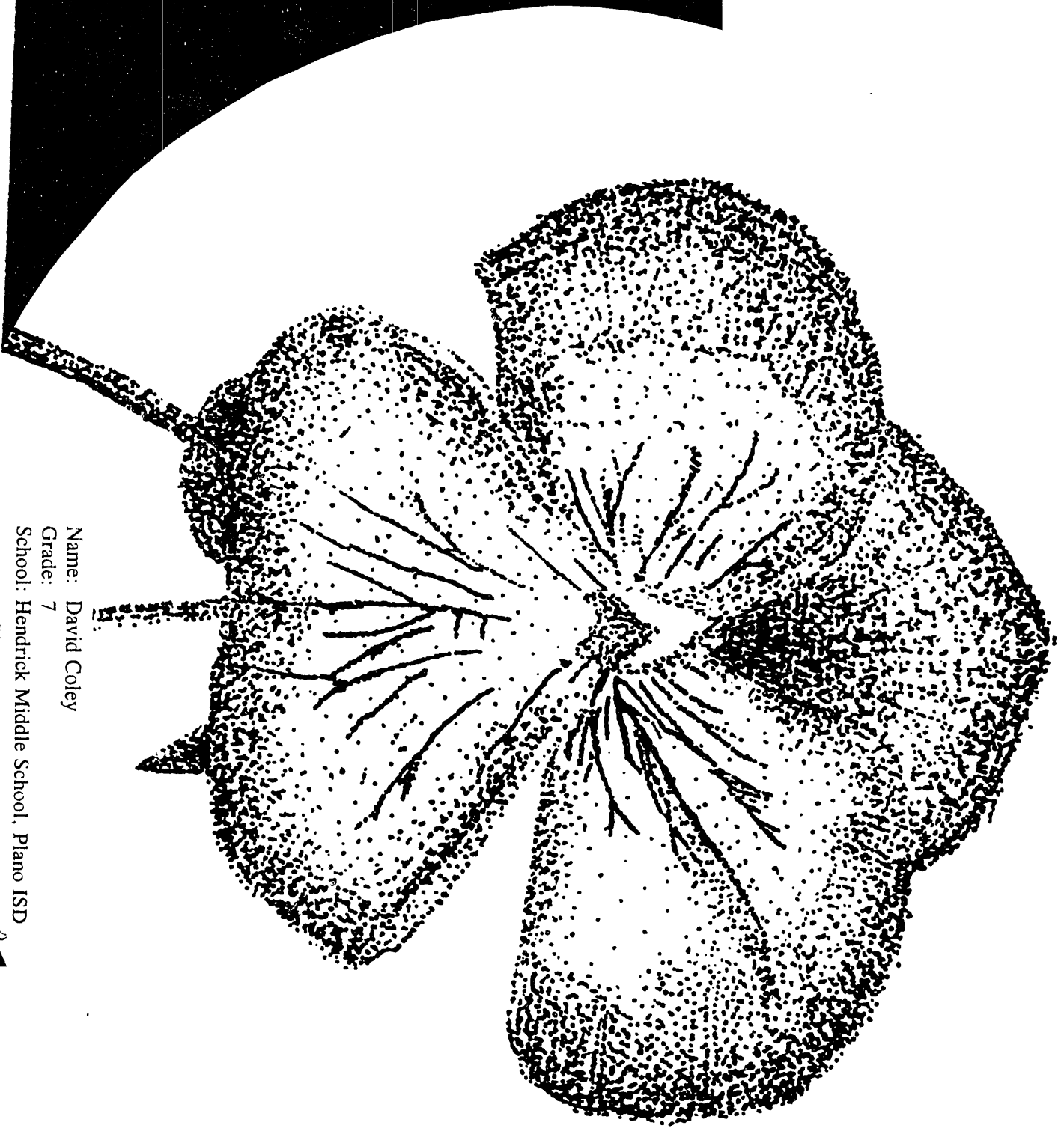
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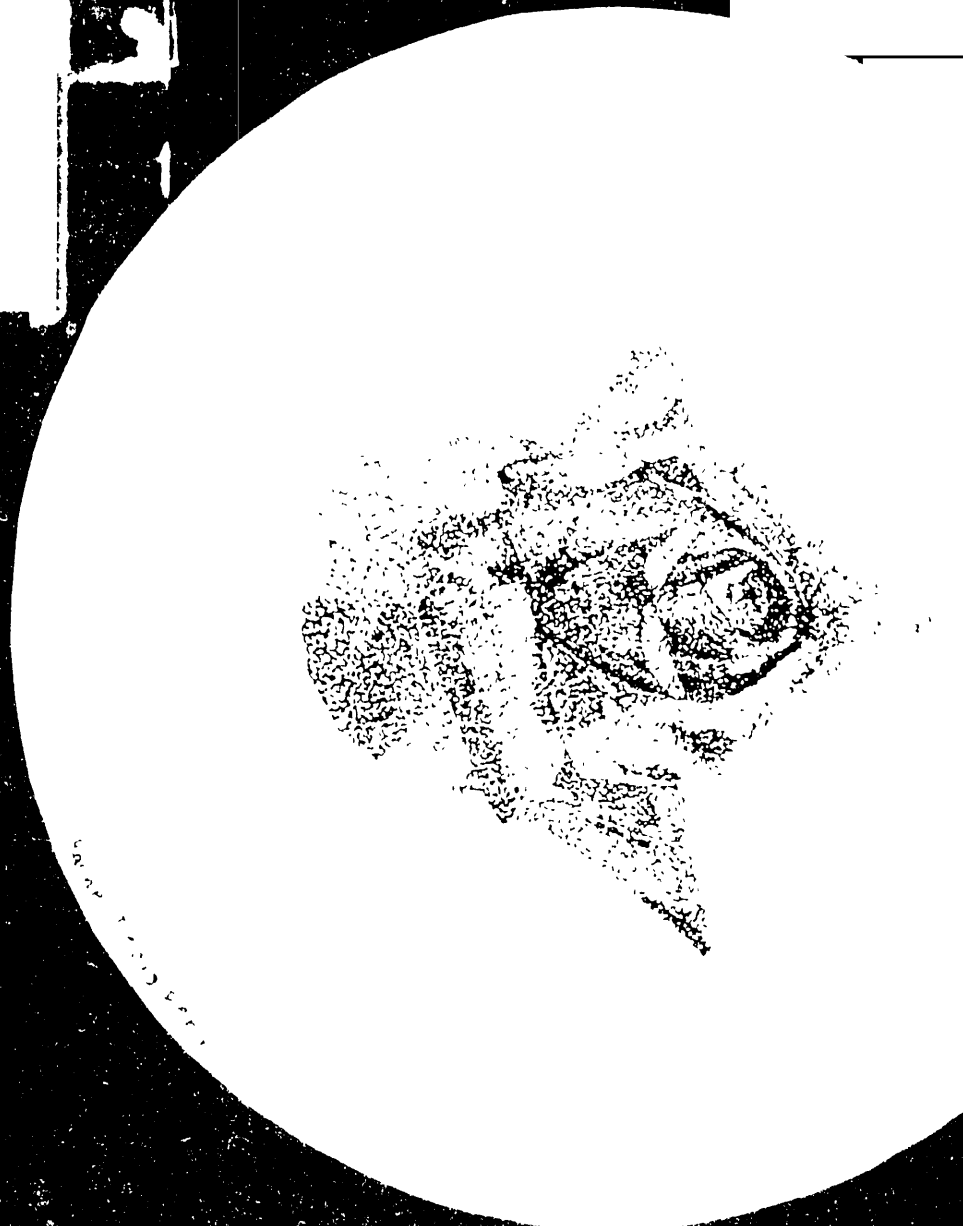
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PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 20. Reporting Political Contributions and Expenditures

Subchapter A. General Rules

• 1 TAC §20.1

The Texas Ethics Commission (the commission) proposes an amendment to §20.1, concerning the definition of a political committee

Jim Mathieson, assistant general counsel, has determined that for the first five-year period this rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering this rule

Mr Mathieson also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a more suitable filing requirement for activities that would otherwise require duplicate filing. By revising the definition of a political committee, this rule establishes that when two or more filers or political committees required to file reports under Title 15 of the Texas Election Code make reportable expenditures for a joint activity, it does not create a new committee with independent filing requirements. There will no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rule as proposed. Mr Mathieson also has determined that amending this rule will have no local employment impact

Comments on the proposed amendment may be mailed or delivered to Jim Mathieson, Assistant General Counsel, Texas Ethics Commission, 1101 Camino La Costa, P O Box 12070, Austin, Texas 78711-2070, or may be transmitted by facsimile to (512) 463-5777. Those who want to offer written or spoken comments on the proposed amendment to this rule to the commission may also do so at any commission meeting during the agenda item "Communication to the Commission from the Public" and during the public comment period available when the commission considers final adoption of the proposed amendment to this rule. Information concerning the date, time, and location of commission

meetings is available by telephoning (512) 463-5800 or, toll-free in Texas, (800) 325-8506.

This amendment is proposed under Election Code, §251.001(12) (relating to the definition of a Political Committee); and Texas Government Code, §571.062, which provide the commission with the authority to promulgate rules to implement laws administered and enforced by the commission.

The proposed rule affects Election Code, §251.001(12)

§20.1 Definitions. The following words and terms, when used in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise

Political committee—Two or more persons that have as a principal purpose accepting political contributions or making political expenditures to support or oppose candidates, officeholders, or measures. The term does not include a group composed exclusively of two or more individual filers or political committees required to file reports under Election Code, Title 15 (relating to Regulating Political Funds and Campaigns), who make reportable expenditures for a joint activity such as a fundraiser or an advertisement.

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 May 13, 1994

TRD-9440974

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption. June 24, 1994

For further information, please call. (512) 463-5800



TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 187. Job Training Partnership Act Rules

Subchapter G. Eligibility Policies and Procedures

• 10 TAC §§187.240-187.249

The Texas Department of Commerce proposes new §§187.240-187.249, concerning rules to implement the Job Training Partnership Act, pursuant to Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. Sections §§187.240-187.243 set forth the purpose and authority of the subchapter, provide general definitions, require a permanent record of the documents used to verify program eligibility, and list optional forms for eligibility documentation. Sections 187.244-187.246 describe the information required to establish Title II income eligibility, and provide for alternate verification by telephone, document inspection or an applicant statement. Sections 187.247-187.249 provide general definitions for Title III, Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) eligibility and describe documentation of eligibility for the Defense Conversion Adjustment Program. The sections are proposed to define and facilitate the establishment of standard procedures to comply with the eligibility criteria and documentation requirements for Title II and Title III of the federal Job Training Partnership Act.

Fabian S. Gomez, staff attorney, Texas Department of Commerce, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Gomez also has determined that for each year of the first five years the proposed sections are in effect, the public benefits anticipated as a result of enforcing the sections will be to facilitate the development and implementation of effective state and local systems for managing job training, employment and related programs in this state. There will be

no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted, in duplicate, to Fabian S. Gomez, Staff Attorney, Work Force Development Division, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, within 30 days of the publication of the proposed sections

The new sections are proposed under the Government Code, §461.0044(a), which authorizes the policy board to adopt rules necessary for the administration of department programs; Texas Civil Statutes, Article 4413(52), §5A, (as amended by Senate Bill 405, §29, Acts 1993, 73rd Legislature), which give the policy board of the Texas Department of Commerce the authority to adopt necessary rules for the implementation and management of the job training program, and pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, which mandates the rulemaking procedures for state agencies

The proposed rule affects Texas Labor Code, §§301.002, 301.022, and 301.052

§187.240. Purpose and Authority This subchapter provides the rules implementing Texas Department of Commerce policies and procedures developed to comply with eligibility criteria and documentation for Titles II and III of the Federal Act.

§187.241. Definitions. For purposes of implementing this subchapter, in addition to the definitions and references in §187.102 of this title (relating to General Definitions), the definitions found in 20 CFR, Part 631 are adopted herein, and the following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

Corroborative witness—A person who personally knows or can identify a JTPA applicant and is reasonably likely to verify the applicant's statement, either by signing the applicant's statement or by completion of a telephone/document inspection form.

Documentation—Physical evidence obtained during the verification process, including documents, completed telephone/document inspection forms and signed applicant statements, maintained in a participant file

Family—As defined in Federal Act, §4(34); however, the category "husband, wife and dependent children" does not include grandchildren, and the term "guardian" means a legal guardian

Family Income—As defined in 20 CFR, §626.5 and Federal Act, §4(8)(b)

Residence—An individual's principal dwelling or home. Pursuant to Federal Act, §141(e), residential eligibility shall be determined on residency at the time of application. SDAs may not use a more restrictive

policy in determining basic JTPA eligibility.

Verification—The confirmation of eligibility requirements through examination of official documents or speaking with official representatives of cognizant agencies.

§187.242 Record of Documentation to Verify Eligibility.

(a) Prior to enrollment of an applicant in a JTPA program, the SDA or JTPA contractor must make a determination of the applicant's eligibility based on information in the applicant's statement and the documentation collected to verify eligibility. SDAs and JTPA contractors must maintain a listing of the documentation sources used to verify each applicant's eligibility. Such documentation listings must be maintained in each participant's file, along with copies of the documentation sources used for verification of eligibility

(b) The Title II Programs Documentation Log and the Title III/EDWAA Eligibility Documentation Log, identified in §187.243 of this title (relating to Basic Forms for Eligibility Documentation), contain comprehensive lists of the appropriate documentation sources to verify eligibility criteria, and may be used as a standard log in each participant's official file. Unless otherwise specified, SDAs and JTPA contractors will satisfy documentation requirements by obtaining a file copy of any one document per criterion

§187.243 Basic Forms for Eligibility Documentation

(a) The following eligibility documentation forms have been developed by the department to facilitate and provide a standard format for client eligibility determination and to document the eligibility verification sources.

(1) The JTPA Income Worksheet provides a basic format for establishing eligibility and compiling information that must be retained in a participant's official file.

(2) The Telephone/Document Inspection Verification Form may be used to record information obtained to verify eligibility.

(3) The Applicant Statement is available for use when eligibility information is not verifiable or may cause undue hardship for individuals to obtain.

(4) The Title II Programs Documentation Log and the JTPA Title III/EDWAA Eligibility Documentation Log may be used to identify the document sources used in verifying an applicant's eligibility.

(5) The Defense Conversion Adjustment Eligibility Documentation Log may be used to identify the document sources used in verifying an applicant's eligibility for the Defense Conversion Adjustment Program described in Federal Act, §325.

(b) All six forms described in subsection (a) of this section may be reproduced as needed, and are available from the address shown in §187.131 of this title (relating to Address for all Submissions, Notices, and Requests for Information or Forms).

(c) SDAs may revise documents and forms required for eligibility verification without obtaining review and approval by the department, provided that such revisions do not restrict or expand the policies set forth in the Federal Act, the Federal JTPA Regulations or this title. The department retains the right to conduct audits and compliance reviews of such revised forms.

§187.244 Information to Establish Income Eligibility.

(a) Each participant's official file must contain the following essential information regarding an applicant.

(1) the applicant's complete name and the application date; and

(2) the beginning and ending dates of the 26-week period used to determine family income, and the following information:

(A) the name of each person who is or was a family member at the time of application (only the applicant shall be listed if he or she is considered to be a family of one;

(B) the relationship to the applicant of each person listed; and

(C) the actual income received by each individual during the prior 26 weeks from all sources of income;

(D) the type(s) of income from the listed sources; and

(E) the sum of all family member incomes as a total family income.

(3) The inclusions and exclusions from the applicant's sources of income, showing the following information:

(A) the amount of all reportable income from each source for all family members for the prior 26 weeks;

(B) an annual income sum obtained by multiplying the total included income by two; and

(C) for applicants who report an absence of income or little or no includable income, any other resources relied upon for life support during the prior 26 weeks, including gifts, loans, or unemployment compensation.

(b) The SDA has the responsibility of obtaining and maintaining adequate documentation of eligibility determination and must decide whether or not to obtain verification of excluded income.

(c) The eligibility staff interviewing the applicant and recording the eligibility information and applicant's income history shall sign and date the entries after completion, verification and documentation.

§187.245. Verification by Telephone or Document Inspection.

(a) Each SDA shall develop a standard form to record pertinent information when verification of JTPA eligibility is accomplished by telephone or document inspection and such documentation cannot be copied or is not readily obtainable. The recorded information must be adequate to enable a monitor or auditor to identify the applicant and the cognizant agency or the document used to determine eligibility. Telephone verification must include all adequate information to enable a monitor or auditor to verify eligibility as well as to identify the name of the individual agency representative providing such information.

(b) Any form used to record such information must be signed and dated by the SDA's intake worker, and must include the following printed attestation: "I attest that the information recorded by me on this document was obtained through telephone contact or document inspection on the indicated date. All information was obtained from data previously determined and recorded in the applicant's records at the agency providing the eligibility verification, as indicated by the verifying agent."

§187.246. Verification by an Applicant Statement. SDAs may develop and use a standard Applicant Statement form to obtain an applicant's personal statement verifying eligibility only when all practicable attempts to secure eligibility documentation have failed. Applicant statements must be supported by a documented corroborative contact or a reliable witness attesting to the accuracy of the statement. The use of an applicant statement form is allowed in the following instances:

(1) when determining general eligibility, to verify residency for homeless

individuals not residing in a shelter or for runaway youth without a permanent place to reside;

(2) when determining economic eligibility, to verify:

(A) family size when birth certificates or Internal Revenue Service forms are not available;

(B) individual status, for persons ordinarily included in the definition of family but claiming to be no longer dependent, corroborated by the head of household in which the applicant resides, and the applicant must show a source of support,

(C) proof of income, indicating the means of support for the previous six months for persons claiming little or no income, corroborated by a witness to verify the means of support; and

(D) the status of an individual with disabilities, when the condition is observable or obvious

(3) when determining Hard-to-Serve eligibility, to verify the status of pregnant applicants, or

(A) dropouts, when documentation from the school district cannot be obtained (only for applicants from out-of-state or who are age 16 or older),

(B) offenders when court records or other documentation are unobtainable; and

(C) individuals with disabilities, when the condition is observable or obvious

§187.247 Title III EDWAA Eligibility Definitions. For purposes of this subchapter, and to define state policy regarding the term "eligible dislocated workers" as required by Federal Act, §301, the definitions found in 20 CFR, Part 617 are adopted herein, and the following words and terms when used in this subchapter shall have the indicated meanings, unless the context clearly indicates otherwise:

Employed—An individual who performed any work as a paid employee or in a personal business, profession or farm, or who worked 15 hours or more during a seven-day period as an unpaid worker in an enterprise operated by a member of the employee's family. This term includes active duty members of the Armed Forces, participants in registered apprenticeship programs, and individuals who were not working but had a job or business from

which they were temporarily absent because of illness, bad weather, vacation, labor management dispute, or personal reasons, whether or not paid by the employer for time off and whether or not seeking another job.

Family member—A person related by blood, marriage or adoption to a self-employed farmer, rancher or business owner, and who provides essential services to successfully carry out the daily activities and operation of the farm, ranch or business, and whose livelihood or support stems from the profitable operation of the farm, ranch or business. The services provided shall not include a financial investment or contribution.

Farm and ranch hand—An individual employed by a self-employed farmer or rancher, and who provides essential services to successfully carry out the daily activities and operation of the farm or ranch, and whose livelihood or support stems from the profitable operation of the farm or ranch. The services provided shall not include a financial investment or contribution.

Going out of business—A situation where the farm, ranch or business operations are likely to terminate, as evidenced by one or more of the following circumstances

(A) issuance of a notice of foreclosure or intent to foreclose business,

(B) failure of a farm, ranch or business to return a profit during the preceding 12 months,

(C) entry of a self-employed individual into business bankruptcy proceedings;

(D) inability to make payments on loans secured by tangible business assets,

(E) inability to obtain capital necessary to continue business operations,

(F) a debt-to-asset ratio sufficiently high to be indicative of the likely insolvency of the farm, ranch or business, or

(G) other events indicative of the likely insolvency of the farm, ranch or business

Layoff—A suspension of or separation from employment by a firm for lack of work, initiated by the employer, and expected to be for a definite or indefinite period of not less than seven consecutive days. Involuntarily separated members of the Armed Forces, including those who ac-

cept an inducement to leave the military, may be eligible to participate in Title III programs, provided they meet all other eligibility requirements and have not been discharged under adverse conditions

Limited opportunities—A situation where the individual has been seeking but is unable to find employment in a previous or similar occupation for a period of 15 or more of the previous 26 weeks due to local labor market conditions, skill limitations, or older worker status

Permanent closure—An employment action that effectively ceases production or work at a single site of employment, or one or more facilities within a single unit of employment, even if a few employees remain.

Permanently dislocated—A permanent loss of employment from a place of business, including a self-employed business, with no intention to rebuild or reestablish the business or occupation.

Public announcement—A notice by an employer of 50 or more workers, publicly declared through the media, of the impending closure of a specific facility including the planned date of final closure.

Same or similar occupation—Two or more job descriptions which match on the first three digits of the current Dictionary of Occupational Titles (DOT) codes or have the same current Occupational Employment Statistics (OES) code

Self-employed—A gainfully occupied individual who works for himself or herself as opposed to salaried or commissioned workers who are the employees of others.

Termination—The separation from employment due to reasons other than a discharge for cause, voluntary departure, or retirement. Individuals who are separated from employment for cause, are involuntarily discharged for medically verified reasons, have accepted early or forced retirement, or have resigned under duress or with good cause connected with the employment, and who are determined eligible for unemployment compensation through documented unemployment insurance adjudication, may be considered as meeting the definition of "terminated" or "layoff" for eligibility purposes.

Unemployed—An individual who did not work during the seven consecutive days prior to application for a JTPA program, who made specific efforts to find a job within the past four weeks prior to application, and who was available for work during the seven consecutive days prior to application, except for temporary illness.

Unemployment Insurance-covered employment—An employment position in which the wages paid are considered in determining eligibility for unemployment compensation under Federal or State unemployment compensation laws. All employees in such positions are covered by unemployment insurance (UI) unless the

service is specifically excluded from the definition of employment SDAs should seek confirmation from the Texas Employment Commission regarding which services are or are not considered UI-covered employment.

Unlikely to return—A dislocated worker whose industry or occupation shows no growth or a decline in available job opportunities, as documented by local Texas Employment Commission labor market statistics or other department approved labor market analyses; or individuals who since termination or layoff have been seeking but are unable to find employment in their previous industry or occupation due to economic conditions or skill limitations.

§187.248. Additional Categories of "Terminated" or "Laid off." Persons may be eligible for Title III training and employment services under the following circumstances:

(1) if they are laid off or terminated because of the cyclical, intermittent, or seasonal nature of their employment. However, such training should be made available only to those individuals interested in developing skills in nonseasonal occupations and not maintaining the existing status;

(2) if they engage in temporary employment with an agreed ending date and are terminated or laid off from such temporary employment prior to the previously agreed to ending date would be considered dislocated. However, if the employer and employee agree that no definite length of employment is associated with the temporary position, the individual would not be considered dislocated if subsequently terminated;

(3) if they engage in temporary employment with an agreed ending date, but continue working beyond that agreed date. Such employees should be considered as permanent employees and would be considered dislocated if meeting the definition of "termination" or "layoff"; and

(4) if they work as employees or "temporaries" for temporary employment agencies and are terminated or laid off from employment by the temporary employment agency, depending on conditions of employment agreed to by the employee

§187.249. Defense Conversion Adjustment Program

(a) Services provided to participants with funds received pursuant to the Defense Conversion Adjustment Program described in Federal Act, §325, shall be tracked and reported separately from JTPA funded programs and not commingled with JTPA participant or financial reporting

(b) Prior to enrollment of an applicant in a Defense Conversion Adjustment program, the JTPA contractor must make a determination of the applicant's basic Title III/EDWAA eligibility based on information in the Applicant Statement and the documentation collected to verify eligibility.

(c) JTPA contractors must maintain completed logs in each participant's file indicating the documentation sources used to verify each applicant's Defense Conversion Adjustment program eligibility, along with copies of the documentation sources used for verification of eligibility.

(d) The Defense Conversion Adjustment Eligibility Documentation Log, described in §187.243 of this title (relating to Basic Forms for Eligibility Documentation), contains a comprehensive list of the recommended documentation sources to verify the additional eligibility criteria for such a program.

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 May 12, 1994

TRD-8440880

Deborah C. Kastlin
Executive Director
Texas Department of
Commerce

Proposed date of adoption September 1, 1994

For further information, please call. (512) 320-1806

Subchapter H. Nondiscrimination and Equal Opportunity

• 10 TAC §§187.260-187.269

The Texas Department of Commerce proposes new §§187.260-187.269, concerning rules to implement the Job Training Partnership Act, pursuant to Texas Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. Section 187.260 designates a state equal opportunity officer within the department to administer and enforce policies and procedures for nondiscrimination and equal opportunity within JTPA programs. Section 187.261 requires service delivery areas and substate areas to designate local equal opportunity officers to coordinate compliance with nondiscrimination and equal opportunity provisions of the federal Job Training Partnership Act. Section 187.262 requires documentation that all participants in JTPA programs have been provided notice of their equal opportunity rights pursuant to federal JTPA regulations. Section 187.263 requires all JTPA recipients to comply with accessibility standards for each facility as defined by the department in its JTPA Equal Opportunity Methods of Administration Manual. Sections 187.264 and 187.265 require collection of

certain information, and access to such information, on all participants in JTPA programs to monitor compliance with nondiscrimination and equal opportunity provisions Sections 187.266-187.269 provide the addresses for filing a discrimination complaint, discuss the department's jurisdiction over such complaints, and cite the possible corrective actions, remedies or sanctions applicable to such complaints. The sections are proposed to develop, maintain and implement state and local level methods of administration to ensure compliance with the nondiscrimination and equal opportunity provisions of the federal Job Training Partnership Act.

Fabian S. Gomez, staff attorney, Texas Department of Commerce, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections

Mr. Gomez also has determined that for each year of the first five years the proposed sections are in effect, the public benefits anticipated as a result of enforcing the sections will be to facilitate the development and implementation of effective state and local systems for managing job training, employment and related programs in this state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed

Comments on the proposal may be submitted, in duplicate, to Fabian S. Gomez, Staff Attorney, Work Force Development Division, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, within 30 days of the publication of the proposed sections.

The new sections are proposed under the Government Code, §481.0044(a), which authorizes the policy board to adopt rules necessary for the administration of department programs, Texas Civil Statutes, Article 4413(52), §5A, (as amended by Senate Bill 405, §29, Acts 1993, 73rd Legislature), which gives the policy board of the Texas Department of Commerce the authority to adopt necessary rules for the implementation and management of the job training program; and pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, which mandates the rulemaking procedures for state agencies.

The proposed rules affect Labor Code, §§301.002, 301.022, and 301.052.

§187.260 State Equal Opportunity Officer.

(a) The Texas Department of Commerce designates the position of Equal Opportunity Officer, within the Work Force Development Division, as the person responsible for administering and enforcing the provisions of Federal Act, §144 and §167, and for developing and maintaining the JTPA Equal Opportunity Methods of Administration Manual pursuant to 29 CFR, Part 34.

(b) Pursuant to the authority in 29 CFR, §§34.33, 34.42(a) and 34.43(b), the

department's Equal Opportunity Officer is hereby designated as the person responsible for receiving, investigating and resolving any complaint alleging a violation of the nondiscrimination and equal opportunity provisions of Federal Act, §167 or 29 CFR, Part 34.

(c) Additionally, the department's Equal Opportunity Officer (EO Officer) shall conduct compliance reviews and complaint investigations and, in order to correct violations, shall negotiate conciliation agreements, suggest remedies, and initiate enforcement action.

(d) The office of the Equal Opportunity Officer shall also provide training and technical assistance for subrecipient EO Officers and staff, to ensure compliance with nondiscrimination provisions applicable to recipients of federal financial assistance.

(e) The department's EO Officer is also designated as the Americans With Disabilities Act Coordinator. All correspondence on these matters should be addressed to Texas Department of Commerce, Workforce Development Division, Equal Opportunity Officer, P.O. Box 12728, Austin, Texas 78711-2728, (512) 320-9811.

§187.261. SDA/SSA Equal Opportunity Officers. Each SDA/SSA must designate a person, other than the SDA/SSA director, as the EO Officer responsible for coordinating compliance with all nondiscrimination provisions of the 29 CFR, Part 34, Subchapter I of this title (relating to JTPA Grievance Procedures), and this subchapter. The local EO Officer shall report directly to the SDA/SSA's highest-level official, and shall perform the following minimum functions:

(1) serve as liaison to the state EO Officer in all matters concerning the state EO Methods of Administration,

(2) provide EO training to SDA/SSA staff and to the staff of any SDA/SSA contractor;

(3) develop, maintain and implement the SDA/SSA Methods of Administration on nondiscrimination and equal opportunity;

(4) revise any job description to reflect the requirements for nondiscrimination and equal opportunity; and

(5) handle any non-criminal grievance or complaint.

(b) Each SDA/SSA must provide to the state EO Officer the name, position title, address and telephone number of the person appointed as the SDA/SSA EO Officer, as well as the job description of such position, detailing the EO responsibilities and the available staff and resources.

§187.262. Notice of Equal Opportunity

(a) Each SDA/SSA must document that it has provided initial and continuing notice of the "Equal Opportunity is the Law" notice promulgated by 29 CFR, §34.23(b) to all applicants, participants, and employees by providing them with a copy of the department's Orientation to Complaint Procedure form as prescribed by §187.285 of this title (relating to Orientation to Complaint Procedure) The SDA/SSA must obtain a signed copy of such form to be retained in the official file for each applicant, participant and employee.

(b) Instead of using the Orientation to Complaint Procedure form, SDA/SSAs have the option of obtaining a signed statement from employees that they have received and read the SDA/SSA personnel manual, the "Equal Opportunity is the Law" statement, and the JTPA grievance procedure rules set forth in Subchapter I of this title (relating to JTPA Grievance Procedures).

(c) Each SDA/SSA must ensure compliance with and dissemination of the requirements of 29 CFR, Part 34, by providing training to its staff and to the staff of its contractors regarding the nondiscrimination and equal opportunity provisions of the Federal Act.

§187.263. Accessibility Standards. Pursuant to 29 CFR, §32.28, each facility used by a recipient for JTPA activities shall be designed, constructed or altered to be readily accessible and usable by disabled individuals, based on the most current standards defined by the department in its JTPA Equal Opportunity Methods of Administration Manual

§187.264 Required Assurance of Compliance.

(a) All monitoring reports on SDA/SSAs shall be reviewed by the department's EO Officer for compliance with the provisions of the nondiscrimination and equal opportunity provisions of the Federal Act, and with the requirement that each application for financial assistance under the Federal Act shall contain the assurance statement required in 29 CFR, §34.20

(b) To enable monitoring by the department of SDA/SSA efforts to provide equitable services among substantial segments of the eligible population, as described in 29 CFR, §34.21, all requests for proposals, proposals, and contracts must contain information regarding the proposed levels of service to males and females, the various racial, ethnic and age groups, and individuals with disabilities

§187 265 Data Collection and Maintenance

(a) Pursuant to 29 CFR, §34 24, subrecipients must collect and maintain information on applicants and employees to provide data for determining compliance with eligibility requirements and nondiscrimination and equal opportunity provisions. Such data collection shall be accomplished through the Standardized Program Information Record (SPIR) format promulgated by the U.S. Department of Labor pursuant to Federal Act, §165. Instructions and information on the SPIR format may be obtained by contacting the Texas Department of Commerce at the address shown in §187 131 of this title (relating to Address for all Submissions, Notices, and Requests for Information or Forms).

(b) In addition to the requirements of 29 CFR, §34 24(b), a JTPA subrecipient must provide access by the department to its premises, employees, participants and records.

§187 266 Complaints of Discrimination

(a) Any person alleging a violation of the Federal Act, §167, has the option of filing a complaint according to the procedures set forth in 29 CFR, §34 43, with either

(1) the Texas Department of Commerce, at the address shown in §187 260 of this title (relating to State Equal Opportunity Officer), or

(2) with the Directorate of Civil Rights at the following address: Directorate of Civil Rights (DCR), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, D.C. 20210.

(b) If such person elects to file at the state level with the department, the local subrecipient shall assist in preparation of the person's complaint. State-level processing of a discrimination complaint shall be handled pursuant to the procedures set forth in 29 CFR, §34 43(f).

§187 267 Jurisdiction The department will accept and investigate only those discrimination complaints alleging a violation of the Federal Act, §167, in which the respondent is a program or activity funded with JTPA funds. Such complaints should be filed within 180 days of the alleged violation unless such time limitation is waived by the department for good and sufficient cause.

§187 268 Corrective Actions and Remedies

(a) At any point in the investigation of a complaint, the complainant, respondent

or the department's EO Officer may request that the parties attempt conciliation. The EO Officer will act to facilitate such conciliation efforts. The respondent to a discrimination complaint shall have ten days from the date the department's EO Officer makes a final determination on a complaint to accept the department's suggested resolution of the complaint, which shall describe actions necessary to assure compliance with the nondiscrimination and equal opportunity provisions of the Federal Act. If the respondent does not accept the suggested resolution or conciliation agreement, the department may impose sanctions pursuant to §187 269 of this title (relating to Sanctions), or the complaint may be forwarded to the Department of Labor for processing.

(b) In addition to the corrective actions and remedies prescribed by 29 CFR, §34 44(b)(2), a respondent may be required by the department to take any of the following actions:

(1) develop an appropriate equal opportunity policy,

(2) correct any discriminatory information from the complainant's records, and

(3) provide equal opportunity training for all staff members.

(c) If the complaint involved discrimination against an applicant for employment, a respondent may be required by the department to make a written offer of employment of the type and grade denied to the applicant, unless the record indicates the applicant would not otherwise have been hired. If the employment is accepted, the appointment may be retroactive, with back pay, from the date the applicant would have been hired to the date of actual employment. The applicant may be deemed to have been employed from the retroactive date for all purposes except for meeting a probationary or trial employment period.

§187 269 Sanctions If the department finds a JTPA entity to be in violation of the nondiscrimination and equal opportunity provisions of the Federal Act, or such entity has not accepted a suggested resolution or conciliation agreement, or has breached an established resolution or conciliation agreement, the department may impose sanctions pursuant to §§187 179-187.182 of this title (relating to State Monitoring and Sanctions Policies).

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 May 12, 1994

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Deborah C. Kastrian
Executive Director
Texas Department of
Commerce

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For further information, please call: (512) 320-1806

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Subchapter I. JTPA Grievance Procedures

• 10 TAC §§187.280-187.298

The Texas Department of Commerce proposes new §§187.280-187.298, concerning rules to implement the Job Training Partnership Act (JTPA), pursuant to Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. Section 187.280 states that the purpose of the subchapter is to supplement and define procedures for handling non-criminal complaints alleging violation of the federal JTPA. Section 187.281 provides definitions applicable to the grievance procedures. Section 187.282 describes the local-level grievance filing procedures. Section 187.283 prescribes the time limitations for filing a complaint of a non-criminal violation of the federal JTPA. Section 187.284 requires each JTPA contractor to comply with various grievance procedure requirements, including designation of a staff person to facilitate such grievance procedures, and documentation of all filed grievances. Section 187.285 describes the procedure for providing an orientation form to all participants and employees regarding their opportunity for filing a complaint. The section also requires documentation that each JTPA participant or employee has received such orientation form. Section 187.286 describes the procedure and timelines for local-level informal conferences on complaints. Section 187.287 describes a complainant's right to and method of requesting a local hearing if an informal conference does not resolve a complaint. Section 187.288 describes the method of setting a hearing date. Section 187.289 requires the appointment of an impartial hearing officer and sets forth the general obligations of such officer. Section 187.290 prescribes the hearing procedure. Section 187.291 and §187.292 require a written decision from the hearing officer and provide the method for a review of such written decision. Section 187.293 and §187.294 describe the procedure for appeal of a written decision to the Texas Department of Commerce and provide that the department's written decision on an appeal shall be the final state-level decision on a complaint. Section 187.295 describes various optional forms available from the department to facilitate the processing of a complaint. Sections 187.296-187.298 provide the procedures for appealing a state-level decision on any administrative matter, including a grievance, describe the formal hearing procedure, and provide for a review of the department's proposal for decision on an appeal. The sections are proposed to define and establish state procedures for resolving allegations of violations of the federal JTPA.

Fabian S. Gomez, staff attorney, Texas Department of Commerce, has determined that for the first five-year period the sections are in

effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections

Mr Gomez also has determined that for each year of the first five years the proposed sections are in effect, the public benefits anticipated as a result of enforcing the sections will be to facilitate the development and implementation of effective state and local systems for managing job training, employment and related programs in this state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted, in duplicate, to Fabian S. Gomez, Staff Attorney, Work Force Development Division, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, within 30 days of the publication of the proposed sections.

The new sections are proposed under the Government Code, §481.0044(a), which authorizes the policy board to adopt rules necessary for the administration of department programs, Texas Civil Statutes, Article 4413(52), §5A, (as amended by Senate Bill 405, §29, Acts 1993, 73rd Legislature), which give the policy board of the Texas Department of Commerce the authority to adopt necessary rules for the implementation and management of the job training program, and pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, which mandates the rulemaking procedures for state agencies.

The proposed rules affect the Labor Code, §§301.002, 301.022 and 301.052.

§187.280. Purpose and Coverage. In addition to the grievance procedures set forth in Federal Act, §144, and in accordance with the grievance procedures in 20 CFR, Part 627, Subpart E, this subchapter establishes state procedures for resolving allegations of violations of the Federal Act in the operation of JTPA programs and activities. These procedures cover complaints alleging a non-criminal violation of the Federal Act, and do not apply to complaints of discrimination pursuant to Federal Act, §167. The department may waive specific provisions of this state grievance procedure upon the agreement of all parties.

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

Complainant—A person or organization having knowledge of an alleged non-criminal violation of the federal Job Training Partnership Act.

Equal Opportunity (EO) Officer—The person designated by a JTPA contractor who shall represent the JTPA contractor and facilitate the complaint process.

Hearing Officer—An impartial party, selected by the JTPA contractor, who shall

preside at a hearing on a grievance. Such party may be an employee of the JTPA contractor and may be an attorney at law.

Respondent—The person, organization or agency against which a complaint has been filed for the alleged violation of the Federal Act.

§187.282. Grievance Filing Procedures.

(a) Any person or organization alleging a violation of the Federal Act may file a complaint by submitting a written grievance to the JTPA contractor responsible for the alleged action, with a copy of the grievance to the department. The grievance must be signed and dated by the complainant and shall include the following information:

(1) the name, complete address, and telephone numbers for the person or organization filing the complaint,

(2) a detailed description of the action that caused the complaint. If the complainant believes the complaint involves a violation of the Job Training Partnership Act, the federal JTPA regulations, the state JTPA rules, the JTPA grant or other agreement under the Job Training Partnership Act, the complainant shall provide a reference to or describe the provision that was violated, and

(3) the name and address of each party or parties believed to be responsible for the action causing the complaint. The complainant must explain how each party is responsible for the action that caused the complaint.

(b) To facilitate the filing of a grievance or complaint, the complainant may request a JTPA Grievance Information Form from the JTPA contractor or from the department at the address shown in §187.260(d) of this title (relating to State Equal Opportunity Officer).

(c) All information and complaints involving allegations of fraud, abuse or other criminal activity shall be reported directly to the Texas Department of Commerce, Quality Assurance Division.

§187.283. Time Limitations.

(a) All complaints of non-criminal violations must be made within one year of the alleged action. The time limitations for complaint resolution specified in Federal Act, §144(a), shall begin to run upon the date of receipt by the respondent of a properly completed written grievance according to the requirements of §187.282 of this title (relating to Grievance Filing Procedures). The respondent's EO Officer shall be responsible for assisting the complainant in correcting an improperly completed grievance filing.

(b) All of the complainant's outstanding and unresolved allegations against the respondent must be described and consolidated into a single complaint, at the time of filing. Any allegation not consolidated into the filed complaint prior to a hearing shall be deemed waived.

§187.284. JTPA Contractor Responsibilities.

(a) Each JTPA contractor and its subrecipients shall maintain at their principal places of business and all intake centers, a copy of the JTPA grievance procedure rules in this subchapter, with posted notices that a copy of such rules is available upon request by any interested person. The JTPA contractor shall also:

(1) provide the department with a photocopy of each complaint postmarked within three days following the filing of such complaint,

(2) upon request, assist the complainant in following JTPA grievance procedures, and ensure that its subcontractors provide such assistance,

(3) designate a staff person as EO Officer to facilitate the complaint process, and whose duties shall include:

(A) ensuring that the JTPA contractor's staff conducts an orientation for each JTPA applicant regarding the JTPA grievance procedures,

(B) ensuring that the required documentation relating to such orientations is retained in each participant's official record,

(C) handling all complaint correspondence and maintaining complete and accurate records of all complaint proceedings,

(D) assisting complainants with the JTPA grievance procedures at their request, and

(E) coordinating each step of the JTPA grievance procedures occurring prior to an appeal to the department, and

(4) prepare and maintain all records, transcripts and other documentation required by the JTPA grievance procedures to assure that the JTPA contractor is fully complying with the terms of the JTPA grievance procedures.

(b) The JTPA contractor, and its subcontractors, shall not in any case harass, antagonize, intimidate, coerce, threaten, discriminate or otherwise take reprisal against a complainant.

§187.285 Orientation to Complaint Procedure

(a) Each JTPA contractor shall provide a copy of the "Orientation to Complaint Procedure" (orientation form) to each applicant at the time of enrollment, and shall

(1) provide the opportunity for each applicant to read and ask questions about the orientation form to ensure that each applicant understands how to initiate a complaint,

(2) obtain the signature of the applicant on the orientation form and retain a copy of the signed form in each participant's official record,

(3) ensure that its subrecipients comply with all the provisions of this section whenever the subrecipients perform any intake functions of a JTPA program, and

(4) translate the orientation form into Spanish or the language of a significant proportion of the eligible population to be served by the JTPA program

(b) The information content of the orientation form can be obtained from the address listed in §187.260 of this title (relating to State Equal Opportunity Officer)

§187.286 Local Level Informal Conference Procedure

(a) The EO Officer shall schedule an informal conference no later than seven days following receipt of a properly completed JTPA Grievance Information Form to provide the parties an opportunity to informally resolve the complaint. The EO Officer shall notify all parties of the time, date and location for the informal conference.

(b) The EO Officer shall serve as facilitator of the informal conference, which may be attended by the complainant, the respondent and any other persons with information or knowledge relevant to the complaint considered necessary by the complainant or EO Officer for a fair determination of the issues. Only those issues presented at the informal conference may be addressed in subsequent hearings

(c) Within three days from the informal conference date, the EO Officer shall provide each party with a written determination including a statement whether or not a resolution was reached, the details of any resolution and, if the complaint was unresolved, notice to the complainant of the opportunity for a hearing

§187.287 Opportunity and Request for a Hearing

(a) If an informal resolution was not achieved the written determination sent

to the complainant must include notification of an opportunity for a hearing. The notification must inform the complainant that:

(1) if a hearing is desired, the complainant must file a written request for a hearing within five days after receipt of the EO Officer's written determination on the informal conference, unless a longer filing period is approved by the EO Officer;

(2) a hearing held pursuant to the complainant's request will involve only those issues that have been presented at the informal conference;

(3) the JTPA contractor shall select a hearing officer, as provided in §187.290(a) of this title (relating to Hearing Officer);

(4) the complainant has the right to be represented at the hearing by an attorney or other representative, and to present witnesses and documentary evidence. The complainant shall bear the cost of such representation; however, this does not preclude an award of reasonable legal fees by the Hearing Officer if the complaint is found to have merit; and

(5) the complainant shall have the opportunity to have records or documents relevant to the complaint produced by their custodian when such records are kept by or for any party to the complaint in the ordinary course of business. The respondent shall have the opportunity to obtain documents within the custody and control of the complainant.

(b) A complainant's request for a hearing must be dated and signed by the complainant and contain the following information to be accepted as complete:

(1) the complainant's full name, residence address, and residence and work telephone numbers;

(2) the name of the JTPA contractor against whom the complaint was filed, and the filing date of the original complaint;

(3) whether or not an informal conference was held to attempt to resolve the complaint, and a copy of any written determination issued by the local EO Officer.

(4) a description of all issues remaining unresolved;

(5) whether the complainant desires to amend the original complaint and, if so, a description of the proposed amendments; and

(6) a description of the remedies or corrective actions sought by the complainant.

§187.288 Notice of Hearing. Within three days after receipt of a complainant's request for hearing, the EO Officer shall send to the

complainant and all other interested parties notice of the setting for a hearing. Such notice shall include a synopsis of the issues to be considered at the hearing, and the following information:

(1) the time, date, and location of the hearing, which must be a date no later than 30 days following the filing date of a properly completed request for a JTPA grievance hearing. The hearing may be scheduled for a date no later than ten days after the prescribed 30-day period if the EO Officer documents good cause for such extension and obtains the written consent of the complainant; and

(2) a provision that the complainant may withdraw the request for a hearing by submitting a written notice of withdrawal of the complaint to the JTPA contractor at any time prior to the hearing date.

§187.289. Hearing Officer

(a) The JTPA contractor shall select an impartial Hearing Officer to preside at the complaint hearing. The Hearing Officer may be an employee of the JTPA contractor or an attorney at law, but shall not be the PIC Chair, a PIC member, the SDA/SSA's Chief Elected Official, a grant recipient, or a member of the SDA/SSA administrative staff. The Hearing Officer must withdraw from the hearing if any circumstance impedes his or her ability to reach a fair and impartial decision.

(b) The Hearing Officer shall conduct the hearing according to the procedures set forth in this subchapter and shall fully consider evidence relevant to the complaint in order to reach a fair decision based on such evidence. At any time during testimony, the Hearing Officer may ask questions to elicit additional facts and to clarify the issues or statements of a party or witness. The Hearing Officer may interrupt testimony to discourage irrelevant lines of testimony or inquiry, to avoid cumulative evidence, and to maintain or restore efficient order to the proceeding.

§187.290. Hearing Procedure.

(a) The Hearing Officer shall conduct the hearing, which may be attended by the complainant, the respondent, the EO Officer and any other persons with information or knowledge relevant to the complaint and considered necessary by the parties for a fair determination of the issues

(b) If no party has arranged for a transcript of the hearing by a certified court reporter, the EO Officer shall ensure that the JTPA contractor has made adequate arrangements for making an audible, understandable electronic recording of the hearing.

(c) The Hearing Officer shall state the issues to be considered at the hearing

(d) The Hearing Officer shall inform all parties that, for each issue considered, the complainant is responsible for proving that the actions complained about involved a violation of the JTPA, the JTPA regulations and rules, a contract or other agreement under JIPA, or were committed in connection with the operation of a JTPA program, and caused specific harm or injury either to the complainant or to the JTPA program.

(e) The Hearing Officer may accept testimony from any other person who may have information or knowledge relevant to the complaint, and may receive oral and written evidence from any party or witness. The Hearing Officer may limit the introduction of cumulative or repetitive evidence.

§187 291 Written Decision The Hearing Officer shall provide to the EO Officer a written decision within 30 days following the hearing. The EO Officer shall transmit such decision, not later than 60 days following receipt of a properly completed JTPA grievance filing, to all parties to the complaint and to the department. Such written decision shall contain at minimum the following information:

(1) the time, date, and location of the hearing,

(2) the names of all persons present at the hearing and the capacities in which they appeared,

(3) a synopsis of the issues and the facts found to exist by the Hearing Officer,

(4) a statement of the decision and the basis for such decision, and

(5) a statement of any remedies to be applied.

§187 292 Request for Review of a Written Decision

(a) The EO Officer shall issue, together with the written decision, a notice informing any adversely affected party of the opportunity to request the department to review the decision. The notice must inform the party that to obtain such review a written request for review must be filed with the department within ten days from the date upon which the party received the written decision, or the written decision will be final.

(b) The complainant may also request a review if a written decision is not received from the JTPA contractor within 60 days of the filing of a properly completed JTPA grievance filing. Such request for review must be filed with the depart-

ment within ten days from the date the complainant should have received a written decision.

(c) The request for review must contain a statement that the party requests a review of the written decision and must include a copy of the written decision.

(d) The request for review must be dated and sent by registered or certified mail to the address shown in §187 260(d) of this title (relating to State Equal Opportunity Officer).

§187 293. Procedure for Review by the Texas Department of Commerce.

(a) Upon receipt of a request for review of a written decision prepared according to the format specified in §187 293 of this title (relating to Request for Review of Written Decision), the department shall direct the JIPA contractor to provide, within five days of receipt of the request, the complete file relating to the complaint.

(b) Upon receipt of the JIPA contractor's information, the department shall have the following options:

(1) reach a determination based upon a review of the information provided by each party, or request additional information,

(2) remand the complaint for re-hearing to obtain additional evidence or findings, or

(3) schedule a state-level hearing if it is determined that the prior proceedings were not conducted consistently with the Federal Act, the JIPA regulations, or the JTPA Grievance Procedure, and that a remand would not remedy such procedural defects.

§187 294 Final Written Decision The department shall issue to all parties a written decision within 30 days from the filing of a properly completed request for review, which written decision shall be the final decision rendered at the state level on a complaint and shall either sustain or overrule in whole or in part the Hearing Officer's decision.

§187 295 Optional Forms Available To facilitate the filing, processing, or withdrawal of a complaint the department has developed the "JTPA Grievance Information Form," the "Withdrawal of Non-EO Complaint" and the "Commerce/JIPA Request for Hearing Form" which may be reproduced and are available from the address listed in §187 260(d) of this title (relating to State Equal Opportunity Officer).

§187 296 Appeal of a Department Action or Decision

(a) A subrecipient adversely affected by an administrative decision, the imposition of sanctions or by the findings in a Final Determination Letter by the department may appeal the decision by filing a Notice of Appeal with the department within ten days of receipt of notification of the action on which the appeal is based. During the appeal procedure, the appellant subrecipient shall be referred to as the complainant and the department shall be referred to as the respondent.

(b) The complainant's notice of appeal must indicate the date on which the complainant received notice of the adverse action, which is the basis of the appeal, and must contain a statement describing such action. Only the issues presented in a notice of appeal shall be considered at a formal hearing. The notice of appeal must be sent by registered or certified mail to the address shown in §187 131 of this title (relating to Address for all Submissions, Notices, and Requests for Information or Forms).

(c) Within 30 days of the receipt by the department of a notice of appeal, the complainant shall be notified of the date scheduled for a formal hearing.

§187 297 Formal Hearing Procedure

(a) The state shall select an impartial Hearing Officer who shall conduct the formal hearing according to the procedures outlined in this subchapter. The Hearing Officer must withdraw from the hearing if any circumstance impedes his or her ability to reach a fair and impartial decision.

(b) The Hearing Officer shall fully consider evidence relevant to the complaint in order to reach a fair decision based on such evidence. At any time during testimony, the Hearing Officer may ask questions to elicit additional facts and to clarify the issues or statements of a party or witness. The Hearing Officer may interrupt testimony to discourage irrelevant lines of testimony or inquiry, to avoid cumulative evidence, and to maintain or restore order to the proceeding.

(c) The complainant and respondent may be represented at the hearing by an attorney or other representative, and shall have the right to call witnesses and introduce documentary evidence at the hearing.

(d) The complainant shall bear the burden of proof by a preponderance of the evidence for each issue described in the notice of appeal to be considered at the formal hearing.

(e) If no party has arranged for a transcript of the hearing by a certified court

reporter, the Hearing Officer shall ensure that an audible, understandable electronic recording is made of the hearing

(f) Within 30 days of the completion of a formal hearing, the Hearing Officer shall render a written Proposal for Decision with findings of fact, conclusions of law, and recommendations as to disposition of the appeal and of the action causing the appeal

§187 298 *Final State Action* The Hearing Officer shall forward a copy of the Proposal for Decision and the hearing record to the governor or a person designated by the governor for independent review and action. Within 30 days of the receipt of such hearing documents, the Proposal for Decision may be ratified, modified or rejected by the governor, as the final state level action on the appeal

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 May 12, 1994

TRD-9440982

Deborah C. Kastirn
Executive Director
Texas Department of
Commerce

Proposed date of adoption September 1, 1994

For further information, please call (512) 320-1806

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part I. Railroad
Commission of Texas**
**Chapter 5. Transportation
Division**
**Subchapter U. General and
Special Rules of Practice
and Procedure**

• **16 TAC §5.460**

The Railroad Commission of Texas proposes new §5.460, concerning certification of minority-owned applicants for motor carrier and motor bus authority

A federal district court in *Bilbo Freight Lines, Inc vs Morales*, Civil Action Number H-93-3808, ruled §4 of Senate Bill 1313 unconstitutional. The district court permanently enjoined the commission from issuing any order or operating authority under commission's rule 16 TAC §5.462, which implemented §4. That ruling is on appeal to the United States Fifth Circuit Court of Appeals. This proposed rule is a measure to implement state and commission minority business enterprise policies while the challenge to §4 is proceeding through the appellate process. The proposed

rule does not conflict with the federal court's decision and does not implicate equal protection or other constitutional issues. By this rulemaking, the commission is not waiving, in any manner, any defense or issue that it may assert in the above-styled lawsuit. Should §4 ultimately be upheld as a valid state action, the commission may review this proposed rule, if adopted, at that time to determine whether it should remain in effect along with 16 TAC §5.462

Jackye Greenlee, assistant director-central operations, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of administering the section would be the increased availability and participation of minority individuals and businesses in the for-hire motor carrier and bus industries. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the new section

Comments may be submitted to Carrie L. McLarty, hearings examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*

The new section is proposed pursuant to Texas Civil Statutes, Article 911a, §4(a) and Article 911b, §4(a), which vest the commission with power and authority to prescribe all rules and regulations necessary for the government of motor bus companies and motor carriers, respectively, and to supervise and regulate such entities in all matters affecting the relationship between them and the shipping public

The following is the article that is affected by this rule §5.460-Texas Civil Statutes, Article 911a and Article 911b

§5.460 *Certification of Minority-Owned Applicants*

(a) It shall be the policy of the Railroad Commission of Texas to encourage, within the limits of its discretion and statutory authority, more equitable participation in the for-hire motor carrier and motor bus industries by minority-owned businesses.

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

(1) **American Indian and Alaskan Native**-A person having origins in any of the original peoples of North America.

(2) **Asian American**-A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(3) **Black**-A person having origins in any of the black racial groups of Africa

(4) **Bona fide MBE applicant**-Any individual applicant for new or amended motor carrier or motor bus authority that is a woman, or is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States. In the case of a corporate applicant for new or amended motor carrier or motor bus authority, it shall mean any corporation, the controlling interest of which is held by a woman or an individual that is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States. In the case of an applicant company that is owned by a partnership, the controlling interest in the partnership must be specifically affirmed in writing as being held by a woman, Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States.

(5) **Bona fide MBE certificate holder**-Any individual who holds motor carrier or motor bus authority issued by the commission, who is a woman, Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States. In the case of a corporate certificate holder, it shall mean any corporation, the controlling interest in which is held by a woman, or an individual that is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States.

(6) **Bona fide MBE transportation contractor**-Any owner-operator and/or a multi-truck lessor leased to a for-hire motor carrier or motor bus company who is a woman or is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is also a citizen of the United States.

(7) **Hispanic**-A person of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race.

(c) The director of the transportation division shall designate a bona fide MBE applicant liaison officer within the transportation division who shall have the responsibility of advising bona fide MBE applicants as to the manner of initiating the certificate, permit, and rate processes and as to the manner of the compliance by successful bona fide MBE applicants with transportation division rules, regulations, and procedures. The field auditors of the transportation division, operating under the supervision of the assistant director-enforcement of the transportation division, shall have the responsibility of advising prospective bona fide MBE applicants of the assistance available for the transportation division bona fide MBE applicant liaison officer.

(d) In order to obtain a for-hire motor carrier or motor bus certificate or permit, a bona fide MBE applicant shall be required to meet the burden of proof imposed by law on regular applicants. In multiple applicant proceedings where the demonstrated public need will support a grant of some, but not all, of the applicants, and the evidence establishes a need for the availability of bona fide MBE applicant transportation not being met by existing bona fide MBE certificate holders and/or by other existing carriers through the use of bona fide MBE transportation contractors, the commission may consider an applicant's status as a bona fide MBE applicant as a factor, along with all other relevant factors, in determining which of the applications should be approved.

(e) The unavailability of existing bona fide MBE certificate holders may be considered as a factor in determining adequacy of existing carrier service.

(1) where a bona fide MBE applicant demonstrates, through public witness evidence, a public necessity for use of the services of a bona fide MBE certificate holder as a primary means of meeting requirements of state or federal law, and local ordinances for use of contractors qualifying as a bona fide MBE certificate holder and/or bona fide MBE transportation contractor under the regulations, and

(2) where existing carriers proposing the applicant fail to establish that they are capable of adequately meeting the demonstrated need for the availability of bona fide MBE certificate holders and/or bona fide MBE transportation contractors

(f) An applicant under this section shall have the burden of proving that it is a bona fide MBE applicant. In determining the entitlement of an applicant to the benefit of this section, the commission may consider the de facto management control of the applicant as well as incidents of ownership. Evidence that any applicant or any of its owners, officers, employees, agents, or representatives has employed any device whatsoever as a sham or subterfuge for the purpose of attempting to gain the benefit of this section shall be considered as evidence of the lack of an applicant's fitness to receive a grant of a certificate or permit.

(g) MBE certificate holders must continue to comply with the terms of subsection (b) of this section. All certificates or permits granted under this section shall be subject to revocation for failure of MBE certificate holders to comply with subsection (b) of this section. The commission reserves the right, upon notice to applicant and hearing, to exercise discretion to revoke authority granted under this section for failure to comply with subsection (b) of this section.

(h) All certificates or permits granted under this section may not be sold, transferred, or leased unless the purchaser, transferee, or lessee is a bona fide MBE.

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 May 16, 1994

TRD-9441017

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

Earliest possible date of adoption June 24, 1994

For further information, please call (512) 463-7096

Subchapter CC. Tow Trucks

• 16 TAC §5.809

The Railroad Commission of Texas proposes an amendment to §5 809, concerning denial, revocation, or suspension of a tow truck certificate of registration for a criminal conviction. The amendment clarifies the information that the commission will consider in determining whether to deny, revoke, or suspend a tow truck certificate of registration when the certificate holder has been convicted of a crime.

Jackye Greenlee, assistant director-central operations, 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.

Carrie L McLarty, hearings examiner, has determined that, for each year of the first five years the rule is in effect, the public benefit anticipated as a result of administering the amendment will be to give greater clarification and guidance to persons with criminal convictions who seek to obtain or maintain certificates of registration for tow trucks, as well as to protect the traveling public from persons whose criminal convictions currently affect the convicted person's ability to safely and effectively perform the functions of a tow truck owner. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed rule.

Comments may be submitted to Carrie L McLarty, hearings examiner, Legal Division, Railroad Commission of Texas, P O Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed pursuant to Texas Civil Statutes, Article 6252-13c, §4 and Article 6252-13d §4, which require licensing authorities to examine an applicant's criminal conviction as it affects the duties and responsibilities of the licensed occupation, and Article 6687-9b §7(b), which requires the commission to adopt rules establishing procedures for denial, suspension, revocation, or reinstatement of a certificate of registration.

The following is the article that is affected by this rule: §5 809-Texas Civil Statutes, Article 6687-9b

§5 809. Denial, Revocation, or Suspension for a Criminal Conviction.

(a) This rule is promulgated pursuant to Texas Civil Statutes, Article 6252-13c, §4 and Article 6252-13d §4, which require licensing authorities to examine an applicant's criminal conviction as it affects the duties and responsibilities of the licensed occupation, and Article 6687-9b, §7(b), which requires the commission to adopt rules establishing procedures for denial, suspension, revocation, or reinstatement of a certificate of registration.

(b) An owner who has a felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in the operation of a tow truck, or which directly affects such person's present fitness to perform as a tow truck owner [including any conviction for a crime involving moral turpitude], may be denied certificates of registration or have a certificate of registration suspended or revoked by the commission. An owner includes any partner in a partnership and any corporation where one of its officers or directors has a felony or misdemeanor conviction of the types described in this section.

(c) In determining whether an owner's criminal conviction directly relates to the performance of a tow truck owner, the commission shall consider the following factors:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a certificate of registration;

(3) the extent to which a certificate of registration might offer an opportunity for the owner to engage in further criminal activity of the same type as that in which the owner previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a tow truck owner.

(d) Those crimes which the commission considers as directly related to the performance of a tow truck owner include, but are not limited to, the following statutes and codes, as they may be amended from time to time:

(1) any criminal violation of statutes regulating the registration and operation of tow trucks, as set out in

Texas Civil Statutes, Article 911b, §16 and 6687b-9;

(2) any crime involving homicide, as set out in Texas Penal Code, §19.01 et seq;

(3) any crime involving sexual assault, as set out in Texas Penal Code, §22.011 and §22.021;

(4) any crime involving assault, as set out in Texas Penal Code, §22.01 et seq;

(5) any crime involving robbery, as set out in Texas Penal Code, §29.01 et seq;

(6) any crime involving burglary, as set out in Texas Penal Code, §30.01 et seq;

(7) any crime involving theft, as set out in Texas Penal Code, §31.01 et seq;

(8) any crime involving fraud, as set out in Texas Penal Code, §32.01 et seq;

(9) any crime involving the unlawful possession or use of weapons, as set out in Texas Penal Code, §46.01 et seq;

(10) any crime involving intoxication, alcoholic beverages, or controlled substances in conjunction with the operation of a motor vehicle, as set out in Texas Penal Code, §19.05 and §38.04; and

(11) any crime involving reckless conduct in conjunction with the operation of a motor vehicle, as set out in Texas Penal Code, §§22.05, 38.04, and 38.15.

(e) In determining whether a criminal conviction directly affects a person's present activity and fitness as a tow truck owner, the commission shall consider the following:

(1) the extent and nature of the owner's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff and chief of police in the community where the person resides; and

(C) and any other person in contact with the convicted person.

(f) It shall be the responsibility of the owner with a criminal conviction to secure and provide to the commission, to the extent possible, the recommendations of the prosecution, law enforcement, and correctional authorities regarding all such convictions. Upon request and prior to a contested case hearing, an owner shall secure and provide to the commission a certified copy of the owner's conviction order and any indictment or information issued prior to such order.

(g) The owner with a criminal conviction shall also furnish proof in such form as may be required by the commission that owner has:

(1) maintained a record of steady employment;

(2) supported his or her dependents;

(3) otherwise maintained a record of good conduct; and

(4) paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which owner has been convicted.

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 May 16, 1994

TRD-9441016 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption June 24, 1994

For further information, please call (512) 463-7095



Part III. Texas Alcoholic Beverage Commission

Chapter 31. Administration

Administrative Functions of the Commission

• 16 TAC §31.5

The Texas Alcoholic Beverage Commission proposes new §31.5, concerning Alcoholic Beverage Commission Charge Schedule, which sets copying costs for information requested by the public, details the billing methodology and identifies its general counsel as the open records coordinator

Gayle Gordon, general counsel, has determined that for the fiscal implications for state and local government as a result of enforcing or administering this section will be positive, but the exact amount is not subject to determination at this time

Ms. Gordon also has determined that for the first five year the section as proposed is in effect the public benefit anticipated as a result of enforcing or administering the rule will be that the public will know the cost of the copies they request as public information. 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 Gayle Gordon, General Counsel, Texas Alcoholic Beverage Commission, P O Box 13127, Austin, Texas 78711.

The amendment is proposed under the Texas Alcoholic Beverage Code, Subchapter B, §531, and §550, which provides the Texas Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. This new rule implements the provisions of Government Code, §552.261 and §552.262, with respect to charges state agencies set to recover the cost of providing records to the public

The new rule affects Alcoholic Beverage Code, §§547, 548, 549 and 550

§31.5 Alcoholic Beverage Commission Charge Schedule

(a) The following charges will be made for providing copies of public information by the Texas Alcoholic Beverage Commission

(1) standard-size paper copy-\$10 per page,

(2) nonstandard-size copy:

(A) diskette-\$1.00 each,

(B) magnetic tape-\$10 each;

(C) VHS video cassette-\$2.50 each;

each; (D) audio cassette-\$1 00

and (E) paper copy-\$ 50 each,

(F) other-actual cost.

hour; (3) personnel charge-\$15 per

(4) overhead charge-20% of personnel charge;

(5) microfiche or microfilm charge.

(A) paper copy-\$ 10 per page, and

(B) fiche or film copy-actual cost

(6) remote document retrieval charge-actual cost,

(7) computer resource charge

(A) mainframe-\$17 50 per minute;

(B) midsize-\$3 00 per minute;

(C) client server-\$1 00 per minutes, and

(D) PC or LAN-\$ 50 per minute.

(8) programming time charge-\$26 per hour;

(9) miscellaneous supplies-actual cost,

(10) postage and shipping charge-actual cost,

(11) fax charge

(A) local-\$ 10,

(B) long distance, same area code-\$ 50 per page, and

(C) long distance, different area code-\$1.00 per page

(12) other costs-actual cost.

(b) All agency charges for the production of public records will be itemized and billed utilizing an agency standardized billing statement. The statement shall reflect the following information

(1) date of billing,

(2) description of information requested,

(3) name of agency, company, corporation, individual, or entity requesting the information;

(4) address of requestor to include street, P O Box, city and zip code,

(5) telephone number of requester;

(6) method of payment, i.e. cash, check, etc.,

(7) itemization of charges to include the delivery medium cost, personnel charges, overhead charges, computer resource charges, programming time, postage/shipping charges, fax charges, and other miscellaneous charges, and

(8) total charges to requester

(c) General counsel for the agency shall be the agency's open records coordinator

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 May 17, 1994

TRD-9440985

Gayle Gordon
General Counsel
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption June 24, 1994

For further information, please call (512) 206-3204

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects

Subchapter C. Examinations

• 22 TAC §1.45

The Texas Board of Architectural Examiners proposes an amendment to §1.45, concerning the conditions for administration of the Architect Registration Examination. The amendment will clarify the process if the results of the examination cannot be provided the candidate.

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

Ms. Hendricks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide candidates with the retake of examina-

tion process should the agency be unable to provide examination results. 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 Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363.

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

§1.45. Conditions

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

(c) If, for any reason, TBAE is unable to provide the candidate with the results of the examination, TBAE shall have no liability beyond authorizing the applicant to retake the examination, with the examination fee waived, at the next regularly scheduled examination date.

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

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

TRD-9441031

Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: June 24, 1994

For further information, please call: (512) 458-1363

Subchapter E. Fees

• 22 TAC §1.84

The Texas Board of Architectural Examiners proposes an amendment to §1.84, concerning annual registration and renewal fee. The amendment will provide a renewal fee of \$10 for registrants 62 years of age or older.

Cathy Hendricks, executive director, ASID/IBD, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period will be in effect an estimated loss in revenue of \$21,600 in 1995; \$9,600 in 1996; \$9,600 in 1997; \$9,600 in 1998; and \$9,600 in 1999. There is no effect on local government.

Ms. Hendricks 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 renewal fee reductions for registrants 62 years of age or older. 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 Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363

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

§184 Annual Registration and Renewal Fee

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

(e) Any registrant 62 years of age or older is eligible to have his or her license renewed for a fee of \$10.

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 May 16, 1994

TRD-9441032 Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption June 24, 1994

For further information, please call (512) 458-1363

◆ ◆ ◆
• 22 TAC §1.88

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

The Texas Board of Architectural Examiners proposes the repeal of §188, concerning the emeritus fee The section is being repealed so that a similar revised section dealing with the fee can be adopted

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

Ms Hendricks also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide opportunity to adopt revised language There will be no effect on small businesses There is no anticipated economic cost to persons who are required to comply with the repeal as proposed

Comments on the proposal may be submitted to Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363

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

§188. Emeritus Fee

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 May 16, 1994

TRD-9441033 Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption June 24, 1994

For further information, please call (512) 458-1363

◆ ◆ ◆
Chapter 5. Interior Designers
Subchapter C. Examinations

• 22 TAC §5.55

The Texas Board of Architectural Examiners proposes an amendment to §5 55, concerning the conditions for administration of the interior designer registration examination The amendment will clarify the process if the results of the examination cannot be provided the candidate

Cathy Hendricks, ASID/IBD, 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 Hendricks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide candidates with the relate of examination process should the agency be unable to provide examination results 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 Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363

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

§555 Conditions

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

(c) If, for any reason, TBAE is unable to provide the candidate with the results of the examination, TBAE shall have no liability beyond authorizing the applicant to retake the examination, with the examination fee waived, at the next regularly scheduled examination date.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt

Issued in Austin, Texas, on May 16, 1994

TRD-9441036 Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption. June 24, 1994

For further information, please call (512) 458-1363

◆ ◆ ◆
Subchapter E. Fees

• 22 TAC §5.95

The Texas Board of Architectural Examiners proposes an amendment to §5 95, concerning annual registration and renewal fee The amendment will provide a renewal fee of \$10 for registrants 62 years of age or older

Cathy Hendricks, ASID/IBD, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section The effect on state government for the first five-year period will be in effect will be an estimated loss in revenue of \$2,880 in 1995, \$1,280 in 1996, \$1,280 in 1997, \$1,280 in 1998, and \$1,280 in 1999. There is no effect on local government

Ms Hendricks 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 renewal fee reductions for registrants 62 years of age or older 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 Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363

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

§595 Annual Registration and Renewal Fee

(a)-(d) (No change)

(e) Any registrant 62 years of age or older is eligible to have his or her license renewed for a fee of \$10.

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 May 16, 1994

TRD-9441034 Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: June 24, 1994

For further information, please call: (512) 458-1363

◆ ◆ ◆
• 22 TAC §5.99

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

The Texas Board of Architectural Examiners proposes the repeal of §5.99, concerning the emeritus fee. The section is being repealed so that a similar revised section dealing with the fee can be adopted

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

Ms. Hendricks also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide opportunity to adopt revised language. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed

Comments on the proposal may be submitted to Cathy Hendricks, ASID/IBD, Executive Director, Texas Board of Architectural Examiners, 8213 Shoal Creek Boulevard #107, Austin, Texas 78757, (512) 458-1363

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

§5.99. Emeritus Fee

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 May 16, 1994.

TRD-9441035

Cathy Hendricks, ASID/IBD
Executive Director
Texas Board of
Architectural Examiners

Earliest possible date of adoption: June 24, 1994

For further information, please call: (512) 458-1363

◆ ◆ ◆
TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

The following proposals submitted by the Texas Workers' Compensation Commission will be serialized beginning in the May 27, 1994, issue of the *Texas Register*. The earliest possible date of adoption is June 24, 1994.

Chapter 134. Guidelines for
Medical Services, Charges,
and Payments

Subchapter K. Treatment
Guidelines

- ◆ ◆ ◆
• 28 TAC §134.1000 and
§134.1001 (new)

◆ ◆ ◆
TITLE 30. ENVIRONMENTAL
QUALITY

Part I. Texas Natural
Resource Conservation
Commission

Chapter 114. Control of Air
Pollution From Motor
Vehicles

Motor Vehicles

- ◆ ◆ ◆
• 30 TAC §114.1

The Texas Natural Resource Conservation Commission (TNRCC) proposes an amendment to §114.1, concerning Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles. Subparagraph (A) of §114.1(b)(3) is proposed for deletion. Subparagraph (A) stipulates that acceptable vehicle conversion kits must be certified by the California Air Resource Board (CARB) or they must be accepted in writing by the United States Environmental Protection Agency (EPA) as being in compliance with federal policy. This has been acceptable for pre-1994 model years. However, CARB has limited the certification of conversion kits for 1994 and later model year vehicles allowed for sale outside of California. Furthermore, while EPA has the authority to provide written verification, as indicated in the rule, it is the intention of EPA not to exercise that option. Therefore, while approvable conversion kits exist, the alternative fuel conversion industry has no means of complying with the certification provisions of §114.1(b)(3)(A).

The EPA is currently developing national rules to regulate alternatively fueled vehicles, both new and converted. These national rules are expected to be promulgated by EPA by the end of this year and will supersede state requirements for conversions. In order to continue with the conversions as mandated by Texas statute, the TNRCC will adopt a resolution that will be used to avoid violations until the EPA final rules on vehicle conversions become implemented.

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

Mr. Minick also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be requirements with which the alternative fuel conversion industry

can comply until the EPA final rules on vehicle conversions become effective. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

A public hearing on this proposal will be held at 10:00 a.m. on June 9, 1994, in Room 201S of the TNRCC central office, Air Quality Planning Division, 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TNRCC staff member will be available to discuss the proposal and answer questions at 9:30 a.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through June 9, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on June 9, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. Please mail written comments to the Regulation Development Section, Office of Air Quality Planning, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Dr. Basil Ubanwa at (512) 239-1473.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

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

No other sections of the Texas Health and Safety Code are affected by this proposed amendment.

§114.1. Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.

(a) (No change.)

(b) No person may remove or make inoperable any system or device used to control emissions from a motor vehicle or motor vehicle engine or any part thereof, except where the purpose of removal of the system or device, or part thereof, is to install another system or device, or part thereof, which is equally effective in reducing emissions from the vehicle. Acceptable removal and/or installation practices include

(1)-(2) (No change)

(3) installation of conversion equipment to allow the use of an approved alternative fuel, as defined in §114.11 of this title (relating to Alternative Fuel Requirements for Transit Authorities), if []

[(A) acceptable emissions reductions are verified by one of the following methods

[(i) the conversion equipment and configuration is certified by the California Air Resources Board, or

[(ii) the conversion equipment and configuration is recognized in writing by EPA as complying with established federal policy memoranda, and]

[(B)] the conversion kit components are recognized by the Texas Railroad Commission as complying with applicable safety requirements

(4) (No change)

(c)-(f) (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 May 4, 1994

TRD-9441008

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

Proposed date of adoption July 13, 1994

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



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 18. Organic Standards and Certification

- 4 TAC §§18.1-18.8, 18.15,
18.17-18.24, 18.26, 18.27, 18.
29-18.39

The Texas Department of Agriculture (the department) adopts the repeal of §§18.1-18.8, 18.15, 18.17-18.24, 18.26, 18.27, and 18.29-18.39, concerning a program for certification of organic food and fiber, without changes to the proposed text as published in the February 1, 1994, issue of *Texas Register* (19 TexReg 686)

The department is submitting separately proposed new sections in order to substitute those for these sections. The repeal is adopted in order to allow the department to make the regulations consistent with House Bill 2446 passed 73rd Legislature (now codified at Texas Agriculture Code (the Code), Chapter 18), and the organic Foods Production Act of 1990, 7 USC, §6501, et seq

No comments were received regarding the adoption of the repeals

The repeals are adopted under the Agriculture Code, §12.002, which provides the department with the authority to encourage the proper development of agriculture, horticulture, and related industries, §12.016, which authorizes the department to adopt rules as necessary for the administration of §§12.001-12.015, §12.017, as amended by House Bill 2446, 73rd Legislature (1993), which provides the department with the authority to charge an annual fee for administration of a certification program and an annual fee for a person who obtains a certificate of accreditation as an organic certifying agent, Chapter 18, which provides the department with the authority to establish an organic certification program, and the Organic Foods Production Act of 1990, 7 USC, §6501, et seq, which provides the authority to the commissioner of agriculture to implement a State organic certification program for producers and handlers of agricultural products which have been produced using organic methods

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 May 16, 1994

TRD-9440976 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date June 7, 1994

Proposal publication date February 1, 1994

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

- 4 TAC §§18.1-18.17

The Texas Department of Agriculture (the department) adopts new §§18.1-18.17, concerning a program for certification of organic food and fiber, with changes to the proposed text as published in the February 1, 1994, issue of the *Texas Register* (19 TexReg 687) and Correction of Error published in the February 18, 1994, issue of the *Texas Register* (19 TexReg 1253) Sections 18.2, 18.9, 18.11, and 18.14 are adopted without changes and will not be republished. Sections 18.1, 18.3-18.8, 18.10, 18.12, 18.13, 18.15-18.17 are adopted with changes. The new sections are intended to make the regulations consistent with House Bill 2446 passed by the 73rd Legislature (now codified at Texas Agriculture Code, Chapter 18), and the Organic Foods Production Act of 1990, 7 USC, §6501, et seq

Section 18.1 has been modified to clarify definitions of the terms "allelochemic" and "person." The term "allelochemic" has been renamed as "allelopathic." Section 18.4(c) has been changed in response to comments received from an organic certifying agent and an organic processor to extend the time from 15 days to 30 days for submission of certification documents by an accredited certifying agent. Comments from two individuals and an organic certifying agent regarding reduction of fees. To help expand the organic industry in the state, the department has changed §18.5 to reflect lowering of fees for producers, processors, distributors, wholesalers, brokers, packers, repackers, shippers, retailers, and organic certifying agents. Section 18.6(f)(1)-(3) and (5) has been changed in response to comments received from an organic certifying agent and an organic processor. Comments generally stated that a broader system of

labeling is needed until the federal labeling rules are fully implemented. The term "shall" has been replaced with the term "may." The term "raw" has been removed to indicate that some ingredients may be pre-processed. The requirement for listing the percentage of each organic ingredient has been changed to allow for listing of the total percentage of organic ingredients. A new §18.6(f)(6) has been added to comply with the federal law, which requires identification of the certifying agent on the packaging of processed products. Section 18.8(a)(3) was removed since its content was covered in §18.8(a)(4). Section 18.12(d) has been changed to clarify that the department will only categorize materials as allowed, allowed with restrictions, or prohibited, and in which case it will not approve them.

In response to a comment from an organic certifying agent, the department adds new §18.13(b)(6)(G) to allow for additional buffer zones at the certifying agent's discretion. Section 18.13(f)(2)(E)(i) and (ii); §18.13(f)(2)(F)(i)-(vi); and §18.13(g) have been redesignated to correct an error in sections on growth regulators and propagation materials. The term "fungicide" was removed from §18.13(f)(F)(ii) and (iv) to allow for additional treatments. The department adds new §18.13(g)(3)(A) and (B) to allow for the use of seed treatments required under local, state, or federal quarantines. Section 18.16(e)(1)(A) was removed since its content was covered in §18.16(f)(1). The department, in response to a certified organic sprout producer, has added new §18.16(f)(4)(A) to allow a 180-day extension for conversion to certified organic seed.

Comments generally supporting the adoption of new Chapter 18 were submitted by all individuals testifying, the Natural Food Associates, the Texas Organic Cotton Growers Association, and the Texas Organic Cotton Marketing Cooperative. Sections 18.3(a)-(d), 18.5(b)(1), 18.6(b)(3), 18.7(b)(3), 18.8(a)(3), 18.10(a)(1), 18.13(b)(3) and (6), 18.13(g)(2)(B), 18.13(g)(7), 18.15(e)(1)(i), 18.16(e)(1)(A)-(D), 18.16(f)(2) and (3), and 18.17(d)(1)(A)(i)-(iv) were modified for clarity.

In addition to those noted above, comments were also received with which the department does not agree, and therefore did not incorporate into the adopted regulations. A comment was received regarding §18.2(c)(2)(B) stating concern for additional on-site inspections prior to harvest of annual crops for processed products, and the possible increased inspec-

tion costs. The department requires no additional fees, although an accredited certifying agent may assess additional charges under his prescribed fee schedule. Nevertheless, additional on-site inspections are necessary to verify compliance with §18 10(a)(1)-(3).

A comment was received concerning §18 4 that certifying agents should only register with the state and should not have to be accredited. The Organic Foods Production Act of 1990, 7 U.S.C., §6501, et seq. gives the state the authority to exceed the federal standards. The department's standards already exceed the federal standards in some areas, and therefore any person who does not meet the state standards cannot be certified either by the department or by an accredited certifying agent. Any certifications by a certifying agent within the state must be equivalent to department certification standards, policies and procedures. This requires an accreditation process, including submission of all certification documents to the department to evaluate compliance and equivalency. The federal law and state law also give the department the authority to suspend a certifying agent's accreditation if not properly adhering to the provisions of this chapter. The department provides an appeals process for the certifying agent. In addition, the state includes a reasonable annual fee to recover costs for accreditation and determination of compliance and equivalency. An organic producer narrated previous out-of-state experiences and participation with private certifiers, and testified that no certifying agent, other than the department, should certify within the state.

A comment was also received concerning §18 8, regarding the department's regulatory authority. The commenter suggested that there should be more specific procedures for determination of violations under the rules, and questioned the department's ability to evenly apply enforcement authority. The department sets forth specific violations which could result in either a criminal penalty, civil penalty, or stop-sale. These violations and the resulting penalties are established and reviewed by administrators in both the regulatory and legal divisions of the department. There are standard policies and procedures for all regulatory programs under the authority of the department. An appeals process is also clearly defined.

Comments from the Texas Organic Cotton Growers Association and the Texas Organic Cotton Marketing Cooperative expressed concerns that organic cotton producers are not adequately protected from application of prohibited materials under the Boll Weevil Eradication Program. Section 18 10(b) in conjunction with rules specified for organic cotton producers in the Boll Weevil Eradication Program adequately address these concerns.

The new sections are adopted under the Texas Agriculture Code (the Code), §12 002, which provides the department with the authority to encourage the proper development of agriculture, horticulture, and related industries, §12 016, which authorizes the department to adopt rules as necessary for the administration of the Code, §§12 001-12 015, §12 017, as amended by House Bill 2446,

73rd Legislature (1993) which provides the department with the authority to charge an annual fee for administration of a certification program not to exceed \$2,500 for each applicant to be certified as a producer, distributor, or retailer, an annual fee not to exceed \$5,000 for each applicant to be certified as a processor of organic food or fiber produced inside this state, an annual fee not to exceed \$2,500 for each applicant to be certified as a distributor or retailer, an annual fee not to exceed \$5,000 for each applicant to be certified as a processor of organic food or fiber produced outside of this state, and an annual fee not to exceed \$2,500 for each person applying for a certificate of accreditation as an organic certifying agent, the Texas Agriculture Code, Chapter 18, which provides the department with the authority to establish an organic certification program, and the Organic Foods Production Act of 1990, 7 U.S.C., §6501, et seq. which provides the authority to the commissioner of agriculture to implement a State organic certification program for producers and handlers of agricultural products which have been produced using organic methods.

§18 1 Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

ASCS—United States Department of Agriculture, Agriculture Stabilization and Conservation Service.

Agricultural product—Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human consumption or livestock consumption.

Allelopathic—The ability of a plant species to produce substances that are toxic to certain other plants.

Annual crop—A crop which reaches maturity during a specific seasonal growing period and is harvested at maturity.

Biological control—The use of parasites, predators, or pathogens to suppress pest populations.

Botanical pesticides—Natural pesticides derived from plants.

Certified organic farm—A farm, or portion of farm, or site where agricultural products or livestock are produced, that is certified by the Texas Department of Agriculture (the department) or an organic certifying agent, as utilizing a system of organic farming as described by these rules.

Code—The Texas Agricultural Code.

Commingled—Inseparably mixed or interspersed with other food or fiber and not distinguishable from it.

Contaminated—As applied to organic food or fiber, unfit for use because of the presence of illegal quantities of toxic, synthetic, or other prohibited substances, as applied to irrigation water or soil, unfit for use because of presence in the resulting crop of illegal quantities of toxic, synthetic, or other prohibited substances.

Cover crop—A crop planted primarily to prevent soil erosion, recover nutrients from the subsoil, increase water infiltration, and increase the levels of nitrogen and organic matter in the soil.

Department of TDA—The Texas Department of Agriculture.

Distributor—A person who is engaged in the business of selling food or fiber for resale, including, but not limited to, a wholesaler, broker, packer, repacker, shipper, or agent.

Farm—All agricultural land that is leased, owned, or otherwise held by and under the management of a certified producer or applicant for certification.

Farm plan—All documents relevant to the previous three years', current, and future management of an organic farm, including but not limited to written plans to rotate crops, build humus, and stabilize soil nutrients.

Field—A clearly demarcated, contiguous tract of agricultural land leased, owned, or otherwise held by and under the management of a certified producer or applicant for certification.

Green manure crop—A cover crop or other crop planted primarily to be plowed under to increase soil tilth and fertility.

Guano—Partially decomposed excrements of birds, bats, seals, or other animals.

Handle—To sell, process or package agricultural products.

Hazard Analysis Critical Control Point or HACCP—A system designed to eliminate the potential of contamination and commingling of food and fiber products during handling and processing.

Illegal quantities—Amounts that are not lawful under federal or state statutes or regulations.

Ingredient information panel—An ingredient statement which shall appear on the primary display panel or on the information panel and shall list the ingredients in descending order of predominance. The ingredient statement shall be in letters and numbers at least 1/16-inch in height and shall be located before or after the name and address of the manufacturer, packer or distributor.

Julian date—A calendar date expressed by a decimal number, three consecutive digits of which indicate the day of the year in a series from 001 (January 1) to 365 (December 31 of a nonleap year) or 366 (December 31 of a leap year).

Livestock—Cattle, sheep, goats, swine, poultry, or equine animals used for food or fiber, fish used for food, wild or domesticated game, or other nonplant life.

Logo—The copyrighted "Texas Department of Agriculture Certified Organically Produced" and "Texas Department of Agriculture Transitional-Organic Certification Pending" logotypes.

Low ecological profile—As applied to a soil-, crop-, or pest-management prac-

tice, a practice that has a low degree of or no adverse effects on human health or the environment.

Manuring—The application to soil of the excreta of agricultural animals, including stable litter and paunch wastes, to increase tilth and fertility.

Material use report—A report of records required by the department or an organic certifying agent regarding the use of materials listed as allowed or allowed with restrictions, which have been used for production, processing, or handling of certified food or fiber.

National list—A list of substances categorized as allowed or prohibited for organic crop production inputs, processing ingredients and aids, and handling materials as provided under the Organic Foods Production Act of 1990

Organic certifying agent—A private organic certification organization, or a person accredited under this chapter

Organic farming—A system of ecological soil management that relies on building humus levels through crop rotations, recycling organic wastes, and applying balanced mineral amendments and that uses, when necessary, mechanical, botanical, or biological controls with minimum adverse effects on health and the environment.

Organic fiber—Fiber that is produced under a system of organic farming and that is processed, packaged, transported and stored so as to maintain segregation and prevention of contamination from other fiber and from synthetic pesticides, prohibited defoliant and/or desiccants

Organic food—Food for human or livestock consumption that is produced under a system of organic farming and that is processed, packaged, transported and stored so as to retain maximum nutritional value without the use of artificial preservatives, coloring or other additives, ionizing radiation, or prohibited materials

Organic Foods Production Act of 1990 or OFPA—The national organic standards, 7 U.S.C., §6501, et seq., under the authority of the United States Department of Agriculture.

Organically produced—An agricultural product that is produced, handled or processed in accordance with these rules.

Participant—A producer, processor, retail store or distributor location certified to use the "Texas Department of Agriculture Certified Organically Produced" logo and/or the "Texas Department of Agriculture Transitional-Organic Certification Pending" logo.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization

Pesticide—A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant

Pheromone—A substance that is secreted by an organism to the outside and that causes a specific reaction in a receiving organism of the same species

Principal display panel—A part of the label most likely to be seen by the consumer at retail sale. It is this part of the package which shall bear the declaration of net quantity of contents and statement of identity.

Processing—Cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing of food in a container

Processor—A person who is engaged in the business of manufacturing raw agricultural commodities into food or fiber products.

Producer—A person who is engaged in the business of growing or producing food or fiber.

Propagation materials—Plant materials including seeds, transplants, cuttings, layerings, bulbs, tubers, slips, crowns, offsets, grafts, buddings, and root stocks or other plant materials used to cultivate plants.

Raw manure—Agricultural animals' excrement, both solid and liquid, that has not been aged, aerated, composted, fermented, aerobically digested, or otherwise humified or processed in such a way as to improve its value as a biological activator.

Retailer—A person, other than the operator of a restaurant, who is engaged in the business of selling certified food or fiber at retail to its ultimate consumer.

SCS—United States Department of Agriculture Soil Conservation Services.

Semiochemical—A pheromone, allelochemic, or other naturally occurring substance involved in the chemical interaction between organisms.

Synthetic—A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Texas Department of Agriculture (TDA) Material List—A list of substances categorized as allowed, allowed with restrictions, or prohibited for organic crop production inputs, processing ingredients, and aids, and handling materials as provided under these rules or the OFPA

Toxin—A chemical, drug, radiological agent, or biological agent that is present in an amount sufficient to cause significant adverse effects in humans, crops, livestock, other beneficial organisms or the environment.

Transitional period—A period of 36 months from the last date of application of a prohibited material during which a farm or

field unit may be certified as Transitional-Organic Certification Pending Upon completion of the required transitional period a farm or field unit may then be certified as Organically Produced

§18.3. Certification Review and Standards Advisory Committee

(a) The department shall appoint a Certification Review and Standards Advisory Committee (the committee) which shall, at the department's request, review applications for certification and accreditation under this chapter. It shall advise the department on revisions to this chapter and administration of the Organic Standards and Certification Program

(b) The appointment of each member may be for a period of up to two years and a member may receive additional appointments to the committee

(c) The department, with the advice of the committee, shall conduct an annual review of implementation of this chapter and propose amendments as necessary

(d) The committee shall be made up of 12 members, of which four are organic producers, one is a processor of organic food or fiber, one is a retailer of organic food or fiber, one is a distributor of organic food or fiber, two are technical advisors, agronomists, or horticulturists, and three are representatives of consumers

(e) Members of the committee should be familiar with both organic production methods and the department's organic certification standards

§18.4 Accreditation of Organic Certifying Agents.

(a) Organic certifying agents shall be accredited by the department by submitting an application (certifying policies and procedures), and a nonrefundable annual fee prescribed by the department

(b) The department may issue a certificate of accreditation under this chapter only if it determines that the applicant's

(1) certification standards are equivalent to department certification standards, and

(2) policies and procedures are in compliance with the provisions of the Code, Chapter 18, this chapter, and orders of the department

(c) An organic certifying agent accredited under this chapter shall provide a copy of all certification documents to the department within 30 days of certification of each certified producer, processor, distributor, and retailer

§18.5. Fees.

(a) An application fee, as detailed in subsection (b) of this section, shall be paid in conjunction with submission of a new application or an application for renewing certification

(b) The department may require additional fees or refund fees submitted by producers, processors, distributors, and retailers for overpayment or underpayment of prescribed annual fees. Additional fees may be charged for additions of fields or categories to be certified after initial application fees are submitted

(1) Producers Fees for certification or renewal of certification are based on acreage to be certified. Acreage shall include actual production acres, cover crop and rotation acres, and all required buffer zone areas. The fee will be charged under the following schedule

(A) less than one acre will be charged \$40,

(B) one to less than five acres will be charged \$65,

(C) five to less than 25 acres will be charged \$90,

(D) 25 to less than 50 acres will be charged \$115,

(E) 50 to 100 acres will be charged \$140,

(F) each additional increment or portion of 100 acres will be charged \$15, to a maximum of \$2,500,

(G) greenhouse fees will be based on the total square footage of greenhouse unit(s), in addition to any fees required for additional production acreage, buffer zone areas, or other areas required for certification. The fee will be charged under the following schedule

(i) less than 1,000 square feet will be charged \$20,

(ii) 1,000 to less than 3,000 square feet will be charged \$40;

(iii) each additional increment or portion of 3,000 square feet will be charged \$20, to a maximum of \$2,500,

(H) certified producers who process their own certified raw ingredients into processed products will be charged \$25 and submit an application for processor certification,

(I) certified producers who process other certified raw ingredients other than their own into processed products will be charged \$25 and submit an application for processor certification; and

(J) certified producers who handle certified products other than their own will be charged \$25 and submit an application for distributor certification.

(2) Processors, distributors, wholesalers, brokers, packers, repackers, shippers or agents. Fees for application or renewal of a certification will be based under the following guidelines.

(A) Each processing facility will be charged \$150 for the first category of certified product and \$70 for each additional category of certified product.

(B) Each distributor or handling location will be charged \$100 for the first category of certified product and \$45 for each additional category of certified product

(C) Fees will be based on the following categories.

(i) bakery goods,
(ii) bulk grains, beans, and seeds,

(iii) cereals;
(iv) canned fruits and vegetables,

(v) canned soups, chili, and broths,

(vi) chips, crackers, cookies, and granola products,

(vii) coffee and teas;

(viii) dairy products;

(ix) frozen foods;

(x) grains, flours, and mixes (packaged),

(xi) herbs, herb products, spices, salt, and flavorings;

(xii) juices and beverages;

(xiii) meat and meat products;

(xiv) nut butters, jams, jellies, honey, syrup, and molasses;

(xv) oils,

(xvi) snacks and candy;

(xvii) sprouts from seeds and beans;

(xviii) sweeteners and sugar;

(xix) food for livestock, including feed, forage or hay, and feed supplements or fillers;

(xx) cotton, cotton by-products and cotton textile products;

(xxi) vegetables;

(xxii) fruits and nuts; and

(xxiii) each additional category.

(3) Retailers. Fees for application or renewal for certification will be charged \$25.

(4) Organic certifying agents. Fees for application or renewal of accreditation will be \$450 to certify producers, \$450 to certify processors, and \$200 to certify distributors and retailers in the state.

(c) A person who fails to submit a renewal fee on or before the expiration date of the certification shall pay, in addition to the renewal fee, the late fee provided by the Code, §12.024.

§18.6. Logos, Use of Logos, Approval of Printers, Drugs and Medicinal Claims and Labeling of Nonprocessed and Processed Food or Fiber.

(a) Logos. The department shall have two registered logos as certification marks.

(1) Texas Department of Agriculture Certified Organically Produced logo. One logo shall include the phrase "Texas Department of Agriculture Certified Organically Produced" and shall take the following form:



(2) **Transitional Logo.** A second logo shall include the phrase "Texas Department of Agriculture Transitional-Organic Certification Pending" and shall take the following form:



(b) **Use of logos.**

(1) **Use of Certified Organically Produced logo.** The Texas Department of Agriculture Certified Organically Produced logo and the phrase "Texas Department of Agriculture Certified Organically Produced" shall be applied or used to refer only to food or fiber produced on land that the department has certified under this chapter.

(2) **Use of transitional logo.** The Texas Department of Agriculture Transitional-Organic Certification Pending logo shall be applied or used to refer to food or fiber produced on land that the department classifies as in transition to organic certification under this chapter.

(3) **Other use of logos.** A person who is certified under this chapter may use department logos as provided by this chapter.

(A) No person shall use, employ, adopt or utilize the Texas Department of Agriculture Certified Organically Produced or Transitional-Organic Certification Pending logo in the selling, advertising, marketing, packaging or other handling of food or fiber products unless prior application has been made to the department for permission to make such use, employment, adoption, or utilization and approval has been granted.

(B) No person shall utilize an organic or transitional certificate issued

to a producer, processor, distributor, or retailer as a certification logo in the labeling, packaging, advertising or marketing promotion of food or fiber products.

(C) A person certified under this chapter may use the Texas Department of Agriculture Certified Organically Produced or Transitional-Organic Certification Pending logo, whichever is applicable, on containers, labels, tags, signs, stickers, decals, or other packaging, promotional or information materials, subject to the conditions specified under this chapter.

(D) A certified retailer or distributor may purchase such materials (except pressure-sensitive labels) only from an approved printer.

(E) A certified producer, processor, or packer may purchase pressure-sensitive labels or packaging materials bearing a department logo only from an approved printer.

(F) No hand-drawn department logo shall be used.

(4) **Out-of-state use.** Persons who process, distribute or retail Texas Department of Agriculture certified food or fiber outside the state of Texas, shall not label such certified food or fiber with the Texas Department of Agriculture "Certified Organically Produced" or "Transitional-Organic Certification Pending" logos with-

out authorization by the department. Such authorization may be requested by submitting a form as prescribed by the department.

(c) **Approval of printers.** The department shall approve printers to manufacture signs, price cards, shelf talkers, pressure-sensitive labels, and other labeling or packaging materials bearing a department logo and shall maintain a list of approved printers.

(1) The department shall furnish approved printers with a list of certified producers, processors, distributors and retailers.

(2) Approved printers may sell materials bearing a department logo only to persons on this list.

(3) An approved printer shall maintain records of purchasers, quantities, types of materials, and dates of sale of all materials bearing a department logo and make these records available to the department upon request.

(d) **Drugs and medicinal claims.** The department, or an organic certifying agent, shall not certify drugs or drug ingredients under these rules.

(1) No person shall use a Texas Department of Agriculture Certified Organically Produced or Transitional-Organic Certification Pending logo in connection with, nor represent as certified by the department or an organic certifying agent, any product or any ingredient of a product that is regulated as a drug or that has been determined by a state or federal

agency of competent jurisdiction to be subject to regulation as a drug

(2) No person shall use a department logo or represent any product or ingredient as certified by the department or an organic certifying agent, in an advertisement (including, but not limited to, a printed or broadcast advertisement, advertorial, flier, point-of-purchase material, signage, or other printed material) that makes medicinal claims

(e) Labeling of nonprocessed food or fiber Certified food or fiber may be labeled using

(1) the applicable logo applied to food or fiber certified in-state by a producer, processor or packer certified under this chapter, or the logo of an organic certifying agent (if approved or made available by the organic certifying agent),

(2) a price card displaying a printed department logo or logo of an organic certifying agent, or

(3) both the applicable logo set forth in paragraph (1) of this subsection and the price card set forth in paragraph (2) of this subsection

(f) Labeling of processed food or fiber

(1) Processed food or fiber products which contain department-certified organically produced ingredients, are processed under this chapter, and contain no prohibited ingredients, may include the term "Organic" and the Texas Department of Agriculture "Certified Organically Produced" logo on the principal display panel

(2) Processed food or fiber products which contain department-certified organically produced ingredients, but include additional ingredients, additives, or processing aids, may state "the 'certified ingredient' in this product is organically produced and processed to Texas Organic Standards & Cert Reg, 4 TAC, Ch 18," and may include the "Certified Organically Produced" logo in an area on the packaging other than the primary display panel The organic ingredient(s) and their total percentage shall be listed in the information panel and be identified as "organic"

(3) Processed food or fiber products produced under this chapter as transitional, but include additional ingredients, additives, or processing aids, may state "the 'certified ingredient' in this product is produced and processed to Texas Organic Standards & Cert Reg 4 TAC, Ch 18, and is Transitional-Organic Certification Pending," and may include the "Transitional-Organic Certification Pending" logo in an area on the packaging other than the primary display panel The organic ingredient(s) and their total percentage shall be

listed in the information panel and be identified as "transitional"

(4) Processed food or fiber products that meet the requirements for a certified organic product or containing certified organically produced ingredients, which are certified by a single organic certifying agent, and are processed under this chapter, may use the logo (if approved or made available by the organic certifying agent) and/or the name of the applicable organic certifying agent and the statement "processed to Texas Organic Standards & Cert, 4 TAC, Ch 18" on the primary display or information panel as allowed under this chapter and the OFPA

(5) Processed food or fiber products that meet the requirements for a certified organic product or containing certified organically produced ingredients, which are certified by multiple organic certifying agents, and are processed under this chapter, may use the term "Third-Party Certified" and the statement "processed to Texas Organic Standards & Cert, 4 TAC, Ch 18" on the primary display or information panel as allowed under this chapter and the OFPA

(6) The identity of the certifying agent, including the name and address must be listed immediately adjacent to the information identifying the manufacturer on the packaging or the label

§187 Recordkeeping and Auditing by the Department

(a) Recordkeeping

(1) The department shall create and maintain files including all communications and decisions relating to certification for a period of not less than ten years

(2) The files shall include copies of notices sent to participants, minutes of meetings, correspondence, and administrative memoranda

(b) Auditing

(1) The department may conduct or provide for audits of all documents that it uses to verify that certified products meet organic standards certified under this chapter or by an organic certifying agent

(2) These audits shall include, where appropriate

(A) a company inventory audit, listing percent accuracy in labeling, the amount bought and sold per product, the producer or destination, and the number of vendors and amount of product per vendor, or

(B) a farm audit, listing the amounts sold per product, date and destina-

tion, the area and location planted of each product, with dates of harvest

(3) Information contained in audit records is subject to disclosure under the Texas Open Records Act unless excepted from disclosure

§188 Department Regulatory Authority

(a) Denial, suspension, or revocation of organic certification or organic certifying agent accreditation

(1) The department may deny, suspend, or revoke a certification of a producer, processor, distributor, or retailer or a certificate of accreditation issued to an organic certifying agent under this chapter if the person

(A) submits an application or verification documents that contain insufficient information upon which to make a determination,

(B) provides verification documents that demonstrate noncompliance with any provision of this chapter,

(C) makes a false representation material to a matter governed by this chapter,

(D) violates or refuses to comply with the provisions of the Code, Chapter 18, this chapter, or an order of the department, or

(E) has previously had a certification or accreditation revoked under this chapter

(2) Proceedings for the revocation, denial, or suspension of certification shall be conducted in the manner provided for contested cases by the Texas Administrative Procedure Act, the Government Code, Chapter 2001, and Chapter 1 of this title (relating to General Procedures)

(3) Revocation, denial, or suspension of a certification by an organic certifying agent shall be subject to review by the department under the procedures provided for contested cases by the Texas Administrative Procedure Act, the Government Code, Chapter 2001, and Chapter 1 of this title (relating to General Procedures)

(b) Stop-sale order

(1) If food or fiber is being sold in violation of this chapter or a rule adopted under this chapter, the department may issue a written order to stop the sale of that item of food or fiber by a person in control of the item The person named in the order may not sell the item until

(A) permitted by a court under paragraph (2) of this subsection, or

(B) the department determines that the sale of the item is in compliance with this chapter and rules adopted under the Code, Chapter 18

(2) The person named in the order may bring suit in a court in the county where the item is located. After a hearing, the court may permit the item to be sold if the court finds the item is not being sold in violation of this chapter or a department rule adopted under the Code, Chapter 18

(3) This section does not limit the department's right to act under another section of this chapter

§18 10 Pesticide Drift and Emergency Spray or Pest Management Programs

(a) Pesticide drift policy

(1) In cases where organic crops are exposed to pesticide drift, either the certified producer or the organic certifying agent shall notify the department

(2) If the pesticide residue level exceeds the residue level allowed under the OFPA, the crop shall not be sold as "Organically Produced" or "Transitional-Organic Certification Pending"

(3) Subsequent crops grown in a field exposed to pesticide drift may be sold as "Organically Produced" or "Transitional-Organic Certification Pending" subject to additional pesticide residue testing and approval by the department

(b) Emergency spray or pest management programs

(1) Producers shall comply with emergency spray or pest management programs and adhere to a pest management plan designated or authorized by the department

(2) The department shall provide the applicable officers and agents of federal, state, or local emergency spray programs or pest management programs with information on the location of certified organic and transitional farms or field units in each emergency spray or pest management zone

(3) Producers of certified organic or transitional cotton shall adhere to stalk destruction, planting dates, rules and guidelines set forth by the Texas Boll Weevil Eradication Foundation and other regulatory measures authorized by the department

§18 12 Materials and Materials List

(a) For the purpose of this chapter, materials for crop production, processing, and handling are classified as follows

(1) Allowed Materials allowed for production, processing or handling. Permission for use of these materials applies statewide

(2) Allowed with Restrictions. These materials may be used upon a demonstrated need, if a farm plan, use report, or other written plan is submitted by a certified person or an applicant for certification shows that these restricted materials will be discontinued over time, or if no alternative materials are available. Materials may vary according to regional production practices, specific processing, or handling needs

(3) Prohibited. These materials shall not be used for production, processing or handling. This applies statewide

(b) The department shall publish in the *Texas Register*, a listing of materials categorized as allowed, allowed with restrictions, and prohibited. This list shall be known as the Texas Department Of Agriculture Organic Certification And Standards Materials List (TDA Materials List)

(c) Unless properly registered, pesticides requiring registration with the responsible state and federal agencies including the Environmental Protection Agency (EPA) and the department shall not be used

(d) Manufacturers of materials other than those listed by name in the TDA Materials List or the National List, for production, processing, or handling of certified food or fiber shall submit information on the ingredients, manufacturing processes, and other supporting documents, as required by the department for categorization as allowed, allowed with restrictions, or prohibited. Materials determined by the department as prohibited shall not be used for production, processing, or handling

§18 13 Producers

(a) Verification Documents. Verification documents consist of application forms, past three-year production and material input history, including ASCS and SCS records, farm plans, inspection reports, laboratory analyses, production practices, harvest and handling plans, showing the path taken by an organic food or fiber products through production, post-harvest handling, and distribution

(b) Farm and field certification

(1) The department may certify land as organically produced only if harvest occurs at least three years after the most recent use of a prohibited material

(2) Except as prohibited elsewhere in this chapter, producers of food and fiber who have satisfied all requirements for certification, except passage of the required transitional period, may be issued a transitional certification

(3) Agricultural products from a field certified as transitional shall not be sold under a transitional logo for the first 12 months following the date of the last application of a prohibited material

(4) If any part of a certified farm or field unit is taken out of organic management, it may be recertified after passage of three years without the application of a prohibited material

(5) A new applicant for certification shall document a three-year history of the land to be certified including

(A) a three-year history of all crops or agricultural products produced,

(B) a three-year history of all material inputs including pesticides and fertilizers, and

(C) any additional supporting documentation as required by the department

(6) An applicant for initial certification or renewal of certification shall submit to the department or to an accredited organic certifying agent, in prescribed forms, a detailed farm plan including

(A) a three-year rotation and cover cropping plan to stabilize nutrients in the soil for each field to be certified,

(B) a one-year, field-by-field crop production plan, soil and plant fertility plan, and pest management plan,

(C) a 25-foot buffer zone for each field parameter separating land managed organically from other cultivated agricultural land,

(D) a 50-foot buffer zone for each field parameter separating land managed organically from other land to which a prohibited material is applied,

(E) a description of facilities and methods that will be used to keep farm equipment from contaminating organically managed fields or crops,

(F) a description of facilities and methods that will be used to store and handle prohibited materials separately from materials listed as allowed or allowed with restrictions for organic production, processing, or handling, and

(G) any additional buffer zone distance for each field parameter as determined by the certifying agent

(7) The department shall not certify part of a farm unless:

(A) there exist distinct, defined boundaries between fields under organic management and other fields; and

(B) the proposed acreage will be used for a bona fide trial of organic management methods.

(8) The department may not certify land that has no previous history as cultivated cropland, orchard, or improved pasture, and that is being converted to organic for the sole purpose of replacing land abandoned because of chemical contamination or depleted fertility resulting from previous farm-management practices

(c) Separation of produce

(1) A producer of both organic agricultural products and other agricultural products on the same farm shall keep separate records for each of these two categories of products

(2) A producer of the same crop or agricultural product both grown organically and nonorganically on the same farm shall prove to the department's satisfaction that he or she has in place physical facilities and management procedures adequate to ensure that there is no possibility of commingling

(3) In the absence of such proof, no food or fiber of that type from that farm shall be certified or sold as TDA-Certified Organically Produced or Transitional-Organic Certification Pending

(d) Soil management.

(1) Fertility shall be fostered primarily by managing soil organic content through the proper tillage, crop rotation and manuring

(2) Soil management shall conform to recognized organic practices and principles of soil conservation.

(A) Crop rotation. Producers shall rotate according to a written rotation plan all crops that are not perennials, included in permaculture systems; grown in containers, or grown on a nonrotating basis in accordance with accepted regional practices but maintaining balanced fertility management with other allowed practices.

(B) Rotation plan A rotation plan may include alternation of sod or forage and row crops, nitrogen-fixing crops; green manure crops, cover and nurse crops; deep-rooting crops, alternation of heavy and light feeders, or plants with allelopathic or mineral-accumulating properties

(3) Manuring

(A) Raw manure may be applied to green manure crops, perennial crops, crops not for human consumption; or crops for human consumption, if the crop is harvested 60 days or more following the most recent application.

(B) Raw manure may not be applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(C) Use of manure composted either by aerobic digestion (high heat) or controlled fermentation (low heat) is allowed

(D) Use of liquid manure slurry is allowed if the slurry is aerated from a source that adds carbon to the slurry

(e) Soil amendments and fertilizers

(1) In implementing an annual or overall three-year farm plan, a producer shall utilize green manure crops, nitrogen-fixing or cover crops, composted materials, nitrogen-fixing microorganisms; and other allowed materials for supplying plants with nitrates at low concentrations

(2) In implementing a temporary measure in an annual farm plan, a producer may utilize materials listed as allowed with restrictions, provided that use is justified by soil and/or plant analysis (nutrient) testing

(f) Crop management

(1) Irrigation

(A) Irrigation management shall conform to recognized organic practices and water conservation principles

(B) Use of irrigation water that is known to be contaminated with toxic substances is prohibited. A producer shall apply for, and the department or an organic certifying agent may grant, a written exception to this paragraph if:

(i) no other water is available, and

(ii) no toxic residues from contaminated water are present in certified crops, as determined by a tissue test per farm or field until no residue from contaminated water is found in the crop, and at least every third year thereafter

(2) Pest management.

(A) Weed management

(i) A producer may use timely mechanical or hand cultivation, crop

rotations; smother crops, mulching with organic materials; intercropping plant species such as legumes or green manure crops; practices that prevent introduction of weed seeds into fields, such as mowing borders, cleaning equipment, and use of weed-free inputs, electrical or flame weeding equipment, biodynamic preparations, and mowing or grazing

(ii) A producer may use approved herbicidal soaps and oils, if applied to non-food plants, and synthetic or biodegradable plastic for mulches, row covers, and solarization, if such materials are removed at the end of each growing or harvest season, and not introduced into compost or mulch, and mulches made of recycled newspapers

(B) Disease management

(i) A producer shall plan production schedules, crop selection, location and sizing of plantings, and soil-management practices to prevent diseases

(ii) A producer may use preventative management such as planting resistant varieties and rootstocks, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations, and avoidance of excessive fertilization

(iii) In greenhouses, a producer shall manage ventilation, humidity, and temperature to reduce disease incidence

(iv) A producer may utilize materials listed as allowed with restrictions, if justified for immediate disease control

(v) A producer may apply approved natural fruit waxes and shall indicate on the shipping containers the type of natural fruit wax applied to the enclosed certified products

(C) Insect management.

(i) A producer shall plan production schedules, crop selection, location and sizing of plantings, and soil-management practices to prevent insect infestations

(ii) A producer may use preventative management such as planting resistant varieties, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations, and avoidance of excessive fertilization

(iii) A producer may use mechanical or electrical controls, sticky traps, repellent crops and apparatus, vacuuming, water jets, physical barriers and traps, and sound

(iv) A producer may use pheromones used in traps, including use in

monitoring pest occurrence, emergence, life cycles and mating disruptives.

(v) A producer may use pheromone traps or bait sticks containing prohibited pesticides, if these pesticides do not contact and are not added to soil or water.

(vi) A producer may use biological controls, release of natural predators and parasites and manipulation of the habitat, crops planted for insectories, supplemental food, and/or hosts of natural predators and parasites.

(vii) A producer may use other biological controls including entomopathic protozoa, nematodes, algae or other biological controls.

(viii) A producer may use microbial diseases including viral, bacterial, and entomopathic fungal diseases such as *Bacillus thuringiensis* (Bt), *Bacillus* spp., *Beauveria* spp., *Nosema* spp., and Nuclear Polyhedrosis Virus (NPV).

(ix) A producer may use materials listed as allowed with restrictions, if justified for immediate insect control measures

(D) Management of rodents, gophers, deer, and other varmints. A producer may use for control or as a repellent

(i) live traps, physical barriers, sound, electrical devices, shooting, or materials listed as allowed in the TDA Material List or the National list, or

(ii) materials listed as allowed with restrictions in the TDA Materials List and the National List, if justified for immediate reduction of crop loss due to abnormal occurrence of these pests

(3) Growth regulators, growth promoters, activators, and inoculants.

(A) A producer may use natural enzymes, herbal preparations, biodynamic preparations, rhizobial inoculants, free-living nitrogen-fixing microbial cultures, blue-green algae, cellulolytic bacteria, natural rooting hormones, adjuvants or wetting agents for foliar applications; and materials listed as allowed in the TDA Material List; or

(B) A producer may use materials listed as allowed with restrictions in the TDA Material List if justified as a temporary measure in production of food or fiber.

(g) Propagation materials.

(1) A producer shall only use propagation materials that are certified organically produced unless the producer provides verification that they were grown

with accepted organic practices and materials as defined under this chapter.

(2) A producer shall use untreated seed unless the use of synthetic fungicide treated seeds for food or fiber

(A) improves germination and stand establishment due to temporary conditions such as heavy, wet or cold soil conditions, and

(B) is the only seed available for certain crop varieties

(3) A producer may use insecticide treated seed for food or fiber if

(A) current commercial stock is the only seed available and the approval for use is sought for only a one-time planting, or

(B) required under local, state, or federal quarantine requirements

(4) A producer may use acid delinted seed for organically produced or transitional cotton

(5) Crops produced from propagation materials, other than synthetic fungicide treated seeds or acid delinted cotton seeds, which have been produced or treated with prohibited materials may not be sold as transitional within 12 months, or organic within 36 months, of planting or transplanting.

(6) A producer may use commercial soil mixes which contain materials listed as allowed in the TDA Material List or the National List

(7) A producer is prohibited from using soils, sand, gravel, or planting medium, or from planting in soils that have been sterilized at temperatures higher than 180 degrees Fahrenheit.

(h) Recordkeeping.

(1) Producers shall maintain complete, auditable records including:

(A) general crop production practices,

(B) crops produced, harvesting and handling methods and records, including harvest dates and yields, product inventory and sales;

(C) records of use of materials listed as allowed or allowed with restrictions (including a material use report) in the TDA Material List or the National List for Pest Management, Fertility and Soil Management, and production of propagation materials,

(D) material-use reports for manure, compost, or soil mixes used in transplant, field, or greenhouse production,

(E) material-use reports for propagation materials used in transplants, field, or greenhouse production; and

(F) material-use reports which shall be maintained and submitted to the department or the organic certifying agent for verification and approval, and shall include information (if applicable) on:

(i) type of material applied,

(ii) source of material,

(iii) label and manufacturer information,

(iv) date and rate of application,

(v) method and type of equipment used,

(vi) type of crop or propagation material applied,

(vii) field or greenhouse numbers as specified in farm maps to which material was applied, and

(viii) justification of need and plan to discontinue restricted practice or application over time, and

(G) records of application of natural fruit waxes, including information on type material applied, type of crop, and records of numbers of boxes or lots treated.

§18.15. Distributors.

(a) Distributors, including but not limited to, wholesalers, brokers, packers, repackers, shippers, or agents transferring orders of food or fiber produced in this state or out-of-state, which is sold as organic or transitional, shall be certified.

(b) Persons or certified producers who purchase certified food or fiber produced in this state or out-of-state which is sold as organic or transitional, for resale or redistribution, including but not limited to mail order, roadside stands, and farmers markets shall be certified.

(c) Distributors shall conspicuously display a certificate of approval to handle organic or transitional food or fiber

(d) Distributors applying for certification, or renewal for certification, shall complete an application, including an organic handling plan, and a Hazard Analysis Critical Control Point (HACCP) system plan, which includes

(1) an overall description of physical facilities and management procedures adequate to prevent commingling or contamination of organic or transitional food or fiber,

(2) a general description of the handling operation, handling procedures, and the types of organic food or fiber handled,

(3) a schematic flow-chart showing the movement of organic food or fiber during handling, including identification of all equipment, machinery, and storage areas used, and

(4) a description of the hazard analysis for the handling operation and the identification of critical control points for the following areas of potential contamination (hazards) of the organic food or fiber, including information on

(A) commingling of certified organic products with non-organic products and a description of the system of internal recordkeeping that documents the movement of each specific lot of organic food or fiber through each step of the handling operation,

(B) sanitizers, boiler chemicals, processing aids, prohibited substances, materials used in handling, and post-harvest applications,

(C) transportation and storage,

(D) pest control, including a description of the pest problems encountered in the handling operation, pest monitoring techniques used, and a description of pest control methods,

(E) food spoilage microorganisms, including a description of efforts to reduce solid waste, liquid waste, and airborne emissions produced by the handling operation, and

(F) general handling procedures

(5) A distributor may not represent as organic or transitional, any food or fiber that is known to contain prohibited materials or has been commingled or contaminated during storage, handling, packing or repacking, packaging, and transportation

(e) The following shall apply to post-harvest handling

(1) A distributor shall not

(A) add any synthetic ingredient which is prohibited under these rules

including, but not limited to fumigants, sprouting inhibitors, ripeners, or growth regulators, preservatives, coloring agents, ionizing radiation, or synthetic waxes or oils,

(B) add any ingredient containing nitrates, heavy metals, or toxic residues in excess of those permitted,

(C) add any sulfites, nitrates, or nitrites,

(D) add any ingredients that are not organically produced in accordance with this chapter, unless such ingredients are included in the TDA Materials List or the National List, and represent not more than 5% of the weight of the total finished product (excluding salt and water),

(E) use any packaging materials, storage containers or bins that contain synthetic fungicides, preservatives, or fumigants,

(F) use any bag or container that had previously been in contact with any substance in such a manner as to compromise the organic quality of such product,

(G) apply any material listed as allowed with restrictions on the TDA Material List or the National List to any certified product for immediate control of pests or food spoilage without justification of need,

(H) apply any prohibited disinfectants to storage containers and handling equipment without prior approval from the department or an organic certifying agent, including a specified waiting period that must expire before the handler uses the container or equipment for certified food or fiber, or

(I) use in such products, water that does not meet all Safe Drinking Water Act requirements (42 U.S.C., §300f, et seq)

(2) A distributor shall

(A) handle perishable items only so as to avoid injuring them physically,

(B) dry crops to appropriate moisture levels by natural drying, aeration, or other mechanical drying apparatus,

(C) chill perishable crops by means of uncontaminated water baths, cold

rooms, or icing, and maintain constant low temperatures at every stage of transportation and distribution;

(D) disinfest crops of spoilage organisms or fruit flies by hot-water dipping or vapor-heat treatments;

(E) suppress storage pests by physical means or with materials listed as allowed in the TDA Materials List or the National List, and

(F) indicate on the shipping containers the type of natural fruit wax applied to the enclosed certified products

(f) Distributors shall maintain complete, auditable records for one year including

(1) records of all organic or transitional products, including dates of purchase, sales, billings, receipts, invoices, and volumes of products purchased,

(2) proof of certification of all products labeled as organic or transitional and record of the applicable organic certifying agent, and

(3) records of application of natural fruit waxes, including information on type of material applied, type of crop, and records of numbers of boxes or lots treated

§18.16 Processors.

(a) Processors of food or fiber, produced in this state or out-of-state, which is sold as organic or transitional, shall be certified by the department or by an organic certifying agent.

(b) Processors shall conspicuously display a certificate of approval to handle and process organic or transitional food or fiber.

(c) Processors applying for certification, or renewal for certification, shall complete an application, including an organic processing plan, and a Hazard Analysis Critical Control Point (HACCP) system plan, which includes:

(1) an overall description of physical facilities and management procedures adequate to prevent commingling or contamination of organic or transitional food or fiber;

(2) a general description of the processing operation, processing procedures, and the types of organic food or fiber processed,

(3) a schematic flow-chart showing the movement of organic food or fiber during processing, including identification of all equipment, machinery, and storage areas used,

(4) a description of the hazard analysis for the processing operation and the identification of critical control points for the following areas of potential contamination (hazards) of the organic food or fiber, including information on:

(A) commingling certified organic products with non-organic products, and a description of the system of internal recordkeeping that documents the movement of each specific lot of organic food or fiber through each step of the processing operation.

(B) sanitizers, boiler chemicals, prohibited substances, post-harvest applications, processing ingredients, and processing aids.

(C) transportation and storage.

(D) pest control, including a description of the pest problems encountered in the processing operation, pest monitoring techniques used, and a description of pest control methods used.

(E) food spoilage microorganisms including a description of efforts to reduce solid waste, liquid waste, and airborne emissions produced by the processing operation, and

(F) general processing procedures.

(d) A processor may not represent as organic or transitional, any food or fiber that is known to contain prohibited materials or has been commingled or contaminated during storage, handling, processing, packaging, and transportation

(e) Each ingredient of any processed product sold as organic shall be from a certified organic source. A processed product sold as organic may include:

(1) ingredients that are not agricultural products, such as salt, yeasts, or other microbial cultures, or fermentation systems which are approved under this chapter.

(2) organically produced honey, maple syrup, or other natural sweeteners.

(3) natural preservatives, coloring agents, or other additives, such as natural absorbic acid or citric acid;

(4) organically grown herbs, spices or other ingredients; or

(5) other ingredients or processing aids listed as allowed in the TDA Materials List or the National List.

(f) The following percentage of ingredients are required.

(1) Processed products may not be labeled as "organic" on the principal display panel, unless they contain at least 95% certified organically produced ingredients by weight, excluding water and salt from the calculation, and do not contain any prohibited ingredients or additives

(2) Processed products which contain at least 50% certified ingredients by weight, excluding water and salt, may state or label the applicable certification on the principal display panel, only for the limited purpose of identifying the organically produced ingredients

(3) Processed products that contain less than 50% certified ingredients by weight, excluding water and salt, may state the applicable certification in the ingredient information panel, including the percentage of each ingredient certified

(4) Seeds and beans used for producing edible sprouts must be 100% certified organically produced. Sprouts shall not be produced from non-certified seed after 180 days from the effective date of this chapter

(g) Processors shall maintain complete, auditable records for two years including

(1) records of all organic or transitional products, including dates of purchases, sales, billings, receipts invoices, and volumes of products purchased;

(2) proof of certification of all products labeled as organic or transitional and record of the applicable organic certifying agent.

§18.17. Harvest, Handling, and Processing of Cotton.

(a) To ensure that organically produced fiber and by-products are certifiable, producers, distributors, and processors shall harvest, transport, store, and process organically produced fiber in a manner to ensure segregation and prevention from contamination. Methods and materials in manufacturing of organically produced cotton products must be low impact, energy conserving, or environmentally sound processing methods.

(b) Harvesting and handling.

(1) Harvest aids.

(A) A producer shall use:

(i) seasonal weather conditions such as frost and freeze; and/or

(ii) upon approval by the department or an organic certifying agent, use other materials listed in the TDA Mate-

rials List or the National List or other prescribed methods.

(B) A producer may use soaps, detergents or natural plant or vegetable-based oils listed in the TDA Materials List or the National List as a harvest aid for spindle picking methods

(C) A producer shall not use as a harvest aid, defoliation or desiccation by deliberate plant stress through direct fertility depletion.

(2) Equipment

(A) Cotton harvesting equipment, module units or containers compressing or holding cotton fiber, and module trucks or trailers shall be physically or mechanically cleaned to remove any lint or trash from previous harvesting

(B) An on-site inspection of all harvest equipment and/or authorization by the department or an organic certifying agent shall be completed for each field prior to harvest

(3) Handling

(A) Modules or containers of certified cotton shall be segregated in an area specified on each farm site by the department or an organic certifying agent. The department or an organic certifying agent shall be notified prior to relocation of any module or container of certified cotton.

(B) Modules or containers of cotton fiber shall be segregated in an area specified for each processing site by the department or an organic certifying agent. The department or an organic certifying agent shall be notified prior to relocation or processing of certified cotton.

(C) Bale units of processed cotton fiber or containers or units of by-products shall be segregated in an area specified by the department or an organic certifying agent at each certified processing facility (gin) and/or each certified distributing (warehouse) location.

(D) Distributor (warehouse) locations shall be inspected and/or audited for records of certified bale units or by-products by the department or an organic certifying agent prior to shipment.

(c) Processing (ginning).

(1) Ginning may include module feeding, suction feeding, conveying, drying, pre-cleaning, ginning, lint cleaning, baling and bagging, bale conveying, mote

conveying, pressing and bagging gin trash conveying and storage, and seed conveying and storage

(2) Module feeding and/or suction feeding systems and initial conveyors must be cleaned physically or mechanically to remove any lint or trash prior to loading or feeding modules or container units of certified cotton into the ginning system

(3) Each stage of ginning shall ensure segregation and prevention from contamination

(4) At least one bale of compressed fiber or any additional volume or units determined by the department or an organic certifying agent shall be segregated during processing of organic and/or transitional cotton. Each segregated bale or unit shall be audited and recorded as follows:

(A) the first segregated bale or unit of organic and/or transitional cotton processed after conventional cotton shall not be certified as organic or transitional,

(B) the first segregated bale or unit of transitional cotton processed after organic cotton shall be sold as transitional,

(C) the first segregated bale or unit of organic cotton processed after transitional cotton shall be certified as transitional, or

(D) gin trash, burrs, notes, and seeds which are segregated and prevented from contamination during each stage of ginning may be certified as organic or transitional, consistent with the certification of the raw cotton from which they were derived

(5) Cotton fiber processing aids,

(A) A processor (ginner) may use

(i) water or other humidity control methods to enhance processing;

(ii) enzymes as a topical treatment to enhance processing due to excessive sugar or honeydew content; or

(iii) natural vegetable or plant oils or waxes as a topical treatment to enhance processing due to excessive sugar or honeydew content or processing of weathered cotton

(B) A processor (ginner) shall not use synthetic textile oils, synthetic waxes, or silicone-based surfactants

(d) Processing of organically-produced fibers into textile materials.

(1) Processing of cotton fiber into non-wovens including filling, stuffing, batting, felting, health and beauty aid materials, interfacing, and other types. Processing may include:

(A) fiber opening, conveying, feeding, blending, and cleaning;

(B) combing, ginning, or compacting,

(C) drying or bonding; or

(D) baling, wrapping or packaging

(2) All equipment used in the processes shall be physically or mechanically cleaned to remove any lint and/or a specified quantity of certified cotton, as it is being passed through each stage of processing, may be utilized to clean contact surfaces during each specific processing stage and to purge the equipment of any tufts of previously processed stock. Cleaning waste shall be discarded and may not be certified organic or transitional

(A) Additional waste if segregated and prevented from contamination from other fiber and audited via lot, bin or weight, may be recycled or certified consistent with the certification of the raw cotton from which it was derived.

(B) Scouring of non-woven cotton fiber

(i) A processor may use hot water, low-impact and biodegradable anionic, cationic and non-ionic surfactants; citric or acetic acid; and protease, lipase, amylase and cellulase enzymes

(ii) A processor shall not use hydrochloric or sulfuric acid as a processing ingredient

(C) Bleaching, bio-polishing, color brightening, and softening.

(i) A processor may use:

(I) hot water; protease, lipase, amylase and cellulase enzymes; and citric acid or acetic acid; or

(II) soda ash; sodium silicate, caustic soda at a maximum concentration of 3.0% on weight of goods; and hydrogen peroxide at a maximum of 3.0% on weight of goods, if removed by a final enzymes and/or hot water and citric acid or acetic acid scour, so that no residual materials remain in the finished fabric.

(ii) A processor shall not use chlorine; sodium chlorite and sodium hypochlorite; optical brighteners and/or bluing; or perborate bleaches including sodium perborate and sodium monopersulfate.

(D) Bonding non-wovens materials.

(i) A processor may use mechanical compaction, webbing, and entangling; stitching, knitting and wefting; hydroentanglement; or polyvinyl alcohol (PVA) as a bonding agent.

(ii) A processor shall not use adhesive or glue bonding agents, chemical solvent bonding; or synthetic polymer bonding.

(3) Processing knitted, woven or other fabric types.

(A) Processing may include the following:

(i) opening, laydown, cleaning, and blending to feed bale units into the processing system;

(ii) carding, drawing; and combing for the production of sliver from certified bale units;

(iii) roving, winding, ring spinning, open-end spinning, air-jet spinning, plying, and wrapping for production of yarn from sliver;

(iv) creeling, warping, and slashing of yarn packages onto beams for woven fabrics;

(v) weaving or knitting of fabrics;

(vi) compaction, Sanforizing, and finishing greige good; or

(vii) dyeing.

(B) All equipment used in the processes listed above shall be physically or mechanically cleaned to remove any lint and/or a specified quantity of certified cotton, as it is being passed through each stage of processing, may be utilized to clean contact surfaces during each specific processing stage and to purge the equipment of any tufts of previously processed stock. Cleaning waste shall be discarded and may not be certified organic or transitional.

(C) Additional waste including raw stock cotton, carding, drawing, combing noils, sliver, roving, yarn, pneumafil, yarn, beam, or greige good fabric, if segregated and prevented from contamination from other fiber and volume recorded via lot, bin or weight, may be certified consistent with the certification of the raw cotton from which it was derived.

(D) All packages including sliver, roving, yarn warp beams, and bolts of finished fabric shall be clearly marked during each stage of processing consistent with the certification of the raw cotton from which it was derived, including records via individual package numbers or lots, beam numbers or lots, or bolt numbers or lots, and volume or weight of each package or unit of waste stock to be certified.

(E) Treatment of cotton for opening, laydown, cleaning, and blending. A processor may use water or other humidity control methods to enhance feeding; enzymes as a topical treatment to enhance processing due to excessive sugar or honeydew content; or natural vegetable oils, plant oils, and natural waxes as a topical treatment to enhance ease of processing of weathered cotton.

(F) Preparation and conditioning of yarn.

(i) A processor may use:

(I) as a processing ingredient, beeswax or tallow wax;

(II) as a processing aid, paraffin-based wax, if removed with allowed scouring materials later in the manufacturing process; or

(III) as a processing aid, soluble acid fugitive tint to identify individual yarn packages, if removed with allowed scouring materials later in the manufacturing process.

(ii) A processor shall not use silicone resin or other synthetic-based resins.

(G) Preparation of beamed yarns for woven fabrics.

(i) A processor may use:

(I) starches derived from natural sources, including, corn starch and potato starch; hydrogenated tallow; or natural waxes as a processing ingredient for sizing,

(II) polyvinyl alcohol (PVA); gelatin; waxes; and glycerin as a processing aid, if removed by a allowed final scour which may include hot water; enzymes; and citric acid or acetic acid, so that no residual materials remain in the finished fabric.

(ii) A processor shall not use synthetic resins, synthetic gums, or synthetic oils.

(H) Desizing to remove processing aids in beamed yarns.

(i) A processor may use hot water; citric acid or acetic acid; salt; protease, lipase, amylase and cellulase enzymes; low-impact and biodegradable anionic, cationic, and non-ionic surfactants; sodium gluconate; or other organic chelating agents.

(ii) A processor shall not use hydrochloric or sulfuric acid.

(I) Preparation of warp beam yarns or package yarns for dyeing.

(i) a processor may use:

(I) as a processing aid, hot water; citric acid; acetic acid; low-impact and biodegradable anionic, cationic and non-ionic surfactants; and soda ash; or

(II) sodium silicate; caustic soda at a maximum concentration of 3.0% on weight of goods; hydrogen peroxide at a maximum of 3.0% on weight of goods; as a processing aid, if removed by a final enzyme and/or hot water and citric or acetic acid scour, so that no residual materials remain in the finished fabric.

(ii) A processor shall not use chlorine, sodium chlorite and sodium hypochlorite, optical brighteners and/or bluing, perborate bleaches including sodium perborate and sodium monopersulfate, or heavy metals or mordants.

(J) Bleaching, bio-polishing, color brightening, and softening of fabrics for final finishing of greige good fabric or for fabric or garment dyeing.

(i) A processor may use:

(I) protease, lipase, amylase and cellulase enzymes; hot water; and citric or acetic acid; or

(II) soda ash; sodium silicate; caustic soda at a maximum concentration of 3.0% on weight of goods; and hydrogen peroxide at a maximum of 3.0% on weight of goods as a processing aid, if removed by a final enzymes and/or hot water and citric or acetic acid scour, so that no residual materials remain in the finished fabric.

(ii) A processor shall not use chlorine; sodium chlorite and sodium hypochlorite; optical brighteners and/or bluing; perborate bleaches including sodium perborate and sodium monopersulfate; or heavy metals or mordants.

(K) Mechanical finishing of knit and woven fabrics. A processor may use calendering, tentering, or Sanforizing for final finishing of greige good fabrics or for preparation for fabric or garment dyeing, or mechanical compaction and/or relaxation; and heat shrinkage.

(L) Finishing knit or woven greige good fabric or fabric for garment dyeing.

(i) A processor may use:

(I) as a final finishing ingredient, enzymes as bio-polishes or finishes, natural oils including coconut oil, banana oil, pine (tall) oil, or other natural plant or animal oils, natural fatty acids including oleic acid and stearic acid, other plant or animal acids, or tallow; and corn or potato starch; or

(II) cationic softeners, as a finishing aid in Sanforization or finishing, or polyvinyl alcohol (PVA) in glazing or beetling finishing.

(ii) A processor shall not to use as a processing ingredient formaldehyde and formaldehyde-urea resins, silicone or silicone-based finishes, synthetic resins or resin-based finishes, synthetic gums or gum-based finishes, synthetic oils, or synthetic waxes.

(M) Surface finishing of knit or woven fabrics. A processor may use napping, sueding, or brushing.

(N) Dyeing of package yarns, beams yarns, or fabric or garment dyeing. A processor may use natural, low-energy, non-metal, reactive dyes, bi-functional dyes, or low-impact dyes.

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 May 16, 1994.

TRD-9440977

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: June 7, 1994

Proposal publication date: February 1, 1994

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



**TITLE 22. EXAMINING
BOARDS**

**Part XXXIV. Texas State
Board of Social Worker
Examiners**

**Chapter 781. Social Work
Certification**

(Editor's Note: Chapter 605, §40(b)(3), Acts of the 73rd Legislature, Regular Session, 1993, create the Texas State Board of Social Worker Examiners and provided for the transfer of certain programs from the Texas Department of Human Services.

The Texas Register is administratively transferring the following rules listed in the table below from Title 40., Part 1., Texas Department of Human Services to Title 22., Part XXXIV., Texas State Board of Social Worker Examiners. The table lists the old rule numbers and the new rule numbers that correspond to them.)

Old Rules

Chapter 67. Social Work Certification

Certification Requirements

§§67.101 - 67.106

Application Process

§§67.201 - 67.208

Certificate Expiration and Renewal

§§67.301 - 67.305

Administrative Actions

§§67.401 - 67.410

New Rules

Chapter 781. Social Work Certification

Certification Requirements

§§781.101 - 781.106

Application Process

§§781.201 - 781.208

Certificate Expiration and Renewal

§§781.301 - 781.305

Administrative Actions

§§781.401 - 781.410

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 67. Social Work Certification

(Editor's Note Chapter 605, §40(b)(3), Acts of the 73rd Legislature, Regular Session, 1993, create the Texas State Board of Social Worker Examiners and provided for the transfer of certain programs from the Texas Department of Human Services

The Texas Register is administratively transferring the following rules listed in the table published in this issue under Title 22 from Title 40, Part I, Texas Department of Human Services to Title 22, Part XXXIV, Texas State Board of Social Worker Examiners. The table lists the old rule numbers and the new rule numbers that corresponds to them.)



OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Alcoholic Beverage Commission

Friday, May 27, 1994, 9:30 a.m.

5806 Mesa Drive, Suite 180

Austin

According to the complete agenda, the Texas Alcoholic Beverage Commission will discuss approval of minutes of April 25, 1994, meeting; recognition of TABC employees with 20 and above years of service; administrator's report; presentation of agency strategic plan, mission statement and philosophy; possible adoption, Albert Stowell, Travis County Affordable Housing Corporation, protest of license issuance to Stop and Save market located at 6700 Manor Road, Austin, Travis County, Texas; public comment; executive session to discuss personnel matters, including 90 day review of administrator, and consultation with attorney regarding pending litigation against the agency; take action, including a vote, if appropriate, on topics listed for discussion under executive session.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: May 19, 1994, 9:31 a.m.

TRD-9441103

Texas School for the Blind and Visually Impaired

Wednesday, May 25, 1994, 1:00 p.m.

1100 West 45th Street

Austin

According to the complete agenda, the Board of Trustees Subcommittee on Finance and Audit will discuss approval of minutes from March 25, 1994 meeting; budget status report; review and approval of 1994-1995 legacy budget; review and approval of 1994-1994 operating budget; and report from internal auditor.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133, Fax: (512) 454-6305.

Filed: May 17, 1994, 11:54 a.m.

TRD-9440984

Thursday, May 26, 1994, 9:00 a.m.

1100 West 45th Street, Room 116

Austin

According to the complete agenda, the Board of Trustees, Subcommittee on Personnel will discuss goals for superintendent; ERS/TRS selection; teacher appraisal; and professional contracts for probationary employees.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756-8631, (512) 454-8631, Ext. 133.

Filed: May 17, 1994, 1:19 p.m.

TRD-9440986

Thursday, May 26, 1994, 9:00 a.m.

1100 West 45th Street, Room 110

Austin

According to the complete agenda, the Board of Trustees, Subcommittee on Policies will review and discuss policies: BAA, CDA, CDB, CDC, CE, CMD, DH, DI, DK, DL, DMA, DMB, DMD, DN, DKA, DNB, DNC, DO, DO-E, DOAA, DOAC, DOAD, DOAD-E, DOCA, DOCC, DPA, DQB, DQC, DQD, DQE, EB, and EI.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756-8631, (512) 454-8631, Ext. 133.

Filed: May 17, 1994, 1:19 p.m.

TRD-9440987

Thursday, May 26, 1994, 10:00 a.m.

1100 West 45th Street, Room 116

Austin

According to the agenda summary, the Board of Trustees will discuss approval of minutes of March 25, 1994 meeting; consideration of approval of board policies; development of board's vision statement, consideration of approval of TSBVI's strategic plan; approval of dates for 1994-1995 board meetings; approval of 1994-1995 Operating Budget; adoption of 1994-1995 Legacy Budget, professional contracts for probationary employees; approval of Retirement System; approval of Texas Teacher Appraisal System; approval of consultant's contracts of \$5,000 or above; and summary of contracts approved at administrative level.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756-8631, (512) 454-8631, Ext. 133.

Filed: May 17, 1994, 1:43 p.m.

TRD-9440988

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**Advisory Commission on
State Emergency Commu-
nications**

Thursday, May 26, 1994, 10:00 a.m.

Offices of the Association of General Contractors of Texas, 300 Barton Springs Road
Austin

According to the complete agenda, the One-Call Legislation Committee will call the meeting to order and recognize guests; hear public comment; discuss and consider organization structure for One-Call Legislative Committee; discuss and consider proposed litigation; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contacted Velia Williams at (512) 327-1911 at least two working days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 19, 1994, 8:32 a.m.

TRD-9441105

◆ ◆ ◆
**Employees Retirement Sys-
tem of Texas**

Wednesday, May 25, 1994, 9:30 a.m.

William B. Travis Building, Room 1-111,
1701 North Congress

Austin

According to the agenda summary, the Group Benefits Advisory Committee will call to order; recognition of visitors and guests; approval of minutes from previous meeting; announcements and updates; ERS update; standing subcommittee reports; other related benefits business; and adjournment.

Contact: James W. Sarver, 18th and Brazos, Austin, Texas 78701, (512) 867-3217.

Filed: May 17, 1994, 2:44 p.m.

TRD-9440990

◆ ◆ ◆
**Fire Fighters' Pension Com-
mission**

Friday, June 3, 1994, 8:00 a.m.

Wyndham Hotel, IH-35 South at Ben White Boulevard

Austin

According to the agenda summary, the Senate Bill 411 Statewide Volunteer Fire Fighters' Retirement Fund Board of Trustees will meet for the purpose of presentations by the consultant, the accountant, and the actuary as well as staff reports; discussion and action on custodian wrap fees, new "Buy Back" factors and amending current consultant contract.

Contact: Helen Campbell, 3910 South IH-35, #235, Austin, Texas 78704, (512) 462-0222.

Filed: May 19, 1994, 9:30 a.m.

TRD-9441097

◆ ◆ ◆
General Land Office

Wednesday, May 25, 1994, 9:00 a.m.

S.F.A. Building, 1700 North Congress Avenue, Room 831

Austin

According to the complete agenda, the School Land Board will discuss approval of previous board meeting minutes; pooling applications; Brookeland (Austin Chalk, 8800), Newton County; Giddings (Austin Chalk, Gas), Brazos County; Wildcat Field, Howard County; consideration of nominations, terms, conditions, and procedures for a July 5, 1994 special oil and gas lease sale; consideration of water line assessment from Adjutant General's Department to the City of Austin on Camp Mabry lands, Travis County; coastal public lands, commercial easement application, Clear Lake, Galveston County; structure (cabin) permit renewal, Laguna Madre, Kenedy County; structure (cabin) permit rebuilding request, Laguna Madre, Cameron County; and executive session-pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: May 17, 1994, 3:42 p.m.

TRD-9440999

◆ ◆ ◆
Texas Department of Health

Thursday, May 26, 1994, 8:00 a.m.

Texas Department of Health, Room M-739,
1100 West 49th Street

Austin

According to the complete agenda, the Texas Board of Health, Regulatory Committee will discuss approval of the minutes from the April 22, 1994 meeting, and discuss and possibly act on: proposed rules (trauma); final adoption of rules (medical physicists); and medical radiologic technologists); emergency medical services week/trauma awareness month; and com-

ments and announcements not requiring committee action.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: May 18, 1994, 4:14 p.m.

TRD-9441074

Thursday, May 26, 1994, 9:45 a.m.

Texas Department of Health, Room M-739, 1100 West 49th Street

Austin

According to the complete agenda, the Strategic Management Committee will discuss approval of the minutes of the April 21, 1994 meeting; and discuss and possibly act on: 1995-1999 Texas Department of Health Strategic Plan; transfer of funds, Medicaid strategies; monthly financial report; update concerning work group on health reform; update on border health issues; and report on homeless issues; report on historically underutilized businesses program.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: May 18, 1994, 4:14 p.m.

TRD-9441075

Thursday, May 26, 1994, 3:00 p.m.

Texas Department of Health, Room M-739,
1100 West 49th Street

Austin

According to the complete agenda, the Texas Board of Health, Human Resources Committee will discuss approval of the minutes of April 22, 1994 and discuss and possibly act on: Senate Bill 383 review of Group 2 advisory committees; and administrative response to Commissioner's Task Force on Human Resources.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7695. 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: May 18, 1994, 4:14 p.m.

TRD-9441073

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**Health and Human Services
Commission**

Friday, May 27, 1994, 10:00 a.m.

701 West 51st Street, Board Room, 125 E
Austin

According to the complete agenda, the Long-Term Care Task Force will discuss report from the Steering Committee; subcommittee meet: Funding/Resources (DHS Room 121E), Choice/Risk/Regulation (DHS Room 510E), Access/Delivery (DHS Board Room), Service Array/Care Setting (DHS Board Room), reports from subcommittees and beginning discussion of full task force recommendations; next steps; and adjourn.

Please inform the Commission if you will need interpreter services. The Commission's phone number is (512) 502-3200. The Texas Relay Number is 1-800-735-2989. Interpreters will be available throughout the morning; they will stay for the entire meeting if their services are needed. This meeting is primarily a work session. If anyone wishes to make public comment to the Task Force, please notify Sonica Lieou at the Health and Human Services Commission by close of business Wednesday, May 25, and the Commission staff will include time for public comment at the beginning of the agenda.

Contact: Sonica Lieou, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759, (512) 302-3200.

Filed: May 18, 1994, 10:23 a.m.

TRD-9441040

Texas House of Representatives

Tuesday, May 24, 1994, 9:00 a.m.

Capitol Extension, Room E1.024

Austin

According to the agenda summary, the Joint Interim Committee on Qualified Providers will call to order; approve minutes from April 4, 1994 meeting; overview of national perspective on Any Willing Provider legislation in other states presented by Joy Johnson Wilson; discussion of future meeting and other housekeeping matters; and adjourn.

Contact: Lisa Edmondson, P.O. Box 2910, Austin, Texas 78768, (512) 463-0480.

Filed: May 18, 1994, 10:23 a.m.

TRD-9441039

Texas Juvenile Probation Commission/Texas Youth Commission

Friday, May 27, 1994, 9:00 a.m.

Laurel Ridge Hospital, 17720 Corporate Wood Drive

San Antonio

According to the complete agenda, the Joint Sub-Committee will call to order; prevention; parole; LAR measures; model system; TYC/TJPC consolidation; recent commitment activity; TYC parolees in local detention centers; SJR 45, 73rd Legislature, regarding Youth Corrections; legislative activity; and adjournment.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: May 18, 1994, 1:24 p.m.

TRD-9441044

Texas State Board of Medical Examiners

Friday, May 27, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the agenda summary, the Physician Assistant Advisory Council/Long Range Planning Committee will consider discussion and possible action on goals and objectives, fiscal responsibility, interagency relations, prescribing authority for physician assistants, qualifications of physician assistants practicing in remotely supervised areas, and loan repayment.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 19, 1994, 9:39 a.m.

TRD-9441115

Friday, May 27, 1994, 10:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the complete agenda, the Physician Assistant Advisory Council/Licensure Committee will call to order, roll call, and discussion of rules relating to licensure.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 19, 1994, 9:39 a.m.

TRD-9441116

Friday, May 27, 1994, 11:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the complete agenda, the Physician Assistant Advisory Council/Disciplinary Committee will call to order; roll call; and discussion of rules relating to disciplinary procedures.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 19, 1994, 9:39 a.m.

TRD-9441113

Friday, May 27, 1994, 1:30 p.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the agenda summary, the Physician Assistant Advisory Council will consider discussion related to council member training, per diem and reimbursement of expenses, budget, license certificate formats, rules and regulations with possible action, consideration of waiver by physician assistant David Michael Barton, and reports and recommendations from committees.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 19, 1994, 9:39 a.m.

TRD-9441114

Texas Natural Resource Conservation Commission

Wednesday, May 25, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

Revised Agenda

According to the agenda summary, the Commission had an addendum to uncontested agenda. Language correction to Item 14, to add City of Mission.

Contact: Doug Kitt, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 17, 1994, 4:48 p.m.

TRD-9441014

Wednesday, May 25, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

Revised Agenda

According to the agenda summary, the Commission had an addendum to contested agenda, appeal and request for a contested case hearing on the amendment granted by the executive director to air quality Permit Number 9429 held by Gibraltar Chemical Resources, Inc.

Contact: Doug Kitt, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 17, 1994, 4:48 p.m.

TRD-9441013

Texas Board of Pardons and Paroles

Monday-Friday, May 30-June 3, 1994, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 19, 1994, 9:36 a.m.

TRD-9441111

Tuesday-Friday, May 31-June 3, 1994, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 19, 1994, 9:35 a.m.

TRD-9441108

Tuesday-Wednesday, May 31-June 1, 1994, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407

Filed: May 19, 1994, 9:36 a.m.

TRD-9441110

Thursday-Friday, June 2-3, 1994, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 19, 1994, 9:26 a.m.

TRD-9441109

Thursday-Friday, June 2-3, 1994, 1:00 p.m. and 9:00 a.m. respectively.

Route 5, Box 258-A

Gatesville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 19, 1994, 9:36 a.m.

TRD-9441112

Public Utility Commission of Texas

Wednesday, May 25, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Commission will consider the following Dockets: P-12682, P-12334, P-12703, P-12890, P-11365, 12065, 10921, 12138, and 11735

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 17, 1994, 3:47 p.m.

TRD-9441002

Wednesday, May 25, 1994, 9:05 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Administrative will meet to discuss: reports, discussion and action on outstanding employees of the quarter; consumer affairs and public information goals and strategies; discussion of Project Numbers 12141 and 12322; Sprint's proposal for overcharges; statewide electrical energy plan; discussion of Project Number 12955; regulatory agenda for telecommunications and electric issues; PUC contribution to NRRI; interaction with legislative committees and/or Sunset Commission; PUC strategic plan; budget and fiscal matters; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 17, 1994, 3:47 p.m.

TRD-9441001

Tuesday, May 31, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Hearings Division will hold a prehearing conference on Docket Number 13020-Application of Texas Utilities Electric Company for authority to implement rate WPCI-Wholesale Power Service-Cap Rock.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 17, 1994, 3:54 p.m.

TRD-9441005

Wednesday, June 10, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Hearings Division will hold a prehearing conference on Docket Numbers 12475 and 12481-Applications of Southwestern Bell Telephone Company and GTE Southwest, Inc for approval of LRIC Workplans Pursuant to Substantive Rule §23.91.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 17, 1994, 3:47 p.m.

TRD-9441010

Thursday, July 21, 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 12957-application of Houston Lighting and Power Company for approval of experimental tariff for special contract pricing, rate schedule SCP.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 18, 1994, 1:55 p.m.

TRD-9441048

◆ ◆ ◆
Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Friday, May 27, 1994, 9:00 a.m.

General Service Commission-Central Services Building, 1711 San Jacinto, Room 402

Austin

According to the agenda summary, the Pricing Subcommittee will call to order and introduction of subcommittee members and guests, acceptance of minutes from February 23, 1994 meeting, discussion and recommendation for action on new services; renewal services; new product and product changes and revisions, discussion of temporary employment services and adjournment.

Contact: Pat Martin, P.O. Box 13047, Austin, Texas 78711, (512) 463-3443.

Filed: May 17, 1994, 11:54 a.m.

TRD-9440983

◆ ◆ ◆
Texas County and District Retirement System Avenue

Wednesday-Thursday, May 25-26, 1994, 1:30 p.m. and 9:00 a.m. respectively

303 West 15th Street

Austin

According to the complete agenda, the Board of Trustees will consider and possibly act on purchase of office building.

Contact: Terry Horton, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: May 17, 1994, 5:07 p.m.

TRD-9441018

◆ ◆ ◆
Sabine River Compact Administration

Friday, June 24, 1994, 9:30 a.m.

Maison Dupuy Hotel

New Orleans

According to the agenda summary, the Sabine River Compact Administration will call to order, approval of minutes, report of chairman, report of secretary, report of treasurer, report of committees, unfinished business, new business, and adjournment.

Contact: Mary H. Gibson, Route 1, Box 780, Many, Louisiana, 71449, (318) 256-4112.

Filed: May 18, 1994, 1:59 p.m.

TRD-9441052

◆ ◆ ◆
Teacher Retirement System

Thursday, May 26, 1994, 10:30 a.m.

1000 Red River, Room 514

Austin

According to the agenda, the General Policy Committee will discuss approval of minutes of April 22, 1994, meeting; consideration of proposed changes to bylaws of the Board of Trustees; consideration of policies required by House Bill 2711 as enacted by the 73rd session of the Texas Legislature, including responsibilities of board of trustees and executive director; and consideration of other board policy issues.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: May 18, 1994, 4:16 p.m.

TRD-9441706

◆ ◆ ◆
Texas Council on Workforce and Economic Competitiveness

Thursday, May 26, 1994, 11:30 a.m.

Austin Convention Center, Room 6A, 500 East Cesar Chavez Street

Austin

According to the complete agenda, the Executive Committee will call to order, opening comments, public comment; action item: TCWEC agency strategic plan, TCWEC fiscal year 1995 operating budget; briefing item: charges for copies of public documents; and adjournment.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007.

Filed: May 17, 1994, 3:42 p.m.

TRD-9440998

Thursday, May 26, 1994, 1:00 p.m.

Austin Convention Center, Room 5A, 500 East Cesar Chavez Street

Austin

According to the agenda summary, the Career Foundation Committee will call to order; briefing items: school-to-work grants update; panel on skills/knowledge/real world forums; Carl Perkins split (fiscal year 1995-1996); Carl Perkins allocation to local education entities (fiscal year 1995-1996); national assessment on vocational education interim report; policy briefing items: school-to-work implementation plan; tech prep evaluation; action items: Part Two of the Texas workforce development system strategic plan; and state agency strategic plan.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007.

Filed: May 17, 1994, 3:42 p.m.

TRD-9440997

Thursday, May 26, 1994, 1:00 p.m.

Austin Convention Center, Room 5C, 500 East Cesar Chavez Street

Austin

According to the agenda summary, the Intervention Committee will have a joint briefing with the Evaluation and Performance Committee on the JOBS Program (in Room 6A); call to order; briefing items: PY 1994-1995 Title IIA Older Individual Program; JTPA Veterans Program; JTPA fiscal and performance report; action items: Part Two of the workforce development system strategic plan; TCWEC agency strategic plan; JTPA Title IIA/IC local plan approvals; and tentative action item: food stamp employment and training state plan.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007

Filed: May 17, 1994, 3:40 p.m.

TRD-9440994

Thursday, May 26, 1994, 1:00 p.m.

Austin Convention Center, Room 6A, 500 East Cesar Chavez Street

Austin

According to the agenda summary, the Evaluation and Performance Committee will have a joint briefing with the Intervention Committee on the JOBS Program (in Room 6A), call to order; briefing items: JTPA technical assistance plan status report; JTPA quarterly performance report; Office of the Inspector General Audit of Alamo Service Delivery Area; policy briefing item: service delivery area and substate area technical assistance and reorganization policy, action items: Part Two of the workforce development system strategic plan; TCWEC agency strategic plan; JTPA performance standards and incentive policy, and committee discussion

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007.

Filed: May 17, 1994, 3:40 p.m.

TRD-9440993

Thursday, May 26, 1994, 1:00 p.m.

Austin Convention Center, Room 5B, 500 East Cesar Chavez Street

Austin

According to the agenda summary, the Worker Transition/Local Systems Committee will call to order; briefing items: status report on workforce board applications, planning grants for workforce development boards and one-stops; fiscal and performance report-Title III dislocated worker programs, TEC Kiosk System; action items: PY 1994-1995, Title III dislocated worker local plan approval; Part Two of the workforce development system strategic

plan; TCWEC agency strategic plan; and Title III state plan amendment-procedures for statewide, regional and industrywide projects.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007

Filed: May 17, 1994, 3:41 p.m.

TRD-9440995

Thursday, May 26, 1994, 5:00 p.m.

Austin Convention Center, Room 5B, 500 East Cesar Chavez Street

Austin

According to the complete agenda, the Five Region Task Force will call to order, public comments; action item: recommendations to the Texas Council on Workforce and Economic Competitiveness on area designations, and adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007

Filed: May 17, 1994, 3:41 p.m.

TRD-9440996

Friday, May 27, 1994, 8:30 a.m.

Austin Convention Center, Room 9, 500 East Cesar Chavez Street

Austin

According to the agenda summary, the Full Council will call to order; briefing items: quality work force planning; national legislative update, policy briefing item: workforce program consolidation recommendations; action items: task force recommendations for designation of remaining workforce development area; Part Two of the workforce development system strategic plan, TCWEC agency strategic plan, TCWEC operating budget for fiscal year 1995, consent agenda items: JTPA performance standards and incentive policy; PY 1994-1995 Title III dislocated worker local program plan approvals, Title III state plan amendment-statewide, regional and industrywide projects; JTPA Title II/A/IC

local plan approvals; and food stamp employment and training state plan.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78769, (512) 305-7007.

Filed: May 17, 1994, 3:40 p.m.

TRD-9440992

Texas Youth Commission/Texas Juvenile Probation Commission

Friday, May 27, 1994, 9:00 a.m.

Laurel Ridge Hospital, 17720 Corporate Woods Drive

According to the complete agenda, the Board will discuss prevention; parole; LAR measures; model system; TYC/TJPC consolidation; recent commitment activity; TYC parolees in local detention centers; SJR 45, 73rd Legislature, regarding Youth Corrections; and legislative activities.

Contact: Steve Robinson, P.O. Box 4260, Austin, Texas 78765, (512) 483-5001.

Filed: May 18, 1994, 2:37 p.m.

TRD-9441054

Regional Meetings Meetings Filed May 17, 1994

The Central Texas Economic Development District Executive Committee will meet at the Lake Brazos Steakhouse, 1620 Lake Brazos Drive, Waco, June 2, 1994, at 11:00 a.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9441006.

The Concho Valley Quality Work Force Planning Committee will meet at the COG Regional Training Center, 5014 Knickerbocker, San Angelo, May 25, 1994, at 4:00 p.m. Information may be obtained from Joan Allen, 5002 Knickerbocker, San Angelo, Texas 76904, (915) 944-9666. TRD-9441012.

The Gonzales County Appraisal District Agricultural Advisory Board will meet at 928 St. Paul Street, Gonzales, May 24, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629 (210) 672-2879. TRD-9440991.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, May 25, 1994, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9441011.

The Lubbock Regional MHMR Center Board of Trustees met in the Board Room, 1602 Tenth Street, Lubbock, May 23, 1994, at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9441015.

The North Central Texas Council of Governments Executive Board will meet at 616 Six Flags Drive, Centerpoint Two, Second Floor, Arlington, May 26, 1994, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9444019.

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, May 18, 1994, 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9441007.

The West Central Texas Council of Governments Executive Committee will meet at 1025 EN Tenth Street, Abilene, May 25, 1994, at 12:45 p. m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604. TRD-9441000.

◆ ◆ ◆
Meetings Filed May 18, 1994

The Brazos Valley Quality Work Force Planning Committee will meet at 715 University Drive, College Station, May 24, 1994, at 11:30 a.m. Information may be obtained from Patty Groff, 715 University Drive, College Station, Texas 77840, (409) 776-2277. TRD-9441022.

The Cash Water Supply Corporation Board of Directors met at the Corporation Office, FM 1564 at Highway 34 South, Greenville, May 23, 1994, at 7:00 p.m. Information may be obtained from Eddy W Daniel, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9441047

The Coryell County Appraisal District Appraisal Review Board met at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, May 23, 1994, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9441049.

The Deep East Texas Council of Governments Board of Directors meeting will meet at 601 North Second Street, Lufkin Civic Center, Lufkin, May 26, 1994, at 1 30 p.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704 TRD-9441053.

The Houston-Galveston Area Council Transportation Department met in Room A, Second Floor, 3555 Timmons, Houston, May 23, 1994, at 7.00 p.m. Information may be obtained from Kathy Lang, P.O. Box 22777, Houston, Texas 77227, (713) 993-4501. TRD-9441069

The Houston-Galveston Area Council Transportation Department will meet in Room A, Second Floor, 3555 Timmons, Houston, May 25, 1994, at 7 00 p.m. Information may be obtained from Kathy Lang, P.O. Box 22777, Houston, Texas 77227, (713) 993-4501. TRD-9441068.

The Houston-Galveston Area Council Transportation Department will meet in Room A, Second Floor, 3555 Timmons, Houston, June 1, 1994, at 7 00 p.m. Information may be obtained from Kathy Lang, P.O. Box 22777, Houston, Texas 77227, (713) 993-4501. TRD-9441067

The Houston-Galveston Area Council Transportation Department will meet in Room A, Second Floor, 3555 Timmons, Houston, June 2, 1994, at 7. 00 p.m. Information may be obtained from Kathy Lang, P.O. Box 22777, Houston, Texas 77227, (713) 993-4501 TRD-9441070.

The Houston-Galveston Area Council Transportation Department will meet in Room A, Second Floor, 3555 Timmons, Houston, June 8, 1994, at 7 00 p.m. Information may be obtained from Kathy Lang, P.O. Box 22777, Houston, Texas 77227, (713) 993-4501. TRD-9441071

The Houston-Galveston Area Council Transportation Department will meet in Room A, Second Floor, 3555 Timmons, Houston, June 9, 1994, at 7: 00 p.m. Information may be obtained from Kathy Lang, P.O. 22777, Houston, Texas 77227, (713) 993-4501. TRD-9441072

The Hunt County Appraisal District(Revised Agenda.) Hunt County Appraisal Review Board will meet in the Board Room, 4801 King Street, Greenville, May 31-June 3, 1994, at 8 30 a.m. Information may be obtained from Shirley Gregory, 4801 King Street, Greenville, Texas 75403, (903) 454-3510. TRD-9441064.

The Kendall Appraisal District Budget Committee-Board of Directors will meet in the Conference Room, 121 South Main Street, Boerne, May 25, 1994, at 6.00 p.m. Information may be obtained to J.P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012 TRD-9441051

The Lamb County Appraisal District Board of Directors will meet at 331 LFD Drive, Littlefield, June 6, 1994, at 6.00 p.m. Information may be obtained from Vaugen E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950 TRD-9441041

The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Gresham Building, Corner of Highway 7 and Highway 75, Centerville, May 23, 1994, at 7:00 p.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9441065.

The Middle Rio Grande Development Council Texas Review and Comment System will meet in the City Council Chambers, Corner of Main and Getty, Uvalde, May 25, 1994, at 1:00 p.m. Information may be obtained from Paul Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9441066.

The Permian Basin Regulatory Planning Commission Private Industry Council will meet at the UTPB-CEED, FM 1788 and 191, Midland, May 25, 1994, 3-30 p.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9441037.

The Texas Political Subdivisions Board of Trustees met at TPS, 14135 Midway Road, Suite 300, Dallas, May 20, 1994, 10.30 a.m. Information may be obtained from Jennifer Devine, 14135 Midway Road, Suite 300, Dallas, Texas 75244, (800) 588-0013. TRD-9441024.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the International Conference Center, Convention Center Complex, San Antonio, May 23, 1994, 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 424 South Main, Suite 206, San Antonio, Texas 78204 TRD-9441042

The Southwest Milan Water Supply Corporation Board met at 114 East Cameron Street, Rockdale, May 23, 1994, at 7 00 p.m. Information may be obtained from Dwayne Jakel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604 TRD-9441023

The Wood County Appraisal District Board of Directors will meet in the Conference Room, 217 North Main, Quitman, May 24, 1994, at 1 30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891 TRD-9441050

Meetings Filed May 19, 1994

The Alamo Area Council of Governments Board of Directors will meet at 118 Broadway, Suite 420, San Antonio, May 24, 1994, at 1:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9441107.

The Central Appraisal District of Rockwall County Appraisal Review Board will meet at the Appraisal District Office, 106 North San Jacinto, Rockwall, May 24, 1994, at 8:30 a.m. Information may be obtained from Ray Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034. TRD-9441098.

The Coastal Bend Council of Governments Executive Board will meet at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, May 26, 1994, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9441096.

The Coastal Bend Council of Governments Membership will meet at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, May 26, 1994, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9441095.

The Golden Crescent Regional Planning Commission Executive Committee will meet at the Regional Airport, Building 102, Victoria, May 25, 1994, at 4:00 p.m. Information may be obtained from Rhonda Stastny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9441102.

The Golden Crescent Regional Planning Commission Board of Directors will meet at the Regional Airport, Building 102, Victoria, May 25, 1994, at 5:00 p.m. Information may be obtained from Rhonda Stastny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9441101.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis, Sherman, June 1-20, 1994, at 8:15 a.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9441094.

The Limestone County Appraisal District Appraisal Review Board will meet in the Appraisal District Meeting Room, Ground Floor, Limestone County Courthouse, Groesbeck, June 6-10, 1994, at 9:00 a.m. Information may be obtained from Karen Wietzikoski, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9441093.

The MHMR Authority of Brazos Valley Board of Trustees will meet at 804 Texas

Avenue, Conference Room A, Bryan, May 26, 1994, at 10:00 a.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9441100.

The Texas Panhandle Mental Health Authority Board of Trustees, TPMHA, will meet at 7201 I-40 West, Second Floor, Amarillo, May 26, 1994, at 10:30 a.m. Information may be obtained from Shirley Hollis, P.O. Box 3250, Amarillo, Texas 79116-3250, (806) 353-3699, Fax (806) 353-9537. TRD-9441104.

The Pecan Valley Mental Health Mental Retardation Region Board of Trustees will meet at the Pecan Valley MHMR Region Clinical Office, 104 Pirate Drive, Granbury, May 25, 1994, at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9441106.

The San Antonio-Bexar County Metropolitan Planning Organization Intermodal Terminal Planning and Feasibility Study will meet in the Convention Center Administrative Conference Room, Second Floor, Corner of Alamo and Market, San Antonio, May 24, 1994, 9:00 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9441099.



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.

Office of the Attorney General, Environmental Protection Division Texas Clean Air Act Settlement Notice

Notice is given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. The Texas Health and Safety Code, §382.096, provides that before the State may settle a judicial enforcement action under the Clean Air Act, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act.

Case Title and Court. *City of Houston, Texas and State of Texas v. Lyondel Petrochemical Co* Cause Number 93-021969 in the 80th District Court of Harris County, Texas.

Nature of Defendant's Operations. Lyondel Petrochemical Co. owns and operates a facility in Houston, Harris County, Texas which allegedly did not comply with the Texas Clean Air Act.

Proposed Agreed Judgment: The proposed Agreed Final Judgment contains provisions for civil penalties.

Civil Penalties and Attorney's Fees: The judgment requires the Defendant to pay \$175,000 in civil penalties plus court costs and \$25,000 in attorney's fees to the City of Houston and \$175,000 in civil penalties plus \$25,000 in attorney's fees to the State of Texas.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be re-

viewed. Requests for copies of the judgment, and written comments on the judgment, should be directed to Susan Theisen, Assistant Attorney General, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012. Written comments must be received by June 24, 1994 at 5:00 p.m. Written comments may be sent by facsimile machine to Susan Theisen at (512) 320-0052.

Issued in Austin, Texas, on May 17, 1994.

TRD-9440989 Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: May 17, 1994

Texas Board of Chiropractic Examiners

Correction of Error

The Texas Board of Chiropractic Examiners submitted an Open Meeting, which was published in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3960).

The meeting date was erroneously published. The correct date is May 27, 1994, at 10:00 a.m.

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)	05/23/94-05/29/94	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	06/01/94-06/30/94	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 May 16, 1994

TRD-9441038 Al Endsley
Consumer Credit Commissioner

Filed: May 18, 1994

Texas Education Agency Notice of Public Hearings

The State Board of Education (SBOE) Committee on Long-Range Planning will hold a series of public hearings to obtain input on the development of the Long-Range Plan for Public Education, 1995-1999. The hearings will be held at the following times and places listed. Hearings may adjourn before the stated ending time if all who pre-registered or registered on-site have been called to give testimony.

Hearings will be held at the following locations:

Tuesday, May 31, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 11 Education Service Center, Conference Rooms 2 and 3, 3001 North Freeway, Fort Worth, Texas;

Thursday, June 2, 1994 from 3:30 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 7 Education Service Center, 818 East Main Street, Room 210, Kilgore, Texas;

Tuesday, June 14, 1994 from 1:00 p.m. until 3:00 p.m. at Texas A&M University, Rudder Tower, Room 510, College Station, Texas (to be held immediately following the New Directions in Education Conference);

Tuesday, June 14, 1994 from 6:00 p.m. until 8:00 p.m., at Bryan ISD Administration Building, Board Room-103, 101 North Texas Avenue, Bryan, Texas;

Monday, June 27, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 19 Education Service Center, Rooms 616 and 618, 6611 Boeing Drive, El Paso, Texas;

Tuesday, June 28, 1994 from 3:00 p.m. until 5:00 p.m., at Harris County Department of Education, Room 100 (A, B, and C), 6300 Irvington Boulevard, Houston, Texas;

Tuesday, June 28, 1994 from 6:30 p.m. until 8:30 p.m., at Region 4 Education Service Center, 7145 West Tidwell, Room J, Houston, Texas;

Thursday, August 18, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 2 Education Service Center, 209 North Water Street, Room 2D, Corpus Christi, Texas;

Tuesday, August 23, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 13 Education Service Center, 5701 Springdale Road, Rooms 202 and 203, Austin, Texas;

Thursday, August 25, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 17 Education Service Center, 1111 West Loop 289, Room 229 North, Lubbock, Texas; and

Tuesday, August 30, 1994 from 3:00 p.m. until 5:00 p.m. and from 6:30 p.m. until 8:30 p.m., at Region 5 Education Service Center, 2295 Delaware Street, Rooms A and B, Beaumont, Texas.

The State Board of Education periodically reviews the educational needs of the state, establishes goals for Texas public education, and adopts and promotes a long-range plan for meeting those goals. The goals developed for this Long-Range Plan will carry Texas public education to the next century. The hearings are conducted to gather comment about the educational needs of the state, proposed

goals for Texas public education, and how those goals can best be achieved.

In order to allow the committee to hear from as many groups as possible, professional associations and education advocacy organizations are encouraged to coordinate proposals within their memberships and make one presentation on behalf of the group.

Individuals desiring to present testimony to the Committee on Long-Range Planning are asked to register for the hearing by calling the Texas Education Agency Office of Policy Planning and Evaluation, at (512) 463-9701, by 5:00 p. m. on the last working day prior to the public hearing at which they wish to speak. To accommodate as many speakers as possible, individuals are asked to limit their testimony to the committee to three minutes. Speakers will be asked to testify in the order in which their calls were received.

Individuals may also register on-site the day of the hearing. These individuals will be allowed to give testimony on a first-come, first-served basis following those who have pre-registered.

Speakers needing translation services or other special accommodations should notify the Office of Policy Planning and Evaluation by 5:00 p.m. at least five working days prior to the public hearing at which they wish to speak.

Speakers are encouraged to provide 15 written copies of their testimony for distribution to the committee. Written information for the committee can be sent to the Office of Policy Planning and Evaluation at any time.

Additional information concerning these hearings may be obtained from the Division of Policy Planning and Evaluation, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, or at (512) 463-9701.

Issued in Austin, Texas, on May 17, 1994.

TRD-9441020

Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: May 18, 1994

Requests for Applications, Career and Technology Education Program Improvement Projects

RFA #701-94-029. This request for applications is filed in accordance with the Carl D. Perkins Vocational and Applied Technology Education Act, Public Law 101-392, Title II, §§201, 221, and 222.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications (RFA #701-94-029) from public school districts, regional education service centers, institutions of higher education, and consortia of the foregoing for the development of projects to improve the delivery of instruction and services in career and technology education.

Description. The purpose of these projects is to focus on the initiatives and educational restructuring provided in the *Master Plan for Career and Technical Education* for supporting economic development and management of multiple roles through a seamless education design. The projects emphasize integration of academic and occupational competencies and staff development activities for

both academic and occupational personnel to improve the delivery of instruction and services.

Project Funding. The total amount available to support these projects is \$5, 667,155. The Texas Education Agency will fund projects in the following areas: up to \$1,150,350 for curriculum development projects; up to \$3,118,746 for projects to provide single parents, displaced homemakers, and single pregnant women with marketable skills; and up to \$1,398,059 for projects to promote the elimination of sex bias. These projects are 100% federally funded.

Dates of Project. The funding period will begin no earlier than July 1, 1994, and end no later than June 30, 1995. These projects may be extended for a second year contingent on the availability of funds and the successful completion of the objectives and specifications established for the first year of the projects. The Texas Education Agency is under no obligation to approve an application, provide funds, or endorse any application submitted in response to this Request for Applications. This Request for Applications does not commit the Texas Education Agency to pay any costs incurred prior to the approval of an application. The issuance of this Request for Applications in no way obligates the Texas Education Agency to award a grant or to pay any costs incurred in the preparation of a response.

Selection Criteria. Applications will be funded based on scores awarded through a formal review process. Applications must address all requirements and specifications set forth in a specific request for application. Applications that address only part of the requirements contained in the request for application will not be considered for funding. The Texas Education Agency reserves the right to reject any and all applications and to negotiate portions thereof.

Requesting the Application. A copy of the complete Request for Applications (RFA #701-94-029) may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304.

Deadline for Receipt of Applications. The deadline for submitting an application is 5:00 p.m., Monday, June 27, 1994. Applications should be sent to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

Further Information. For clarifying information about this request, contact Lorraine R. Merrick, Career and Technology Education, at (512) 463-9446.

Issued in Austin, Texas, on May 18, 1994.

TRD-9441021
Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: May 18, 1994

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**Office of the Governor Budget and
Planning**
**Legislative Budget Board Contingent
Order**

(Editors Note: The following miscellaneous document was published in the May 13, 1994, issue of the Texas Register. Due to a publishing error, the signatures were omitted.)

The Legislative Budget Board met on April 26, 1994, to consider, among other items, the Governor's Budget Execution Proposal to authorize the Texas Department of Corrections to transfer appropriated funds between items of appropriation and between fiscal years for the purposes necessary to meet an emergency. The Governor's proposal was published in the *Texas Register* on April 19, 1994. After holding a public hearing on the proposal and after appropriate deliberation, the Budget Board adopted a motion to change the Governor's proposal so that it reads as follows:

Pursuant to Texas Government Code, §317.002 relating to budget execution authority, I make the following budget execution proposal:

The Texas Department of Criminal Justice requests authority to transfer funds across items of appropriation. Appropriations made to the Texas Department of Criminal Justice, the Office of the Governor, the National Research Laboratory Commission, and the Comptroller of Public Accounts and for Higher Education Employees Group Insurance Contributions under the General Appropriations Act (Senate Bill 5, Acts of the 73rd Legislature, Regular Session, 1993) will be affected.

I find that the significant increase in the backlog of offenders confined in the county jails awaiting transfer to state prisons, raising the threat of riots and public calamity, creates an emergency, and requires additional funding including amounts necessary for the addition of 7,500 temporary beds. These beds include both state and county-based facilities.

I therefore propose that during the 1994-1995 biennium, notwithstanding Rider 9 and Rider 51 for the Texas Department of Criminal Justice in the General Appropriations Act, the Department may make transfers among items of appropriation; including the transfer of appropriations from one fiscal year to another, provided that the total amount transferred from one fiscal year to another pursuant to the authority of this order shall not exceed \$200,000,000; for the purposes necessary to meet this emergency. Not less than twenty days prior to executing any of these transfers, the Department shall provide written notice to the Legislative Budget Office and the Governor's Office of Budget and Planning detailing the amount and purpose of the transfer as it relates to this emergency.

In addition, I propose that appropriations made to the National Research Laboratory Commission in appropriation item A.1.1., Bond Program, in the amount of \$8,250,000 for the fiscal biennium ending August 31, 1995, be transferred to the Texas Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

In addition, I also propose that appropriations made to the Comptroller of Public Accounts in Rider 16, page I-63 of the General Appropriations Act for the 1994-1995 biennium, and transferred to the Texas Lottery Commission pursuant to House Bill 1587, 73rd Legislature, Regular Session, 1993, in the amount of \$90,000,000 be transferred to the Texas Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

In addition, I also propose that funds initially appropriated to the Office of the Governor for fiscal year 1994 and reappropriated for fiscal year 1995 by Rider 2, page I-152 of the General Appropriations Act for the 1994-1995

biennium, in the amount of \$500,000 be transferred to the Texas Department of Criminal Justice for the biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

In addition, I also propose that the items of appropriation made to the Office of the Governor for fiscal year 1995 be reduced, on a pro rata basis, by \$500,000 and that this amount be transferred to the Texas Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency. In the event that the amount of fiscal year 1994 appropriations transferred to the Texas Department of Criminal Justice pursuant to the provisions of the prior paragraph of this order is less than \$500,000, the amount to be reduced for fiscal year 1995 and transferred to the Texas Department of Criminal Justice pursuant to the provisions of this paragraph shall be increased by an amount equal to the difference between \$500,000 and the amount actually transferred pursuant to the provisions of the prior paragraph of this order.

In addition, I also propose that appropriations made for Higher Education Employees Group Insurance Contributions in appropriation item A.1.12, UT Medical at Galveston, in the amount of \$3,500,000 for fiscal year 1994 be transferred to the Texas Department of Criminal Justice for the biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

Bob Bullock,
Lieutenant Governor
Chairman
Legislative Budget Board
Pete Laney
Speaker of the House
Vice-Chairman
Legislative Budget Board

I certify that this Legislative Budget Board Contingent Order was adopted on April 26, 1994 by the following vote:

On the part of the Senate Yeas: 5 Nays: 0
On the part of the House Yeas: 5 Nays: 0

John Keel
Director
Legislative Budget Board
Issued in Austin, Texas, on April 26, 1994.

TRD-9440331 Ann W. Richards
 Governor of Texas
 Office of the Governor

Filed: May 4, 1994

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**Texas Department of Housing and
Community Affairs**
**Invitation for Bids to Assist Colonia
Residents**

The Texas Department of Housing and Community Affairs (TDHCA) is accepting bids for a two-year service contract with competent individuals to assist in providing technical

assistance to the colonias through three service centers to be located in areas along the Texas-Mexico Border.

The offices will be "one-stop" service centers for local colonia residents and act as liaisons between colonia residents and state offices, including the Governor's Office of Border and Immigration Issues, the Border Working Group and TDHCA. The offices will primarily assist colonia residents with obtaining services and accessing funding resources. Technical assistance will be provided in areas of housing, economic development, infrastructure, health, education, job training and environmental concerns.

Three technical assistance providers will be selected to be located in El Paso County, Webb County and the Lower Rio Grande Valley Area. Three separate bids will be awarded.

Interested persons should have considerable experience in administering state and federal programs and be very knowledgeable on housing and community development issues affecting the colonias.

The offices will be funded through a federal grant termed "Technical Assistance for a Coordinated Agenda for the Southwestern Area of the United States" from the United States Department of Housing and Urban Development.

Bids must be received at TDHCA headquarters no later than 5:00 p.m. on Friday, June 10, 1994. Please call Donna Schielack, Purchasing, at (512) 475-3988 to request a bid package. Specifications are available upon request.

For information contact Ruth Cedillo at (512) 475-3882
Issued in Austin, Texas, on May 17, 1994.

TRD-9441043 Henry Flores
 Executive Director
 Texas Department of Housing and
 Community Affairs

Filed: May 18, 1994

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Notice of Public Hearings

Notice is hereby given of public hearing to be held by the Texas Department of Housing and Community Affairs on June 8, 1994 at Texas Law Center, 1414 Colorado, Room 206, 9:30 a.m., with respect to the Department's proposed plan for allocation of low-income housing tax credits among projects in Texas as mandated by Congress when it extended the provisions of Section 42 of the Internal Revenue Code of 1986, as amended, concerning low-income housing tax credits. The proposed state allocation plan prepared by the Department for discussion at the public hearing designates, among other things, threshold criteria, evaluation factors, selection criteria, final ranking, tax exempt bond financed projects, credit card amount and compliance monitoring for projects which request an allocation of low-income housing tax credits in the State of Texas.

All interested persons are invited to attend this public hearing to express their views on the proposed allocation plan to establish selection criteria, priorities and procedures for allocating the housing tax credits, monitoring compliance and to further assist the Department in determining the actual housing needs of families of low and moderate income in the State of Texas. Persons who intend to appear at the hearing are encouraged to contact Robert Johnston in advance of the hearing.

Questions and requests for a copy of the proposed allocation plan may be directed to: Robert Johnston, Manager of Multifamily Programs, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 300, Austin, Texas 78704, (512) 475-3340.

All interested persons unable to attend the hearing may submit their views in writing to Robert Johnston before the hearing. All written comments will be available for public inspections.

This published notice and the previously described hearing are held in satisfaction of the requirements of §42(m) of the Internal Revenue Code of 1986, and amended.

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 Aurora Carvajal at (512) 475-3822 five work days prior to the meeting so that appropriate arrangements can be made. Individuals using TDD machines may access: 1-800-RELAY TX.

The Texas Department of Housing and Community Affairs does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

Issued in Austin, Texas, on May 17, 1994

TRD-9441027 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: May 18, 1994



Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs at 811 Barton Springs Road, Suite 100, Austin, Texas 78704, at 10:00 a.m. on Friday, June 3, 1994 with respect to an issue of junior lien single family revenue refunding bonds (the Bonds) to be issued in a face amount of not more than \$35 million by the Texas Department of Housing and Community Affairs (the Department). The proceeds of the Series 1994A Bonds will be loaned to the Department for the purpose of providing funds: initially, to refund and redeem a portion of the outstanding Texas Housing Agency Single Family Mortgage Revenue Bonds, 1983 Series A (the Series 1983 Bonds) issued under the Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 1980 as amended and supplemented (the Senior Lien Trust Indenture) and in particular as supplemented by the Third Supplemental Single Family Mortgage Revenue Bond Trust Indenture, dated as of August 1, 1993, and indirectly, to provide recycled funds in an amount approximating \$10 million to make, acquire or refinance new mortgage loans (the Mortgage Loans) for low income first time homebuyers.

The Series 1983 Bonds were originally issued in the aggregate principal amount of \$238,800,000. With respect to mortgage loans financed with the proceeds of Series 1983 Bonds, for purposes of the Department's mortgage loan finance programs, eligible borrowers generally included individuals and families whose family income did

not exceed: for families of three or more persons, 115% (140% in certain targeted areas) or the area median family income, and for individuals and families of two persons, 100% (120% in certain targeted areas) of the area median family income. In addition, substantially all of the borrowers under the programs were required to be persons who had not owned a principal residence during the preceding three years. Further, residences financed with loans under the programs were subject to certain other limitations, including limits on the purchase prices of the residences being acquired.

With respect to mortgage loans to be financed through the funds made available as a result of the issuance of the Series 1994A Bonds and the consequent redemption of the Series 1983 Bonds, eligible borrowers generally will include individuals and families whose family income does not exceed 60% of applicable median family income. In addition, substantially all of the borrowers under the programs will be required to be persons who have not owned a principal residence during the preceding three years or, in certain cases, may have owned their residences under a contract for deed arrangement and who do not have liquid assets in excess of certain amounts as prescribed by policies of the Governing Board of the Department. Further, residences financed with loans under the programs will be subject to certain other limitations, including limits on the purchase prices of the residences being acquired. All the limitations described in this paragraph are subject to revision and adjustment from time to time by the Department pursuant to applicable federal law and policy considerations of the Governing Board of the Department.

All interested persons are invited to attend such public hearing to express their views with respect to the Department's mortgage loan finance program and the issuance of the Bonds. Questions or requests for additional information may be directed to Johanna McCully-Bonner at the Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3948.

Persons who intend to appear at the hearing and express their views are invited to contact Johanna McCully-Bonner in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Johanna McCully-Bonner prior to the date scheduled for the hearing.

This notice is published and the above-described hearing is to be held in satisfaction of the requirements of §147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exemption from federal income taxation of the interest on the Bonds.

Individuals who require auxiliary aids for services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822, or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Issued in Austin, Texas, on May 18, 1994

TRD-9441026 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed May 18, 1994



Texas Natural Resource Conservation Commission

Notice of Application for Waste Disposal Permits

Attached are Notices of Application for waste disposal permits. These notices were issued during the period of May 9-13, 1994.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

Academy Development Inc.; wastewater treatment facility; approximately 1.25 miles south of the intersection of Interstate Highway 10 and Baker Road and east of Baker Road in Harris County; new; 13699-01.

Air Products, Incorporated; the La Porte Plant which produces industrial gases and methanol; at 10202 Strang Road, northwest of the City of La Porte, Harris County; renewal; 01280.

The Atchison, Topeka and Santa Fe Railway Company; the Silsbee Terminal, a railroad shop and fueling station; approximately 1/4 mile south of the intersection of Tenth Street and Avenue F in the City of Silsbee, Hardin County; amendment; 00745.

City of Bangs; wastewater treatment plant; approximately one mile south of the intersection of U.S. Highway 84 and FM Road 586 in Brown County; renewal; 10122-01.

Bridges Feedyard, Inc.; a feedlot operation; on the south side of County Road 628 approximately three miles east of its intersection with US Highway 385 in Castro County, Texas; new; 03667.

City of Cedar Park; wastewater treatment facilities; approximately one mile southeast of the intersection of U. S. Highway 183 and Brushy Creek Road in the City of Cedar Park, Williamson County; amendment; 12308-01.

City of Cleburne; wastewater treatment plant; on the north side of Buffalo Creek, approximately one mile southwest of the intersection of State Highway 174 and State Highway 171 in Johnson County; amendment; 10006-01.

City of College Station; the Carters Creek Wastewater Treatment Facilities; adjacent to the west side of Carters Creek, approximately 0.75 mile east of the State Highway 6, and approximately 4,000 feet north and 1,800 feet east of the intersection of State Highway 6 East and Texas Avenue in Brazos County; new; 10024-06.

Erickson Refining Corporation; the Port Neches Crude Oil Processing Plant and/or Marine Storage Terminal; at Lee and Block Streets in the City of Port Neches, Jefferson County; renewal; 02065.

Georgia-Pacific Corporation; their Houston Plant which manufactures specialty chemicals; at 10120 Hirsch Road in the City of Houston, Harris County; renewal; 01968.

Idelwilde Corporation; wastewater treatment facility; approximately 4,200 feet south-southwest of the intersection of Boudreaux Road and FM Road 2920 in Harris County; new; 13696-01.

Melvin B. Jefferson; the Pine Prairie Mobile Home Park Wastewater Treatment Facilities; approximately 4,000 feet south of the intersection of FM Roads 247 and 2628, approximately three miles north of the intersection of FM Roads 247 and 980 in Walker County; renewal; 13174-01.

Koch Refining Company; a petroleum refinery and offsite storage terminals; east of Suntide Road and north of Up River Road in the northwest area of the City of Corpus Christi, Nueces County; amendment; 00531.

Martin Realty and Land, Inc.; the Country West Wastewater Treatment Facilities; approximately two miles southeast of the intersection of FM Road 1485 and FM Road 2090 in the Country West Subdivision in Montgomery County; renewal; 12621-01.

Maverick Tube Corporation; a steel manufacturing plant; on the south side of and adjacent to the Atchison, Topeka and Santa Fe Railroad, approximately 1.0 mile east of the intersection of State Highway 105 and FM Road 3083 and approximately two miles east of the City of Conroe, Montgomery County; renewal; 02365.

Wayne Moerman; a dairy; on the north side of State Highway 16, one mile south from the intersection with FM Road 3200 in Comanche County; new; 03669.

City of Needville; wastewater treatment plant; at 14206 Church Street south of Buffalo Creek and south of the City of Needville, approximately 0.4 mile east and 0.8 mile south of the intersection of State Highway 36 and FM Road 1236 in Fort Bend County; amendment; 10343-01.

Nibco Inc.; a bronze foundry plant; at the intersection of South Fredonia Street and Butt Street in the City of Nacogdoches, Nacogdoches County; renewal; 01003.

City of Pampa; wastewater treatment facilities; on the north bank of Red Deer Creek, at a point 3,400 feet northeast of State Highway Loop 171, approximately 3.5 miles northeast of the intersection of U.S. Highway 60 and

State Highway 273 in Gray County; amendment; 10358-02.

Ed Pipes; a facility with a variety of activities including a convenience store, a restaurant, a car wash and R.V. Park; southeast of the City of San Antonio on the northeast side of U.S. Highway 181 and approximately 600 feet south-east of the intersection of U.S. Highway 181 with Loop 1604 in Bexar County; renewal; 03024.

Sea Lion Technology, Inc.; a plant which manufactures specialty organic chemicals; at 5700 Johnny Palmer Road in the City of Texas City, Galveston County; Texas; amendment; 03479.

Stonehedge Utility Company, Inc.; wastewater treatment facilities; northeast of the City of Conroe, approximately one mile northeast of the intersection of State Highway 105 and Loop 366 in Montgomery County; renewal; 11710-01.

White Oak Bend Municipal Utility District (MUD); waste-water treatment facility; at 10200 Autum Meadow Lane, south of 1960, east of Jones Road and north of White Oak Bayou in northwest Harris County; new; 11979-02.

Issued in Austin, Texas, on May 13, 1994.

TRD-9440960 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 16, 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 on 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 Number 23-809M By Sharyland Water Supply Corporation for a Texas Water Code §11.122 Water Use Permit Application. Amendment to Certificate Number 23-809, as amended, to change ownership, place of diversion and place of use of a 300 acre-feet portion of municipal water rights authorized by Certificate of Adjudication Number 23-835, by severing 300 acre-feet of municipal water rights portion which they purchased from Bayview Irrigation District and combining those rights under Certificate Number 23-809, as amended, Rio Grande, Rio Grande Basin, Hidalgo County, Texas.

Application by Southwestern Electric Power Company, for a minor amendment to Permit Number 01331 in order to clarify outfall locations and types of wastewaters being discharged. The permit currently authorizes: an intermittent, flow variable discharge of cooling pond water from Johnson Creek Reservoir via Outfall 001; a discharge of condenser cooling water at a volume not to exceed an average flow of 550,000,000 gallons per day via Outfall 002; an intermittent, flow variable discharge of boiler blowdown via Outfall 201; an intermittent, flow variable discharge of treated metal cleaning wastewater via Outfall 004; and a flow variable discharge of low volume wastewater via Outfall 101. The proposed amendment will authorize: an intermittent, flow variable discharge of cooling pond water from Johnson Creek Reservoir via Outfall 001; a discharge of condense cooling water at a volume not to exceed an average flow of 550,000,000 gallons per day via Outfall 002; an intermittent, flow variable discharge of treated metal cleaning wastewater via Outfall 201 (formerly Outfall 004); and a flow variable discharge of low volume wastewater via Outfall 101. The Wilkes Power Plant, a steam electric generating station, is adjacent to Johnson Creek Reservoir, approximately one and one-half miles southwest of State Highway 49 and 12 miles northwest of the City of Jefferson, Marion County, Texas.

Application by Avalon Water Supply and Sewer Service Corporation, for a minor amendment to Permit Number 11022-01 in order to convert the existing treatment system to a free water surface treatment system in the Interim II phase and to a submerged water surface treatment system in the Final phase. The proposed amendment will also authorize a decrease in the final flow from a volume not to exceed 41,000 gallons per day average to a volume not to exceed 32,000 gallons per day average. Additionally, the proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The wastewater treatment facilities are approximately 1,900 feet south of the intersection of FM Road 55 and State Highway 34 in Ellis County, Texas.

Application by Occidental Chemical Corporation, for a minor amendment to Permit Number 03083 in order to add the processing and biological treatment of laboratory and RCRA closure wastewater streams via Outfall 001. The permit currently authorizes the discharge of treated process wastewater, process area runoff, cooling tower blowdown and partially treated utility wastewater at a volume not to exceed an average flow of 1,600,000 gallons per day, which will remain the same. The applicant currently operates a chemical manufacturing facility which produces vinyl chloride monomer (VCM) and 1,2 dichloroethane (EDC). The plant site is approximately three miles south-east of the City of Gregory between Corpus Christi Bay and State Highway 361, San Patricio County, Texas.

Issued in Austin, Texas, on May 13, 1994.

TRD-9440961

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 16, 1994

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Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); and 40 Code of Federal Regulations (CFR), §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIPS), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning revisions to Chapter 114 and the SIP.

The TNRCC proposes to delete §114.1(b)(3)(A), concerning alternative fuel conversions. The subparagraph is proposed for deletion in order to enable fleet operators to continue to convert vehicles to use alternative fuels in accordance with legislative mandates as administered by the TNRCC until the EPA final rules for vehicles conversions become promulgated.

A public hearing on the proposal will be held June 9, 1994 at 10:00 a.m. in Room 201S of the TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through June 9, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on June 9, 1994 will be considered by the Commission prior to any final action on the proposal. Copies of the revision are available at the central office of the TNRCC located at 12118 North I-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. Please mail written comments to the Regulation Development Section, Air Quality Planning, P.O. Box 13087, Austin, Texas 78711-3087. For further information, contact Dr. Basil Ubanwa at (512) 239-1473.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on May 4, 1994.

TRD-9441009

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

Filed: May 17, 1994, 4:14 p.m.

**Texas Department of Public Safety
Correction of Error**

The Texas Department of Public Safety proposed new §21.7, concerning Equipment and Vehicle Standards. The rule appeared in the May 10, 1994, *Texas Register* (19 TexReg 3569).

In §21.7(e)(1)(C) delete word "connected", and replace with "connecting".

◆ ◆ ◆
**Railroad Commission of Texas
Correction of Error**

The Railroad Commission of Texas adopted new §§9.183-9.185, 9.187, and 9.188, relating to uniform protection standards. The rules appeared in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3465).

In §9.183(g)(1) should read: "(1) meeting the guardrail requirements of subsection (a)(2) of this section, or;"

As published §9.187(a) the fourth line of this subsection is not legible and should read: "(a) Each LP-gas stationary installation of 4,001 gallons or more aggregate water capacity installed on or after November 1, 1994, shall incorporate in its design vertical bulkheads installed no less than 10 feet from the container for liquid and vapor return piping."

◆ ◆ ◆
**Notice of Public Hearing on Rulemaking
for Consumer Rebate Program for
Water Heaters Fueled by Propane**

The Railroad Commission of Texas will conduct a public hearing to receive comments on a working draft of rules establishing a two-year pilot consumer rebate program for water heaters fueled by propane on Friday, June 3, 1994, from 8:30 a.m. until noon, in Room 10-117 of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The commission has authorized the release of a working draft of the rebate program rules prior to the hearing. A copy of the working draft can be obtained by calling Dan Kelly or Heather Ball at (512) 463-7110; the charge is the cost to reproduce the document.

The commission invites any and all interested persons to attend the public hearing and/or to submit written comments on the working draft in furtherance of two goals: first, achieving consensus on the rules establishing the consumer rebate program and governing its operation in order to reduce or eliminate procedural snares, and second, getting the consumer rebate program into operation as quickly as possible during the building season. The commission anticipates that if there is general agreement among interested persons as to the rules, it may be possible to have a short comment period on the published rules, adopt and file final rules 30 days after publication, and have those rules become effective 20 days after adoption (the shortest time period permitted by law). That is the reason the working draft of the rules specifies a 15-day comment period.

Depending upon the number of speakers, the commission may limit the time for comments, to afford all interested parties an opportunity to comment. Any interested person

may appear and offer comments, either orally or in writing; however, questioning for those making presentations will be reserved exclusively for the presiding officers as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officers reserve the right to restrict comments in terms of time and repetitive content. Organizations, associations, and groups are encouraged to present their commonly held views and identical or similar comments through a single representative member where possible. Comments on the working draft should include citation to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the text of the working draft should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officers.

Any person who is unable to attend the hearing may submit written comments on the working draft of the rules by mail to Dan Kelly, Director, Alternative Fuels Research and Education Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, no later than June 3, 1994.

Any person with a disability who needs auxiliary aids and/or services in order to have an equal opportunity to communicate and participate effectively in this public hearing must request such aids or services by 3:00 p.m.,

Tuesday, May 31, 1994, by notifying the Personnel Office of the Railroad Commission of Texas by mail at P.O. Box 12967, Austin, Texas 78711-2967 or by telephone at (512) 463-7327 or TDD Number (512) 463-7284.

Issued in Austin, Texas, on May 17, 1994.

TRD-9441025

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

Filed: May 18, 1994

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**Texas State Board of Registration for
Professional Engineers**

Correction of Error

The Texas State Board of Registration for Professional Engineers submitted a proposed amendment to §131.138, concerning engineers' seals. The rule was published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3538).

In §131.138, Engineers' Seals. The beginning of the section should read: "Seals of two different sizes..."

The second word in the last sentence of paragraph 9 should be "included" not "including".

◆ ◆ ◆

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