

# TEXAS REGISTER

## IN THIS ISSUE

Volume 19, Number 42 June 7, 1994

Page 4363-4461

### **Proposed Sections**

#### **Public Utility Commission of Texas**

##### Substantive Rules

16 TAC §23.13..... 4373

#### **Texas Department of Licensing and Regulation**

##### **Air Conditioning and Refrigeration Contractor License Law**

16 TAC §§75.20, 75.23, 75.30, 75.40, 75.70.....4373

#### **Texas Board of Architectural Examiners**

##### Landscape Architects

22 TAC §3.45.....4375

22 TAC §3.84.....4375

22 TAC §3.88.....4375

#### **Texas Natural Resource Conservation Commission**

##### Application Processing

30 TAC §§281.1, 281.2, 281.22, 281.30-281.32.....4376

##### Consolidated Permits

30 TAC §305.69.....4381

30 TAC §305.149.....4409

#### **Comptroller of Public Accounts**

##### Property Tax Administration

34 TAC §9.17.....4410

34 TAC §9.19.....4410

#### **Texas Youth Commission**

##### Administrative Provisions

37 TAC §81.11.....4411

##### General Provisions

37 TAC §93.57.....4411

#### **Texas Department of Human Services**

##### Primary Home Care

40 TAC §§47.2902, 47.2904, 47.2909, 47.2912, 47.2913.....4412

40 TAC §47.3901, §47.3906.....4413

##### Community Care for Aged and Disabled

40 TAC §48.2918.....4413

**The TAC Titles Affected on Pages 4455-4461**

Contents Continued Inside



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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part 1. Texas Department of Human Services
40 TAC §3.704.....950, 1820

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

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

## Texas Veterans Commission

### Administration General Provisions

40 TAC §452.1 ..... 4414

### **Withdrawn Sections**

## Advisory Commission on State Emergency Communications

### Regional Plans-Standards

1 TAC §251.1 ..... 4415

1 TAC §251.6 ..... 4415

## Texas Natural Resource Conservation Commission

### Application Processing

30 TAC §§281.1, 281.2, 281.22, 281.30-281.32..... 4415

### On-Site Wastewater Treatment

30 TAC §§285.11-285.17..... 4415

30 TAC §§285.101-285.109 ..... 4415

30 TAC §§285.101-285.107, 285.109-285.113,  
285.115. .... 4415

### Consolidated Permits

30 TAC §305.149..... 4416

### **Adopted Sections**

## Texas Department of Agriculture

### Texas Agricultural Diversification Program: Matching Grants

4 TAC §§29.2, 29.6, 29.8, 29.9, 29.11-29.13..... 4417

4 TAC §29.10 ..... 4417

## Texas Department of Licensing and Regulation

### Elevators, Escalators and Related Equipment

16 TAC §§74.10, 74.80, 74.100 ..... 4417

## Texas Lottery Commission

### Administration of the State Lottery Act

16 TAC §401.367 ..... 4418

16 TAC §401.501 ..... 4418

## Board of Vocational Nurse Examiners

### Licensing

22 TAC §235.3 ..... 4418

22 TAC §235.4 ..... 4418

## Texas Board of Licensure for Professional Medical Physicists

### Medical Physicists

22 TAC §§601.2, 601.7, 601.14-601.16.....4419

## Texas Department of Health

### Grants and Contracts

25 TAC §5.51-5.59..... 4419

### County Indigent Health Care Program

25 TAC §14.103, §14.104..... 4422

25 TAC §14.109..... 4422

25 TAC §14.203, §14.204..... 4423

### HIV and STD Control

25 TAC §98.23, §98.31..... 4423

### Medical Radiologist Technologists

25 TAC §§143.4, 143.7, 143.10, 143.11, 143.14...4423

## Texas Department of Insurance

### Property and Casualty Insurance

28 TAC §§5.1301-5.1309..... 4424

## Texas Youth Commission

### Treatment

37 TAC §87.29 ..... 4426

### General Provisions

37 TAC §93.75 ..... 4426

## Texas Veterans Commission

### Veterans County Service Officers Accreditation

40 TAC §451.1, §451.3 ..... 4426

### **Open Meetings Sections**

Texas Commission on Alcohol and Drug Abuse... 4429

Texas Department of Commerce..... 4429

Texas Education Agency..... 4430

Texas Ethics Commission ..... 4431

Texas Commission on Fire Protection ..... 4431

Texas Funeral Service Commission..... 4431

Office of the Governor-Criminal Justice Division... 4431

Texas Department of Health..... 4432

Texas Health Benefits Purchasing Cooperative..... 4432

Texas House of Representatives..... 4432

Texas Department of Insurance..... 4432

Texas Juvenile Probation Commission ..... 4432

Lamar University System.....	4432
Texas Natural Resource Conservation Commission....	4432
Board of Vocational Nurse Examiners .....	4433
Texas Optometry Board.....	4433
Texas Department of Protective and Regulatory Ser- vices.....	4433
Public Utility Commission of Texas.....	4433
Texas Municipal Retirement System.....	4434
Structural Pest Control Board.....	4434
Texas Sustainable Energy Development Council....	4434
Teacher Retirement System.....	4434
University of North Texas/University of North Texas Health Science Center.....	4435
University of Texas System.....	4436
Texas Board of Veterinary Medical Examiners.....	4436
Regional Meetings.....	4436
<b><i>In Addition Sections</i></b>	
<b>Central Texas Council of Governments</b>	
Household Hazardous Waste Disposal Request.....	4439
<b>Texas Education Agency</b>	
Notice of Contract Award for an Evaluation Study of the Bexar County.....	4439
Notice of Public Hearings.....	4439
<b>Texas Department of Health</b>	
Extension of Comment Period.....	4440
HIV/AIDS Interagency Coordinating Council.....	4440
<b>Texas Health and Human Services Commission</b>	
Public Notices.....	4442

**Texas Department of Human  
Services**

Notice of Correction.....	4443
---------------------------	------

**Texas Department of Insurance**

Notice.....	4443
Notices of Public Hearings.....	4444

**Texas Lottery Commission**

Game Procedures Instant Game Number 31 .....	4445
--	------

**Texas Natural Resource  
Conservation Commission**

Consultant Contract Extension.....	4450
Public Notices.....	4450
Request for Proposal.....	4451

**Public Utility Commission of Texas**

Notice of Petition of the City of Morgan Exchange for Expanded Local Calling Service to the Clifton, and Merid- ian Exchanges; Docket Number 12922 .....	4452
PUC Request Comments on Form for Applications for Electric Transmission Facilities.....	4452

**Texas Rehabilitation Commission**

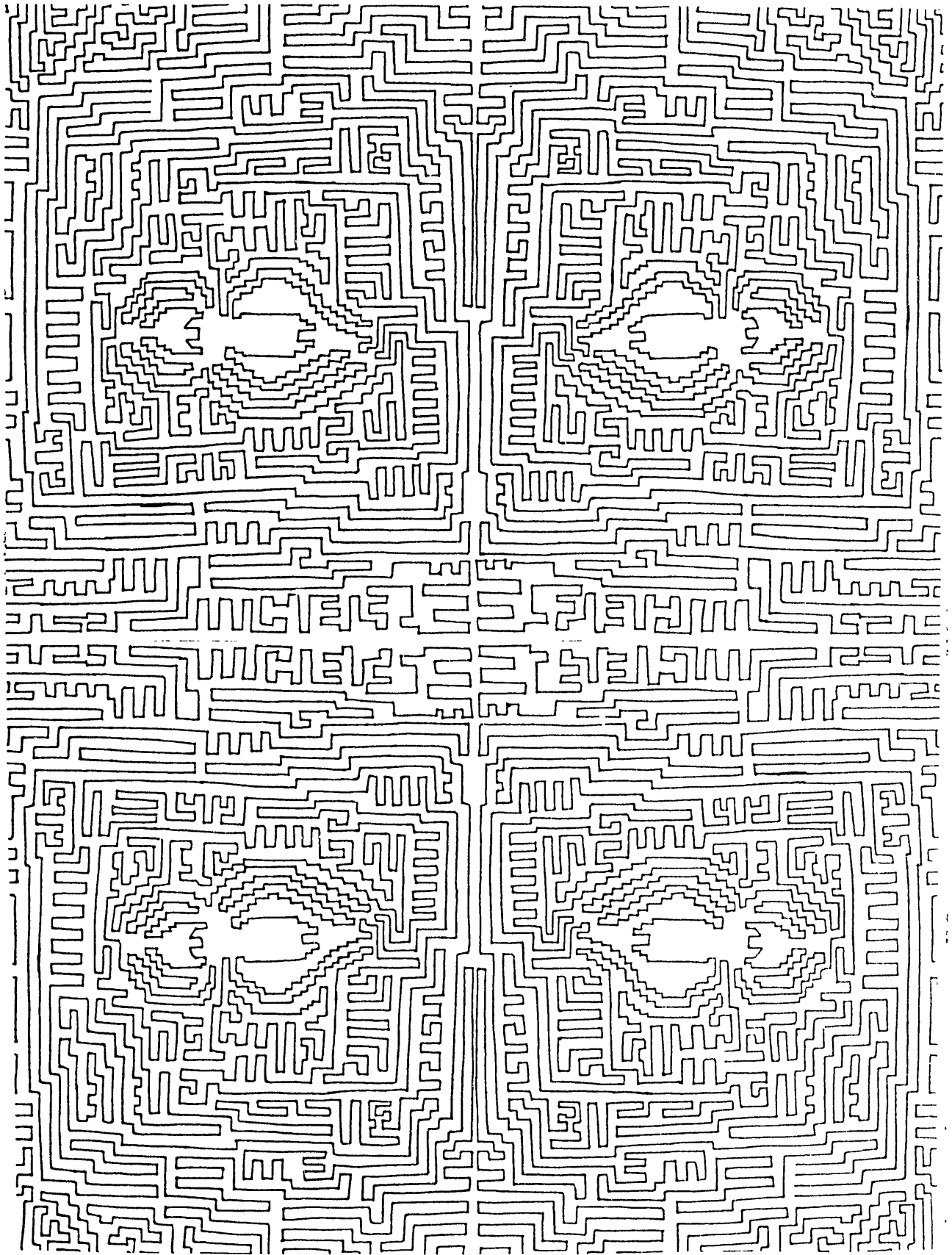
Solicitation of Impartial Hearing Officers.....	4452
---	------

**Waco Urban Transportation Study,  
(City of Waco)**

Request for Proposal.....	4453
---------------------------	------

**Texas Water Development Board**

Notice of Meeting.....	4453
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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 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules

##### Records and Reports

###### • 16 TAC §23.13

The Public Utility Commission of Texas proposes an amendment to §23.13, concerning construction reports. The proposal would clarify for which types of facilities utilities must file construction reports with the commission. In addition, the proposal would require interim construction reports for all facilities subject to the rule and preliminary and final reports for specified facilities, if requested by the commission staff. The proposal would also require final construction reports for other specified facilities in all cases. Finally, the proposal would delete the reference to commission-approved forms, because they are now addressed in Procedural Rule §22.80.

Keith Rogas, assistant general counsel, has determined that for each year of the first five years that the proposed section will be in effect, there are no foreseeable implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the section.

Mr. Rogas also has determined that for each of the first five years that the proposed section will be in effect, the public benefit expected as a result of adoption of the proposed section is the more efficient acquisition of information concerning construction of utility facilities. In addition, the probable economic costs to persons required to comply with the proposed section are costs incurred in submitting construction reports that the commission currently does not require.

Mr. Rogas also has determined that for each year of the first five years that the proposed section will be in effect, there are no probable impacts on employment in the geographic areas affected by implementing the requirements of the proposed section.

Comments on the proposal (13 copies) may be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boule-

vard, Austin, Texas 78757. Comments should be submitted within 30 days after publication of the proposed section and should refer to Project Number 12703.

The amendment is proposed under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its power and jurisdiction.

The following statute is affected by this proposed section: Texas Civil Statutes, Article 1446c, §§16(a), 39(a), and 41(a).

##### §23.13 Statistical Reports.

(a) (No change)

(b) Construction Reports. Each utility constructing a facility listed in §23.31(c)(1)(B)-(E), or (2)(D) or (G) [requiring reporting to the commission under §23.31(c)] of this title (relating to Certification Criteria) shall report to the commission [on the commission-prescribed preliminary construction report form] prior to the commencement of construction and within 120 days after construction is completed. However, reports prior to the commencement of construction for facilities covered by §23.31(c)(1)(B) and (2)(D) and reports within 120 days after construction is completed for facilities covered by §23.31(c)(1)(E) and (2)(G) are required only if requested by the commission staff. Monthly, quarterly, or annual progress reports also shall be provided if requested by the commission staff. [In addition, monthly progress reports, quarterly status reports, and annual cost and schedule variance analyses shall be provided for all new generating plants, if requested by the commission staff, and major generation or transmission system modifications. The form and format of these reports shall be approved by the commission.]

(c)-(e) (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 27, 1994.

TRD-9441530

John M. Renfrow  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

Earliest possible date of adoption: July 8, 1994

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

## Part IV. Texas Department of Licensing and Regulation

### Chapter 75. Air Conditioning and Refrigeration Contractor License Law

#### • 16 TAC §§75.20, 75.23, 75.30, 75.40, 75.70

The Texas Department of Licensing and Regulation proposes amendments to §§75.20, 75.23, 75.30, 75.40, and 75.70, concerning licensing for air conditioning and refrigeration contractors. Section §75.20 reflects a change in the name of the trade school accrediting body; the change in §75.23 clarifies requirements for eligibility for a temporary license; a new paragraph is added to §75.30 to extend the maintenance man exemption to apply to an owner of property on his own property; the change in §75.40 allows insurance to be obtained from eligible surplus lines insurance carriers, and a new paragraph is added to §75.70 to limit subcontracting of service work to licensed persons, firms, or corporations.

The justification for the amendments is that consumers will have more protection. This is particularly true for the new paragraph in §75.70, because when service work is subcontracted to an unlicensed individual, there is no personal supervision by the licensed contractor for any part of the job. This type of operation makes it difficult for the consumer to identify the person responsible for the fairness and integrity of a job, and may allow some unscrupulous people to operate scams or provide poor or incompetent service.

The amendments will function by increasing program integrity.

James D. Brush II, director, Policies and Standards Division, 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. Brush also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the sections will be much greater protection for the consumer because work will be performed by qualified license-holders. The cost for compliance for small businesses will be that licensed contractors who have been subcontracting service work to unlicensed individuals will have to either hire employees to do service work or use subcontractors who are licensed themselves. If the licensed contractor chooses to use a licensed subcontractor the cost would be minimal. If the licensed contractor chooses to hire an employee who owns his own truck and tools, the cost per employee would be minimal. If he chooses to provide the truck and tools for the employee, the cost per employee would be at least \$20,000. The anticipated economic cost to persons who are required to comply with the sections as proposed is the same as for small businesses if the individual is operating as a contractor.

The amendments are proposed under Texas Civil Statutes, Article 8861, which authorize the department to license and regulate air conditioning and refrigeration contractors.

The amendments affect Texas Civil Statutes, Article 8861.

#### §75.20. Licensing Requirements—Applications.

(a) Credit for air conditioning and refrigeration courses emphasizing hands-on training taken at schools accredited by the Texas Education Agency, the Coordinating Board of the Texas College and University System, and the Accrediting Commission of Career Schools/Colleges of Technology [National Association of Trade and Technical Schools] will be allowed at the rate of one month's credit for each two months of successfully completed training. Transcripts are required.

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

#### §75.23. Licensing Requirements—Temporary Licenses.

(a) A contracting firm operating under a state license, whose only license holder is suddenly no longer available due to death, disability, or dissolution of a partnership or corporation [company], may request a temporary license from the commissioner. A temporary license is not available to a new unlicensed owner of a company who was not an owner or officer [a part] of the company before it was dissolved [or sold], or to companies that rely on a sole licensed employee who leaves the company. An employee of a sole propri-

etorship is not eligible for a temporary license if the licensed owner closes or sells the business. The request must be made for an owner, partner, or employee who was affiliated with the firm at the time the license holder became unavailable. The person who will hold the temporary license must meet all eligibility requirements to take an examination for a license.

(b) The request must be in writing and must state the reason for the request, including the circumstances and legal organization of the company involved. A completed application and the registration and exam fees must accompany the request. If the insurance in effect at the time of the sudden unavailability of the license holder does not extend to the current firm, a new certificate of insurance must accompany the request.

(c) A temporary license may be granted for a period extending 30 days beyond the date of the next exam period, not to exceed six months, and is not renewable. A second temporary license may not be issued to a company unless that company had a regular license holder following the initial temporary license, and the regular license holder became suddenly unavailable in circumstances that make the company again eligible to receive a temporary license. The temporary license shall be of the same class and endorsement as the license needing to be replaced.

(d) (No change.)

#### §75.30 Exemptions

(a) Air conditioning and refrigeration contracting performed by a regular employee of a regulated electric or gas utility is exempt if it is performed in connection with the utility business in which the person is employed.

(b) The Act does not apply to an individual who performs air conditioning and refrigeration maintenance work on equipment owned by him on property owned by him if he does not engage in the occupation of air conditioning and refrigeration contracting for the general public.

#### §75.40 Insurance Requirement

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

(c) Insurance must be obtained from an admitted company or an eligible surplus lines carrier, as defined in Texas Insurance Code, Article 1, 14-2.

(d) (No change.)

(e) A license applicant or holder shall furnish to the department a certificate of insurance. The license holder's name, business name, and address must be shown

as it appears on the license. The certificate form to be submitted shall be the form furnished by the department. Each certificate of insurance will reflect all assumed names used by the license holder and registered with this agency. **Neither binders nor [Binders and] interim certificates of less than 60 days will [not] be accepted.** The certificates of insurance shall be issued to each municipality where air conditioning and refrigeration contracting is performed.

(f)-(h) (No change.)

#### §75.70 Responsibilities of the Licensee

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

(c) **Service work may not be subcontracted to an unlicensed person, firm or corporation.**

(d)[(c)] A licensed contractor who works as a subcontractor for another air conditioning and refrigeration company must work under the license of the other air conditioning and refrigeration business. The work must be scheduled and billed by the other air conditioning and refrigeration company, and the license holder working as a subcontractor must be paid by the other company. The licensed contractor who is acting as contractor, not subcontractor, is responsible for all subcontracting work.

(e)[(d)] Each air conditioning and refrigeration company shall have a license holder employed full time in each permanent office operated in Texas. All work requiring a license under the Act shall be under the direct personal supervision of the license holder for that office. The license holder's license number shall appear in all proposals and invoices for that office.

(f)[(e)] If an air conditioning and refrigeration company uses locations other than a permanent office, these locations shall only be used to receive instructions from the permanent office on scheduling of work, to store parts and supplies, and to park vehicles. The air conditioning and refrigeration company shall provide address(es) of these other locations to the department no later than 30 days after the locations are established.

(g)[f] A license holder may not permit any person or company to use the license holder's license for any purpose unless the person is a bona fide employee or subcontractor in accordance with subsections (b) and (c) of this section.

(h)[(g)] Each license shall be displayed at the contractor's place of business as listed with the department.

(i)[(h)] Each licensed contractor shall display the license number and company name in letters not less than two inches high on both sides of all trucks used in conjunction with air conditioning and

refrigeration contracting. Job sites not identified by a marked truck shall be identified by a posted sign visible and readable from the nearest public street, containing the Texas air conditioning and refrigeration license number and company name

(j)(i) All advertising by contractors requiring a license under the Act designed to solicit business shall include the contractor's license number Advertising which requires the license number shall include printed material, television ads, newspaper ads, yellow pages, business cards, billboards, solicitations, proposals, quotations, and invoices. Other items for the purpose of attracting business, other than promotional items of value such as ball caps, tee shirts, and other gifts, must include the license number. Yellow-page listings that do not contain any information except the name, address, and telephone number are not required to contain the contractor's license number. Letterheads and printed forms for office use are not required to have the license number included Signs located at the contractor's permanent business location are not required to have the license number displayed.

(k)(j) A license holder is required to notify the department in writing within 30 days of any change in permanent mailing address, business affiliation, change of business location, or business telephone number. A license revision is required for any change to information printed on the license The permanent address shall be considered the license holder's permanent mailing address All correspondence will be mailed to that address

(l)(k) A license holder wishing to revise a license shall make the request in writing He shall return the current original license, pay the appropriate fee required in \$75.80 of this title (relating to Fees), and provide a revised insurance certificate if the business affiliation name or address has changed.

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 31, 1994

TRD-9441571 Jack W Ganson  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Earliest possible date of adoption July 8, 1994

For further information, please call (512) 463-7357

## TITLE 22. EXAMINING BOARDS

### Part I. Texas Board of Architectural Examiners

#### Chapter 3. Landscape Architects

#### Subchapter C. Written Exami- nations

##### • 22 TAC §3.45

The Texas Board of Architectural Examiners proposes an amendment to §3 45 concerning the conditions for administration of the Landscape Architect 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 as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to provide candidates with the retake 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 249c, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules

##### §3 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 26, 1994

TRD-9441535 Cathy Hendricks, ASID/ISD  
Executive Director  
Texas Board of  
Architectural Examiners

Earliest possible date of adoption: July 8, 1994

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

#### Subchapter E. Fees

##### • 22 TAC §3.84

The Texas Board of Architectural Examiners proposes an amendment to §3. 84 concerning annual registration and renewal fee. The amendment will provide a renewal fee of \$10 for registrants 62 year 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 the section will be an estimated loss in revenue of \$720 in 1995; \$240 in 1996; \$240 in 1997; \$240 in 1988; and \$240 in 1999.

Ms. Hendricks also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be 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 249c, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

##### §3 84 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 registration 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 26, 1994.

TRD-9441533 Cathy Hendricks, ASID/IBD  
Executive Director  
Texas Board of  
Architectural Examiners

Earliest possible date of adoption. July 8, 1994

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

##### • 22 TAC §3.88

(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 §3.88 concerning the emeritus fee. This 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 as proposed is in effect the public benefit anticipated as a result of enforcing the repeal as proposed 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 249c, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

### §3.88. 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 26, 1994.

TRD-9441534 Cathy Hendricks, ASID/IBD  
Executive Director  
Texas Board of  
Architectural Examiners

Earliest possible date of adoption July 8, 1994.

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

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 281. Application Processing

##### Application Processing

- 30 TAC §§281.1, 281.2, 281.22, 281.30-281.32

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§281.1, 281.2, 281.22, and new §§281.30-281.32. The amendments and new sections are proposed in order to incorporate new provisions of the Texas Solid Waste Disposal Act (TSWDA), Chapter 361.0232,

Texas Health and Safety Code (Vernon 1992), promulgated by the legislature in Senate Bill 1099, 72nd Legislature (1991). These amendments and new sections will replace the proposed amendments to §§281.1, 281.2, 281.22, and new §§281.30, 281.31 and 281.32 as published in the December 21, 1993, issue of the *Texas Register* (18 TexReg 9824). The previously published new sections and amendments to Chapter 281 are withdrawn.

Section 361.0871(c) of the TSWDA specifies that rules adopted under §361.0232, pertaining to the need for commercial management of hazardous waste, shall provide for expediting the processing of applications for technologies that address the highest priority need as identified by the commission. The document "Needs Assessment for Hazardous Waste Commercial Management Capacity in Texas", prepared by the commission, has identified technologies needed for commercial management on a statewide basis. In addition, other factors to be considered in determining which applications to expedite include regional need and demonstrated innovative technology. These proposed rules provide the framework for determining whether a permit application is for a commercial hazardous waste management technology that is a needed or demonstrated innovative or regional technology.

The new sections and proposed revisions will delineate a procedure for determining if a permit application for new capacity at a commercial hazardous waste management facility shall be designated as expedited, describe the information which will be prepared by the executive director for consideration by the commissioners, and delineate commercial hazardous waste management facility unit construction and operating schedule notification requirements.

The proposed rules, except §281.1 and §281.2, apply only to permit applications for new capacity to manage hazardous waste from off site at commercial facilities.

Chapter 281 is proposed to be amended in the introductory text to reference the Texas Solid Waste Disposal Act.

Section 281.1, relating to Purpose, is proposed to be amended to provide for exception due to implementation of the prioritization procedure for commercial hazardous waste management facility permit applications under §§281.30-281.32. This proposed amendment is necessary because certain commercial hazardous waste management facility permit applications will not be able to be processed by the executive director according to the schedule established in Chapter 281. Processing times for the affected applications will be subject to future rulemaking by the commission.

Section 281.2(4) is proposed to be amended by the addition of the terms "or modified" and "and/or municipal hazardous" as a technical amendment to bring the terminology up to date.

Section 281.22, regarding referral to commission, is proposed to be amended to address the type of information that would be pre-

pared by the executive director at the time of referral. The purpose of adding subsection (c) is to implement TSWDA §361.0871(c), which instructs the commission, in evaluating an application for a new commercial hazardous waste management facility, to determine the need for the specific technology proposed in the application. This presentation, to be prepared for applications pertaining to processing and disposal capacity, shall summarize the following: the permitted and interim status capacity at commercial hazardous waste management facilities in the state for the specific technology or other technologies which manage the targeted waste streams, the projected statewide demand for the technology, based on the most recent published projections in the commission's Needs Assessment, any factors pertaining to regional need or innovative technology, as documented by the applicant, if these factors have been successfully documented; and any other waste management information deemed relevant by the executive director. This presentation would be made for all new proposed commercial hazardous waste processing or disposal capacity, as directed by TSWDA §361.0871(c). Thus, this presentation would not automatically be made for interim status units, unless applicants propose to manage "new or increased volumes of waste" above that covered by the facility's interim status authorization.

It is not proposed that information be presented for storage-only facilities, because storage-only facilities typically serve a statewide, rather than national, area. Information on the need for storage facilities will be presented on a case-by-case basis, if the situation would warrant the presentation of such information and the applicant has successfully demonstrated state or regional need.

The interim status and permitted capacity to be presented under proposed §281.22(c) would represent the most current information available to the commission. Thus, if the available capacity estimate in the Needs Assessment has not been updated to reflect recent changes to capacity (increases or decreases), the most recent estimates of capacity would be included in the presentation. The statewide projections of demand to be presented would include the low, medium, and high demand forecasts from the most recent Needs Assessment. The purpose of providing the three projections is to illustrate the degree of approximation in the estimates prepared by the commission and how this lack of certainty affects the need for the specific technology in the near future.

Section 281.30, regarding applicability of prioritization procedures for commercial hazardous waste management facility permit applications, is proposed to describe when hazardous waste and underground injection permit applications would be prioritized after receipt of the application by the commission. For permit applications which have not been submitted by the effective date of these rules, the applications are proposed to be prioritized at the time of receipt of the application. It is further proposed that all permit applications for new commercial hazardous waste management capacity which have been submitted to the commission by the effective date would

be prioritized, unless the commission permit application review process has been completed. The application review process is completed when a final draft permit has been submitted to the Chief Clerk for publication of notice. If a technology is needed on a statewide basis, then the application shall be designated as expedited. In some instances, applications include capacity which is not needed on a statewide basis. In these cases, the applicants may elect to submit additional information to demonstrate regional need or innovative technology. If greater than 70% of the processing or disposal capacity covered by the permit application is needed on a statewide basis, or is a demonstrated innovative technology or needed regionally, then the application is designated as expedited. Proposed §281.32(e) or (f), describing how an applicant may make a successful demonstration as either an innovative technology or a regionally needed technology, are discussed in more detail later in this preamble.

The intent of §281.30(c) is to clarify that §§281.30-281.32 do not apply to waste management units at a commercial management facility when those units only manage on-site generated wastes unrelated to commercial waste management activities. In a few instances, sites may be engaged in both commercial waste management and manufacturing a product. Units managing wastes resulting from the industrial production process normally do not provide commercial capacity, and permit applications for these units will not be prioritized under these rules.

As noted in §281.30(d), these proposed rules do not limit the ability of the commission to prioritize the review of any permit application from a commercial, captive, captured or on-site facility, based on other factors not addressed by §§281.30-281.32. Examples of other factors for which permit applications might be designated as expedited include, but are not limited to, environmental significance, pollution prevention, or RCRA workplan commitments for funding of agency activities.

Section 281.31, regarding definitions, is proposed to clarify specific terms used in §281.32. New capacity is defined so as to include any unpermitted hazardous waste commercial capacity for which a permit is sought, as well as modifications to existing permit operating conditions, such that additional quantities of waste or types of waste may be managed by a permitted unit. This definition encompasses many different types of sites: so-called "greenfield" sites, proposed units at existing facilities; interim status units which may or may not be operating but, by definition, are not yet permitted, and permit modifications affecting capacity. This broad approach to defining new capacity is taken for the following reason. The stated purpose for identifying needed technologies, (see TSWDA §361.0871(c)) is so that the commission can devote priority consideration to the processing of those applications that address the highest priority need. Because the statute clearly directs the commission to apply its resources to reviewing applications which would meet the highest priority need, it is consistent with this intention to prioritize all applications for new commercial capacity.

Proposed §281.32 also defines "current management practices" as technologies currently used for the management of specific waste streams generated in Texas. As proposed, current management practices could be determined by analyzing the data submitted by the generators and handlers of hazardous waste. Under this proposal, a current management practice does not have to be at a Texas facility or located at a commercial facility. The purpose of defining "current management practice" is for the applicant to identify a technology (or small group of technologies) which can be compared to the proposed technology, for the purpose of demonstrating that the proposed technology covered by the application is innovative.

Section 281.32, regarding the prioritization process, proposes criteria for identifying or demonstrating that a permit application warrants an expedited review.

For permit applications received after the effective date of the proposed rules, prioritization would occur as soon as practicable after receipt of a Part B hazardous waste permit application. It would be incumbent upon the applicant to include in the Part B application the information identified in the proposed rules, enabling a prioritization to be made at that time. No additional information will be requested from the applicant, except to clarify an assertion by the applicant that the technology is innovative or needed on a regional basis. Applications not providing sufficient information will be deemed "Not expedited" and would be processed according to time frames currently specified in Chapter 281.

Section 281.32(d), (e), and (f) propose three conditions that may apply to a processing or disposal technology and under which said technologies covered by a permit application may be designated as expedited. The first condition would be that the technology is needed on a statewide basis, and thus is a technology that has been identified in the Needs Assessment conducted by the commission. Failing this, a technology may still be designated as expedited if it could be successfully demonstrated by the applicant that the technology was needed on a regional basis or that the technology was innovative. In the latter two cases, it is proposed that sufficient information to demonstrate regional need or innovative technology be submitted by the applicant and approved in writing by the executive director.

Section 281.32(d)(2), regarding the evaluation of applications covering multiple units, proposes a methodology for determining if an application will be designated as expedited when the application covers several different types of processing or disposal units which are not all on Table 2 of the Executive Summary of the Needs Assessment. In this case it is proposed that the applicant identify which units function together as a process train, the technology provided by the process train, and the annual capacity of the process train. If the technology of the process train were needed or is a demonstrated innovative or regional technology, then all processing or disposal units which are part of the process train would be designated as expedited also. It is

proposed that at least 70% of the processing or disposal annual capacity covered by the application be needed or a demonstrated innovative or regional technology in order for the application to be designated as expedited.

Seventy percent was selected as the threshold because §361.0871(c) of the TSWDA directs the commission to provide for priority consideration in permit processing for those applications that address the highest priority need. Use of a lower threshold for determining whether an application will be designated as expedited might result in the allocation of commission resources to expedited review of applications which propose a significant percentage of annual capacity in technologies which do not meet a "highest priority need." This issue must be weighed against the flexibility needed by commercial waste managers in their facility design, as well as the inefficiencies which might result from applicants arbitrarily splitting up an application in order to obtain an expedited review for part of the proposed capacity. Comments are requested on the use of 70% as the cut-off for this determination.

Section 281.32 proposes that the priority of only the processing or disposal technologies will be considered for the demonstrations made under §281.32(d), (e), or (f). Based on this approach, storage units are considered ancillary to the processing or disposal of the waste, and thus would not be included in the capacity totals or as part of a process train.

Proposed §281.32(e), regarding prioritization of applications for innovative technologies, details two possible ways that an applicant may demonstrate that a technology is innovative. The first approach, described under subsection (e)(1) of this section, would apply to a technology which is a substitute for a technology identified on Table 2 of the Executive Summary of the Needs Assessment. Because an innovative technology would not have been identified by the commission in the Needs Assessment as needed, this paragraph would allow the applicant to demonstrate that the innovative technology would manage waste streams for which a statewide management need had been identified by the commission. In this case, the applicant would have to show that the proposed innovative technology would not move a targeted waste stream down the state's waste management hierarchy, from the substituted needed technology to a less preferred management method, in accordance with the state's public policy concerning hazardous waste management under §361.023 of the TSWDA. The purpose of this demonstration is to prevent technologies which simply were not identified on Table 2 of the Executive Summary of the Needs Assessment from making the claim that they are "innovative."

Proposed 281.32(e)(2) describes the second approach to demonstrating that a technology is innovative. Under this approach, an innovative technology is not a substitute for a technology identified as needed on a statewide basis by the commission. Instead, the innovative technology is designated as expedited on the basis of the applicant successfully demonstrating that the proposed technology is higher on the waste management hierarchy

than the technology currently used for management of the targeted waste streams. For example, if an innovative technology were proposed to recover lead from lead contaminated soils and even if the current management practice (stabilization and land disposal) for managing lead contaminated soils had not been identified as needed by the commission, then the application for the innovative recovery technology would be designated as expedited, because it represents a recovery versus a treatment technology

Proposed §281.32(e)(2) also requires that, in order to demonstrate the benefits of the innovative technology and assure that the technology will move the waste stream up the waste management hierarchy, the application must demonstrate that the technology provides greater environmental benefits than the current practice(s) used for management of the targeted waste stream(s), by making a favorable comparison of the type and quantity of residuals and products generated by the innovative technology and the current management practice(s). The information required under §281.32(e)(2)(C) would ensure that significant aspects of the proposed innovative technology are being compared. For example, a proposed technology which generated a significantly greater quantity of an equivalent waste than the current management practice would not be considered innovative. Although no specific criteria have been proposed to determine when the environmental costs of a proposed innovative technology outweigh the environmental benefits, this issue would be reviewed on a case-by-case basis as applications are submitted. The residuals which would be considered under this section include all discharges to air and water and solid waste generated. All information on the current practice versus the proposed innovative technology should be presented in a comparable format, for example, as pounds discharged or generated of waste water treatment sludge per ton of waste processed (or some other throughput measure based on waste processing). A comparable format would be a single table displaying all discharges/wastes from the current management practice and the proposed innovative technology. The applicant would also be required to describe how the residuals from the proposed technology would be managed. The purpose of identifying products resulting from the process is to ensure that the process will actually recycle, recover, or treat the waste streams, as proposed.

Proposed §281.32(f), regarding regional need for processing or disposal technologies, would allow applicants to demonstrate that their new capacity is needed within a region of the state. It is expected that the applicant would be able to demonstrate this regional need using either the waste management data submitted by waste generators and handlers to the commission or by supplementing the commission data with other data. The applicant must document the waste stream type, form and EPA hazardous waste numbers, the approximate quantity to be managed by the proposed capacity, and generators in the region. It is proposed that the commission would take the following factors into account when reviewing information

provided by the applicant: the location, capacity, and capacity utilization of all permitted or interim status capacity for the same technology in the region or state; the quantity of the targeted waste stream(s) which is generated in the region, can reasonably be expected to be managed commercially and which could not be managed by other commercial management capacity in the region, and the annual throughput or annual quantity of the targeted waste stream(s) which could be managed by the proposed technology at the capacity level proposed in the permit application. Targeted waste streams from the region to be managed by the proposed capacity would have to equal or exceed 60% of the processing or disposal capacity proposed in the application in order for the applicant to demonstrate that the technology will serve a regional need. If permitted or interim status commercial capacity for the same technology is available in or near the region and these commercial facilities have adequate capacity to manage the region's targeted waste streams, then this would indicate that there is no regional need for the technology or that the region was too narrowly drawn to account for the available waste management capacity which is proximate to the region's generators.

Proposed §281.32(g), regarding prioritization of commercial hazardous waste management facilities which will only store wastes, sets out two means by which an application for a storage-only facility may be designated as expedited. The first case pertains to storage facilities which are owned by the same parent company as another facility which provides processing or disposal. The priority of the storage-only facility would be the same as that of the technology provided at the processing or disposal facility. The second case, described in proposed §281.32(g)(2), pertains to storage-only facilities which may be needed on a statewide or regional basis. As described in the proposed rule, it would be incumbent upon the applicant to demonstrate statewide or regional need in order for the application to be designated as expedited. The need for storage has not been separately evaluated in the Needs Assessment.

Stephen Minick, Division of Budget and Planning, has determined that for the first five years these sections are in effect there will be fiscal implications as a result of enforcement and administration of the sections. The effect on state government will be a minor increase in cost associated with the prioritization of affected permit applications and the preparation and publication of certain summaries of information by the executive director regarding permit applications. These increased costs are not anticipated to be significant and will be met within the existing resources of the agency. There are no fiscal implications anticipated for local governments. These rules will potentially increase the costs for development of permit applications for commercial hazardous waste treatment and disposal facilities. In order to qualify for expedited processing, certain demonstrations must be included in permit applications which are not currently required. While such demonstrations are not required in order to make application, it is anticipated that all commercial applicants will incur whatever

costs are involved. It is not anticipated that these additional costs will be significant in terms of the total cost of preparing an application. These costs cannot be determined at this time and will vary with each specific permit application. In addition, it is anticipated that by providing information relevant to permit priority, a faster processing time may result which will result in cost savings which should more than offset any incremental costs of permit development. There are no fiscal effects anticipated for small businesses.

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be an expedited processing of applications for permits for the types of waste management facilities most needed to handle the quantities of waste generated within the state and provide the most innovative methods of waste management; improvements in the information available to support policy decisions related to waste management capacity; and improvements in public awareness of the need for high-priority or innovative waste management capacity. There are no known costs anticipated to any individual required to comply with these sections as proposed.

A public meeting on this issue will be held in Austin, Texas on June 30, 1994, 12118 North Interstate Highway 35, Building B, Park 35 Circle, at 1:30 p.m., in Room 201A, in order for interested parties to address comments to the commission.

Written comments on the proposal may be submitted to Vic McWhorter, Staff Attorney, Legal Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5:00 p.m., 30 days after the date of this publication.

The new and amended sections are proposed under the Texas Water Code, §5.102 and §5.105, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

The amendments are also promulgated under the Texas Solid Waste Disposal Act, §361.017 and §361.024, Texas Health and Safety Code, Chapter 361 (Vernon 1992), which gives the Texas Natural Resource Conservation Commission the authority to regulate solid and hazardous wastes and to adopt rules and promulgate rules consistent with the general intent and purposes of the Act.

*§281.1. Purpose.* It is the intent of the Texas Natural Resource Conservation Commission to establish a general policy for the processing of applications for permits, licenses and other types of approvals in order to achieve the greatest efficiency and effectiveness possible. To this end, it is the policy of the commission that applications for permits, licenses, and other types of



approvals listed in §281.2 of this title (relating to Applicability) be processed by the executive director according to the schedule established in this chapter, except as provided by implementation of the prioritization procedure for commercial hazardous waste management facility permit applications under §§281.30-281.32 of this title (relating to Applicability of Prioritization Procedure for Commercial Hazardous Waste; Definitions; Prioritization Process).

§281.2. *Applicability.* These sections are applicable to the processing of:

(1)-(3) (No change)

(4) applications for new, amended, or modified or renewed industrial solid and/or municipal hazardous waste permits filed pursuant to §335.2 of this title (relating to Permit Required) and §335.43 of this title (relating to Permit Required) or for new or amended compliance plans filed pursuant to §305.401 of this title (relating to Compliance Plan).

(5)-(9) (No change)

§281.22. *Referral to Commission.*

(a)-(b) (No change)

(c) After an application under this section for a permit authorizing proposed commercial hazardous waste management units providing new or previously unpermitted capacity is determined by the executive director to be technically complete, the executive director shall prepare a summary of the most recent information on the need for the proposed processing or disposal technology, including the following information:

(1) estimated current statewide capacity for the technology;

(2) projected estimated statewide demand from the most recent Needs Assessment, as defined under §281.31 of this title (relating to Definitions);

(3) regional factors documented by the applicant if a regional need has been demonstrated; and

(4) any other waste management information deemed relevant by the executive director.

§281.30. *Applicability of Prioritization Procedure for Commercial Hazardous Waste Management Facility Permit Applications.*

(a) The following applications for permitting of new capacity at commercial hazardous waste management facilities shall be prioritized as specified in §281.32:

(1) permit applications submitted after the effective date of this section; and

(2) permit applications submitted prior to the effective date of this section, except as provided under subsection (b) of this section.

(b) Prioritization in accordance with §281.32 of this title (relating to Prioritization Process) shall not be made for applications for permitting of new capacity at commercial hazardous waste management facilities for which notice under §305.100 of this title (relating to Notice of Application) has been issued prior to the effective date of this section.

(c) Sections 281.30-281.32 of this title (relating to Application Processing) do not apply to an application for permitting of unit(s) at a commercial hazardous waste management facility if the unit(s) is to be used solely for the management of wastes generated at the facility which are not the result of commercial hazardous waste management activities

(d) Nothing in this rule shall limit the ability of the commission to prioritize any permit application

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

Commercial hazardous waste management facility—Any hazardous waste management facility that accepts hazardous waste or PCBs for a charge, except a captured facility or a facility that accepts waste only from other facilities owned or effectively controlled by the same person, where "captured facility" means a manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.

Current management practice(s)—The most commonly used technologies for processing or land disposing of targeted waste stream(s) generated in the State of Texas, as evidenced by the most recent computerized annual or monthly waste management reports submitted by waste handlers to the commission.

Needed technology—A technology included in Table 2 of the Executive Summary of the most recent publication of the Needs Assessment Technologies on Table 2 of the Executive Summary of the Needs Assessment are demonstrated processing or disposal technologies which are needed on a statewide basis.

Needs assessment—Texas Natural Resource Conservation Commission document, a copy of which is available for inspection at the library of the Texas Natural Resource Conservation Commission, lo-

cated in Room B-20 of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, entitled "Needs Assessment for Hazardous Waste Commercial Management Capacity in Texas" dated February 28, 1992, and its amendments or updates.

New capacity—Unpermitted volume, quantity, or rate of throughput for the management of hazardous waste at a hazardous waste management facility provided by any of the following, proposed units or systems, interim status units or systems, or modifications to permit operating conditions, such that additional quantities or types of waste would be managed

Table 2—Table 2 of the Executive Summary of the most recent publication of the commission document entitled "Needs Assessment for Hazardous Waste Commercial Management Capacity in Texas" dated February 28, 1992, and its amendments or updates.

Targeted waste stream(s)—A hazardous waste stream(s) generated in the State of Texas which will be managed by a specific technology at a specific facility. The applicant shall define targeted waste streams, by EPA hazardous waste numbers and the form of the waste, or by other identifiers approved in writing by the executive director.

§281.32. *Prioritization Process*

(a) This section specifies how an application for a commercial hazardous waste management facility shall be designated as expedited.

(b) For permit applications received after the effective date of this section, prioritization will occur at the time of receipt of a Part B hazardous waste permit application

(c) Permit applications for storage capacity at the same facility or a different facility owned by the same parent company which also offers recycling, processing, or disposal services shall have the same priority as the recycling, treatment, or disposal technology with which it is associated

(d) Prioritization of permit applications for needed, innovative, or regional technologies shall be as follows.

(1) If the technology covered by the application is not identified on Table 2, the applicant may submit the information described under subsections (e) or (f) of this section. If all processing and/or land disposal capacity included in the permit is associated with a needed or demonstrated innovative or regional technology, then the application is designated as expedited.

(2) If more than 70% of the total maximum annual throughput capacity of recycling, processing, and disposal units or

process trains covered by the application is associated with a needed or demonstrated innovative or regional technology, then the application is designated as expedited subject to the following applicable requirements.

(A) The applicant must specify whether or not each hazardous waste recycling, processing, or disposal unit is a needed or demonstrated innovative or regional technology.

(B) The applicant must specify whether or not each hazardous waste recycling, processing, or disposal unit, associated with or part of a process train, is a needed or demonstrated innovative or regional technology, based on the following

(i) for permit applications containing multiple units functioning in series in order to recycle, process, and/or dispose of hazardous waste, the individual units shall be considered part of a process train; and

(ii) whether or not each unit is a needed, innovative or regional technology shall be evaluated based on the technology represented by the process train. A unit is considered to be a needed, innovative or regional technology if it is associated with or part of a process train which is a needed, innovative or regional technology

(C) The applicant shall calculate the percentage figure to be used under subsection (d)(2) of this section to determine the priority for the entire application as follows:

(i) total the maximum annual throughput capacity for hazardous waste recycling, processing, and/or disposal in units or process trains covered by the application that are associated with or identified as a needed or demonstrated innovative or regional technology,

(ii) divide the total from clause (i) of this subparagraph by the total maximum annual throughput capacity of all recycling, processing, and disposal units and process trains covered by the application; and

(iii) multiply the quotient from clause (ii) of this subparagraph by 100.

(e) An application including an innovative technology to process hazardous waste shall be designated as expedited if the applicant demonstrates that the proposed innovative technology meets the requirements of subsection (d) and (e)(1) or (2) of this section, and obtains the written approval of the executive director.

(1) The proposed innovative technology must be demonstrated to be a

substitute for a technology which is on Table 2. To make this demonstration, the applicant must

(A) identify the targeted waste streams and show that the proposed innovative technology would be able to process the same types of waste streams, based on information available in the most recent Needs Assessment, as would be managed by the needed technology for which the innovative technology is proposed to be substituted.

(B) show that use of the proposed innovative technology would not move a targeted waste stream down the state's waste management hierarchy, from the substituted needed technology to a less preferred management method, in accordance with the public policy concerning hazardous waste management under the Texas Solid Waste Disposal Act, Texas Health and Safety Code Annotated (Vernon 1992), §261.023

(2) The proposed innovative technology must be demonstrated to implement the state's public policy on hazardous waste management as specified under the Texas Solid Waste Disposal Act, Texas Health and Safety Code Annotated (Vernon 1992), §361.023. To make this demonstration, the applicant shall demonstrate to the satisfaction of the executive director that the proposed innovative technology is a more preferred management method, higher in the state's waste management hierarchy, when compared to current management practices used for handling the targeted waste streams, and shall submit at least the following information, to the satisfaction of the executive director, for the targeted waste stream(s), whether managed in or out of the State of Texas, or managed on-site or off site

(A) types and quantities of targeted waste streams generated in the State of Texas,

(B) current management practice for processing or land disposing of the targeted waste stream, and

(C) a favorable comparison of the type and quantity of residuals and products generated by the innovative technology and current management practices.

(f) If no statewide need has been identified in Table 2 and if an applicant considers that there is a regional need for the proposed technology, then the applicant may submit additional information specified under paragraphs (1)-(3) of this subsection to demonstrate that the permit application

should be designated as expedited, in accordance with this subsection and subsection (d) of this section. In order for the proposed regional technology to be designated as expedited, the approximate annual quantity of the targeted hazardous waste stream(s) which are generated within the region, which will be processed and/or disposed commercially, and which could not be processed or disposed by other commercial hazardous waste management facilities in the region, shall equal at least 60% of the total hazardous waste capacity of the proposed unit(s). All data used to support this analysis shall be from the Texas Natural Resource Conservation Commission hazardous and industrial waste annual or monthly waste management reports submitted by owners and operators of hazardous waste management facilities, except as noted in this subsection. The applicant will define the region, subject to the written approval of the executive director, which must consist of at least one county and shall not extend outside the State of Texas. The regional waste management analysis under this subsection must include only hazardous wastes generated in the State of Texas. Subject to the written approval of the executive director, a permit application may be designated as expedited based on regional need, in accordance with this subsection and subsection (d) of this section, and provided that the applicant submits the following information:

(1) a description of the targeted waste stream(s) by form and EPA hazardous waste numbers, including the approximate annual quantity generated in the region that is processed or disposed at any commercial hazardous waste management facility using the same technology. If significant changes in on-site management options have occurred in the region since the preparation of the most recent Needs Assessment, the applicant may document the approximate annual quantity generated, the generator, and type of hazardous waste which will require commercial hazardous waste management, and include this quantity in the applicant's regional analysis. The applicant may also submit data, other than Texas Natural Resource Conservation Commission data, substantiating that there is a regional need, specifying waste stream type, including form and EPA hazardous waste numbers; approximate annual quantity generated; and identity of the generators and their location in the region;

(2) a map delineating the boundaries of the region, and showing the locations of the following:

(A) the facility where the new capacity is proposed; and

(B) all other existing, permitted, or interim status commercial hazardous waste management facilities that offer the same hazardous waste processing and/or disposal technologies in the State of Texas; and

(3) a comparison of the annual capacity of the proposed technology to the quantity of the targeted waste streams which:

(A) are generated within the region, and

(B) cannot be processed or disposed by other commercial hazardous waste management facilities within the region

(g) Permit applications for hazardous waste facilities consisting of only hazardous waste storage unit(s), with no hazardous waste processing or disposal unit(s), shall not be expedited, with the following exceptions

(1) permit applications for storage-only facilities associated with a different facility owned by the same parent company which offers recycling, processing, or disposal services using a needed technology, shall be prioritized as provided in subsection (c) of this section, and

(2) permit applications for hazardous waste storage needed on a regional or statewide basis, provided that the applicant submits documentation consisting of at least one of the following, subject to the written approval of the executive director

(A) an analysis of targeted waste stream(s) and commercially available waste management technologies, showing that there is no processing or disposal technology commercially available for management of the targeted waste stream(s) in the State of Texas, or

(B) a regional analysis documenting the demand for storage by the region's generators, including the distances hazardous wastes are transported for storage, the quantities transported, and a map showing the locations of commercial storage facilities in the region.

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 June 1, 1994

TRD-9441620

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

Earliest possible date of adoption: July 8, 1994

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

## Chapter 305. Consolidated Permits

### Subchapter D. Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits

#### • 30 TAC §305.69

The Texas Natural Resource Conservation Commission (TNRCC) proposes an amendment to §305.69 and corresponding new §305.149. The new §305.149 will replace the proposed §305.149 as published in the December 21, 1993, issue of the *Texas Register* (18 TexReg 9830). The previously proposed §305.149 is withdrawn.

Section 305.149 is being proposed in order to incorporate new provisions of the Texas Solid Waste Disposal Act (TSWDA), §361.0232, Texas Health and Safety Code, promulgated by the legislature in Senate Bill 1099, 72nd Legislature (1991). Section 361.0232 directed the TNRCC to conduct a needs assessment for commercial hazardous waste management. The information in the needs assessment was to be used to develop rules which allow for the prioritization of permit applications for commercial facilities. These rules are proposed to enable the TNRCC to make a reasonable estimate of when capacity will be available to the state's generators. By encouraging applicants to seek permits only for units they intend to construct within defined time limits, proposed §305.149 is designed to facilitate an assessment of accurate hazardous waste capacity under TSWDA §361.0232(b). Historically, there has been difficulty with the permitting of facilities which do not move forward with the construction of units once they receive authorization. This permitted yet unrealized capacity impedes commission staff from making an accurate assessment of hazardous waste capacity in the state.

The TSWDA, §361.0871(c) instructs the commission to develop a prioritization process that shall provide for priority consideration in permit processing for those applications that address the highest priority need. One of the reasons for developing a prioritization process is to ensure that the commission's limited staff resources are allocated to processing permit applications which address the highest priority need. Because commission staff is constrained by resource limitations and can process only a finite number of permits, it is important not only to encourage applicants to permit the types of units for which there is the highest need, but also to encourage applicants to permit only the capacity they intend to construct in the near future. As part of this process of efficient resource allocation, the commission is proposing §305.149 which sets construction period time limits for permitted units at commercial facilities. The proposed rule is intended to encourage applicants to permit only

the capacity they intend to build in the near term.

Furthermore, proposed §305.149 is authorized under TSWDA, §361.002 which expresses the state's policy to safeguard the health, welfare and physical property of the people and to protect the environment by controlling the management of solid waste. When a permittee delays constructing a permitted unit and improved standards have been developed since the time of permit issuance, the planned unit should be constructed according to the standards most protective of human health and the environment. By providing that authorization for unconstructed units lapses after specified time frames, proposed §305.149 will deter permittees from constructing units according to outdated construction standards contained in previously issued permits.

Proposed §305.149(b) sets out time limits for the construction of units subject to RCRA permitting which manage hazardous waste from off site at a commercial hazardous waste management facility.

Under the proposed rules, unit construction schedules will be set in one of two ways by rule or by permit. Proposed §305.149(b)(1)-(3) lay out an initial two-year time frame for unit construction, with procedures for requesting six-month or greater than six-month extensions to the two-year period. Under proposed §305.149(a)(1), which applies to units permitted prior to the date of the proposed rule's adoption, the two-year deadline runs from the effective date of the rule. Under proposed §305.149(a)(2), which applies to permits issued on or after the effective date of the proposed rule, this two-year deadline runs from the date of final administrative and judicial disposition of the permit, modification, or amendment authorizing the unit. A certification that construction had been completed would have to be submitted within 90 days of the end of the two-year period.

Proposed §305.149(b)(2) allows for a one time extension of six months or less to the initial two-year construction period time limit. This extension would be requested as a Class 2 permit modification and must comply with applicable provisions of §305.69. The request must be submitted within the initial two-year construction period time limit and, if granted, would begin to run at the end of the two-year period. Once a Class 2 modification request has been submitted within the initial two-year construction period, authorization for unit construction continues until the commission takes final action on the modification request. A certification that construction had been completed would be required within 90 days of the end of the extension.

Proposed §305.149(b)(3) allows for two types of permit modification for extensions of unit construction schedules. The first type of modification is for any extension which is greater than six months. The second type of modification is for an extension of any length which is requested after an applicant has been granted an extension of six months or less under proposed §305.149(b)(2). Extensions requested under proposed §305.149(b)(3) are Class 3 permit modifications and must comply with all applicable

provisions of §§305.69. In order to be considered, any requests made to extend the time period under proposed §§305.149(b)(3) must be submitted before any previously authorized time periods have expired. Once a Class 3 modification request has been submitted within the authorized time period, authorization for unit construction continues under proposed §§305.149(b)(3)(A) until the commission takes final action on the modification request.

Proposed §§305.149(b)(4) allows for a longer construction period time limit to be proposed by the applicant in its permit application, and if approved, would be included as a condition in a RCRA Subtitle C or Underground Injection Control permit. Justification for the proposed extended schedule shall be submitted with the permit application. Extensions to a permitted construction period time limit can be requested, if made during the time period stated in the permit. Extensions to the construction time limits stated in the permit can be requested only as permit modifications as provided in §§305.149(b)(4). The extensions would be requested as Class 2 or Class 3 modifications, depending on the length of time requested for extension.

Units which are not constructed within the construction period time limit specified under the proposed §§305.149(b)(1), (2), or (3) or as a permit condition pursuant to proposed §§305.149(b)(4), would lose authorization to construct the unit or manage hazardous waste in the unit. However, only the affected unit would cease to be authorized. This action would not constitute revocation of the permit.

Section 305.69 is proposed for amendment in order to cross-reference the type of permit modifications identified in proposed §§305.149. Three types of modifications are proposed for addition to the list of permit modifications: a Class 2 permit modification for a first time extension of six months or less pursuant to proposed §§305.149(b)(2), a Class 3 permit modification for a greater than

six-month extension pursuant to proposed §§305.149(b)(3); and a Class 3 permit modification for an extension of any length requested after an extension of six-months or less has been granted under proposed §§305.149(b)(2).

Stephen Minick, division of budget and planning, has determined that for the first five years these sections as proposed are in effect there will be fiscal implications as a result of enforcement and administration of the sections. The effect on state government will be a minor increase in cost associated with the processing of Class 2 and Class 3 modification applications. These increased costs are not anticipated to be significant and will be met within the existing resources of the agency. There are no fiscal implications anticipated for local governments. These rules will potentially increase the costs for development of permit applications and permit modifications for commercial hazardous waste treatment and disposal facilities. In order to extend a construction schedule beyond the initial two-year period, a facility would have to prepare a Class 2 or Class 3 permit modification. It is not anticipated that these additional costs will be significant in terms of the total cost of authorizing and operating a commercial hazardous waste management facility. These costs are prospective in that the number of applicants potentially affected cannot be determined at this time and the costs will vary with each specific facility. In addition, it is anticipated that since timeframes will be specified in the rule and since facilities will have the opportunity to specify a longer schedule in their permits, facilities which exercise planning will have the ability to avoid these additional costs. There are no fiscal effects anticipated for small businesses.

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the infor-

mation available to support policy decisions related to waste management capacity and a greater degree of certainty that permitted facilities will be built as proposed during a reasonable period of time. There are no known costs anticipated to any person required to comply with these sections as proposed.

A public meeting on the proposed rules will be held in Austin, Texas on June 30, 1994, 12118 North Interstate Highway 35, Building B, Park 35 Circle, at 1:30 p.m. in Room 201A, in order for interested parties to address comments to the commission.

Comments on the proposal may be submitted to Vic McWherter, Attorney, Legal Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas, 78711-3087. Comments will be accepted until 5:00 p.m., 30 days after the date of this publication.

The amendment is proposed under the Texas Water Code, §§5.103, §§5.105 and §26.011, which provides the Texas Natural Resource Conservation with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code, the Texas Solid Waste Disposal Act, and other laws of the State of Texas, and to establish and approve all general policy of the commission.

The Texas Solid Waste Disposal Act, §§361.0232, the Texas Solid Waste Disposal Act, §§361.0871(c), and the Texas Solid Waste Disposal Act, §§361.002.

*§305.69 Solid Waste Permit Modification at the Request of the Permittee*

(a)-(h) (No change)

(i) Appendix I. The following appendix will be used for the purposes of Subchapter D which relate to solid waste permit modification at the request of the permittee.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes.....	1
2. Correction of typographical errors.....	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).....	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance.....	1
b. Other changes.....	2
5. Schedule of compliance	
a. Changes in interim compliance dates, with prior approval of the executive director.....	1 <sup>1</sup>
b. Extension of final compliance date.....	3
6. Changes in expiration date or permit to allow earlier permit expiration, with prior approval of the executive director.....	1 <sup>1</sup>
7. Changes in ownership or operational control of a facility, provided the procedures of §305.65(g) are followed.....	1 <sup>1</sup>
8. <u>Six months or less extension of the construction</u>	

	<u>period time limit applicable to commercial hazardous waste management units pursuant to §305.149(b) (2) or §305.149(b) (4).....</u>	<u>2</u>
9.	<u>Greater than six-month extension of the commercial hazardous waste management unit construction period time limit pursuant to §305.149(b) (3) or §305.149(b) (4)...</u>	<u>3</u>
10.	<u>Any extension pursuant to §305.149(b) (3) of a construction period time limit for commercial hazardous waste management units which has been previously authorized under §305.149(b) (2).....</u>	<u>3</u>

B. General Standards

1.	Changes to waste sampling or analysis methods:	
	a. To conform with agency guidance or regulations.....	1
	b. Other changes.....	2
2.	Changes to analytical quality assurance/control plan:	
	a. To conform with agency guidance or regulations.....	1
	b. Other changes.....	2
3.	Changes in procedures for maintaining the operating record.....	1
4.	Changes in frequency or content of inspection schedules.....	2
5.	Changes in the training plan:	

- a. That affect the type or decrease the amount of training given to employees..... 2
- b. Other changes..... 1
- 6. Contingency plan:
  - a. Changes in emergency procedures (i.e., spill or release response procedures)..... 2
  - b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed..... 1
  - c. Removal of equipment from emergency equipment list..... 2
  - d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan..... 1

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification. (No change)

C. Ground-water Protection

- 1. Changes to wells:
  - a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system..... 2

- b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well..... 1
- 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the executive director..... 1<sup>1</sup>
- 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the executive director..... 1<sup>1</sup>
- 4. Changes in point of compliance..... 2
- 5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):
  - a. As specified in the groundwater protection standard..... 3
  - b. As specified in the detection monitoring program..... 2
- 6. Changes to a detection monitoring program as required by §335.164(10) of this title (relating to Detection Monitoring Program), unless otherwise specified in this appendix..... 2
- 7. Compliance monitoring program:
  - a. Addition of compliance monitoring program



	pursuant to §335.164(7)(D) of this title (relating to Detection Monitoring Program), and §335.165 of this title (relating to Compliance Monitoring Program).....	3
b.	Changes to a compliance monitoring program as required by §335.165(11) of this title (relating to Compliance Monitoring Program), unless otherwise specified in this appendix....	2
8.	Corrective action program:	
a.	Addition of a corrective action program pursuant to §335.165(9)(B) of this title (relating to Compliance Monitoring Program) and §335.166 of this title (relating to Corrective Action Program).....	3
b.	Changes to a corrective action program as required by §335.166(8), unless otherwise specified in this appendix.....	2
D.	Closure	
1.	Changes to the closure plan:	
a.	Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the executive director.....	1 <sup>1</sup>
b.	Changes in the closure schedule for any unit, changes in the final closure schedule for	

	40 CFR 264.250(c).....	3
d.	Waste piles that comply with 40 CFR 264.250(c).....	2
e.	Tanks or containers (other than specified below).....	2
f.	Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the executive director.....	1 <sup>1</sup>
E.	Post-Closure	
1.	Changes in name, address, or phone number of contact in post-closure plan.....	1
2.	Extension of post-closure care period.....	2
3.	Reduction in the post-closure care period.....	3
4.	Changes to the expected year of final closure, where other permit conditions are not changed.....	1
5.	Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.....	2
F.	Containers	
1.	Modification or addition of container units:	
a.	Resulting in greater than 25% increase in the facility's container storage	

- capacity, except as provided in F(1)(c) and F(4)(a) below..... 3
- b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below..... 2
- c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), with prior approval of the executive director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1<sup>1</sup>
- 2. a. Modification of a container unit without increasing the capacity of the unit..... 2
- b. Addition of a roof to a container unit without alteration of the containment system..... 1

- 3. Storage of different wastes in containers, except as provided in F(4) below:
  - a. That require additional or different management practices from those authorized in the permit..... 3
  - b. That do not require additional or different management practices from those authorized in the permit..... 2

Note: See §305.69(g) of this title (relating to Newly Listed Solid Waste Permit Modification at the Request of the Permittee or Identified Wastes) for modification procedures to be used for the management of newly listed or identified wastes.

- 4. Storage or treatment of different wastes in containers:
  - a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental

benefit" contained in 40 CFR 268.8  
(a)(2)(ii), with prior approval of  
the executive director. This modifi-  
cation is not applicable to dioxin-  
containing wastes (F020, 021, 022,  
023, 026, 027, and 028)..... 1<sup>1</sup>

b. That do not require the addition of  
units or a change in the treatment  
process or management standards,  
and provided that the units have  
previously received wastes of the  
same type (e.g., incinerator scrubber  
water). This modification is not  
applicable to dioxin-containing wastes  
(F020, 021, 022, 023, 026, 027, and 028)..... 1

5. Other changes in container management practices  
(e.g., aisle space, types of containers,  
segregation)..... 2

G. Tanks

1. a. Modification or addition of tank units  
resulting in greater than 25% increase  
in the facility's tank capacity, except  
as provided in G(1)(c), G(1)(d), and  
G(1)(e) below of this appendix..... 3

b. Modification or addition of tank units  
resulting in up to 25% increase in the

facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below of this appendix..... 2

c. Addition of a new tank (no capacity limitation) that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation..... 2

d. After prior approval of the executive director, addition of a new tank (no capacity limitation) that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation..... 1<sup>1</sup>

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR

268.8(a)(2)(ii), with prior approval of the executive director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1<sup>1</sup>

- 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit..... 2
- 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/-10% of the replaced tank provided:..... 1
  - a. The capacity difference is no more than 1500 gallons;
  - b. The facility's permitted tank capacity is not increased; and
  - c. The replacement tank meets the same conditions in the permit.
- 4. Modification of a tank management practice..... 2
- 5. Management of different wastes in tanks:
  - a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that

authorized in the permit, except as provided in G(5)(c) below..... 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G(5)(d) below..... 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(1)(ii), with prior approval of the executive director. The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1<sup>1</sup>

d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously



received wastes of the same type (e.g.,  
 incinerator scrubber water). This  
 modification is not applicable to  
 dioxin-containing wastes (F020, 021,  
 022, 023, 026, 027, and 028)..... 1

Note: See §305.69(g) of this title (relating to Newly  
 Listed Solid Waste Permit Modification at the Request of  
 the Permittee or Identified Wastes) for modification  
 procedures to be used for the management of newly  
 listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment  
 units that result in increasing the facility's  
 surface impoundment storage or treatment capacity... 3
2. Replacement of a surface impoundment unit..... 3
3. Modification of a surface impoundment unit  
 without increasing the facility's surface  
 impoundment storage or treatment capacity  
 and without modifying the unit's liner, leak  
 detection system, or leachate collection system..... 2
4. Modification of a surface impoundment management  
 practice..... 2
5. Treatment, storage, or disposal of different  
 wastes in surface impoundments:
  - a. That require additional or different

- management practices or different design of the liner or leak detection system than authorized in the permit..... 3
- b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit..... 2
- c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1
- d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological

requirements stated in 40 CFR 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1

Note: See §305.69(g) of this title (relating to Newly Listed or Identified Wastes) for modification procedures to be used for the management of newly listed or identified wastes.

- I. Enclosed Waste Piles. For all waste piles except those complying with 40 CFR 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 40 CFR 264.250(c).
  - 1. Modification or addition of waste pile units:
    - a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity..... 3
    - b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity..... 2

	the facility, or extension of the closure period, with prior approval of the executive director.....	1 <sup>1</sup>
c.	Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the executive director.....	1 <sup>1</sup>
d.	Changes in procedures for decontamination of facility equipment or structures, with prior approval of the executive director.....	1 <sup>1</sup>
e.	Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix.....	2
f.	Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 40 CFR 264.113(d) and (e).....	2
2.	Creation of a new landfill unit as part of closure.....	3
3.	Addition of the following new units to be used temporarily for closure activities:	
a.	Surface impoundments.....	3
b.	Incinerators.....	3
c.	Waste piles that do not comply with	

- 2. Modification of waste pile unit without increasing the capacity of the unit..... 2
- 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit..... 1
- 4. Modification of a waste pile management practice.... 2
- 5. Storage or treatment of different wastes in waste piles:
  - a. That require additional or different management practices or different design of the unit..... 3
  - b. That do not require additional or different management practices or different design of the unit..... 2

Note: See §305.69(g) of this title (relating to Newly Listed or Identified Wastes) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

- 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity..... 3
- 2. Replacement of a landfill..... 3
- 3. Addition or modification of a liner, leachate collection system, leachate detection system,

	run-off control, or final cover system.....	3
4.	Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system.....	2
5.	Modification of a landfill management practice.....	2
6.	Landfill different wastes:	
	a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.....	3
	b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.....	2
	c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8(a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5(h)(2). This modifi-	

cation is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash).

This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)..... 1

Note: See §305.69(g) of this title (relating to Newly Listed or Identified Wastes) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

1. Lateral expansion of or other modification of a land treatment unit to increase areal extent..... 3
2. Modification of run-on control system..... 2
3. Modify run-off control system..... 3
4. Other modifications of land treatment unit component specifications or standards required

	in the permit.....	2
5.	Management of different wastes in land treatment units:	
	a. That require a change in permit operating conditions or unit design specifications.....	3
	b. That do not require a change in permit operating conditions or unit design specifications.....	2
Note:	See §305.69(g) of this title (relating to Newly Listed or Identified Wastes) for modification procedures to be used for the management of newly listed or identified wastes.	
6.	Modification of a land treatment management practice to:	
	a. Increase rate or change method of waste application.....	3
	b. Decrease rate of waste application.....	1
7.	Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions.....	2
8.	Modification of a land treatment unit management practice to grow food chain crops, or add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops.....	3



9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 40 CFR 264.278(g)(2)..... 3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, or number of sampling points, or that replace unsaturated zone monitoring devices or components thereof with devices or components that have specifications different from permit requirements..... 3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, or number of sampling points, or that replace unsaturated zone monitoring devices or components thereof with devices or components having specifications not different from permit requirements..... 2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid..... 2
13. Changes in sampling, analysis, or statistical procedure..... 2
14. Changes in land treatment demonstration program prior to or during the demonstration..... 2
15. Changes in any condition specified in the permit for a land treatment unit to reflect

results of the land treatment demonstration, provided performance standards are met, and the executive director's prior approval has been received..... 1<sup>1</sup>

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the executive director..... 1<sup>1</sup>

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the waste can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration..... 3

18. Changes in vegetative cover requirements for closure..... 2

L. Incinerators, Boilers and Industrial Furnaces

1. Changes to increase by more than 25% any of the following limits authorized in the permit:

A thermal feed rate limit; a feedstream feed rate limit; a chlorine feed rate limit, a metal feed rate limit, or an ash feed rate limit. The executive director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means..... 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit:  
A thermal feed rate limit; a feedstream feedrate limit; chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The executive director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means..... 2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size of geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl<sub>2</sub> metals or particulate from the combustion gases, or by changing other features of the incinerator,

boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The executive director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means..... 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The executive director may require a new trial burn to demonstrate compliance with the regulatory performance standards..... 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The executive director will

- require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means..... 3
- b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls..... 3
- c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit..... 2
- 6. Burning different wastes:
  - a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The executive director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means..... 3
  - b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory

performance standards than specified in  
the permit..... 2

Note: See §305.69(g) of this title (relating to Newly Regulated  
Wastes and Units) for modification procedures to be used  
for the management of newly regulated wastes and units.

- 7. Shakedown and trial burn:
  - a. Modification of the trial burn plan or any of  
the permit conditions applicable during the  
shakedown period for determining operational  
readiness after construction, the trial burn  
period, or the period immediately following  
the trial burn..... 2
  - b. Authorization of up to an additional 720  
hours of waste burning during  
the shakedown period for determining  
operational readiness after construction,  
with the prior approval of the executive  
director .....1<sup>1</sup>
  - c. Changes in the operating requirements set  
in the permit for conducting a trial burn,  
provided the change is minor and has received  
the prior approval of the executive director... 1<sup>1</sup>

d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the executive director..... 1<sup>1</sup>

8. Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit..... 1

M. Corrective Action

1. Approval of a corrective action management unit pursuant to 40 Code of Federal Regulations §264.552..... 3

2. Approval of a temporary unit or time extension for a temporary unit pursuant to 40 Code of Federal Regulations §264.553..... 2

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 June 1, 1994.

TRD-9441619 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Earliest possible date of adoption: July 8, 1994

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



Subchapter G. Additional Conditions for Solid Waste Storage, Processing or Disposal Permits

• 30 TAC §305.149

The new section is proposed under the Texas Water Code, §§55.103, 5.105, and 26.11, which provides the Texas Natural Resource Conservation with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and the Texas Solid Waste Disposal Act, and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.149. Time Limitation for Construction of Commercial Hazardous Waste Management Units.

(a) Applicability. This section applies to hazardous waste unit(s) which provide commercial capacity for the storage, processing or disposal of hazardous waste.

(1) For hazardous waste management permits issued, amended or modified before the effective date of this section, the two-year unit construction schedule set forth in subsection (b) of this section begins on the effective date of this section.

(2) For hazardous waste management permits issued, amended or modified on or after the effective date of this section, the two-year unit construction schedule as delineated in subsection (b) of this section applies.

(b) Schedule for construction of commercial hazardous waste management units.

(1) The facility owner or operator shall construct a unit within two years of final administrative and judicial disposition of the permit, modification or amendment authorizing the unit. Within 90 days after the end of the two-year construction period time limit, the facility owner or operator shall certify to the executive director that the unit has been constructed in accordance with applicable permit provisions.

(2) A one-time six-month extension to the two-year construction period time limit may be requested as a Class 2 permit modification. All modification requests and subsequent procedures must comply with applicable provisions of

§305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee) and must comply with any applicable statutory or regulatory requirements which take effect prior to final administrative disposition of the modification request. The request must be made within the initial two-year period and, if granted, the six-month extension shall begin at the end of the initial two-year construction period time limit specified under paragraph (1) of this subsection. Construction of the unit is authorized under this subsection until the commission takes final action on the modification request; however, in no event shall authorization continue under this subsection beyond six months following the end of the initial two-year construction period specified under subsection (b)(1) of this section. Within 90 days of the end of the authorized extension period, the facility owner or operator shall certify to the executive director that the unit has been constructed in accordance with applicable permit provisions.

(3) Extensions for greater than six months, or any extension to the construction period time schedule authorized under an approved Class 2 permit modification pursuant to paragraph (2) of this subsection, shall be requested as a Class 3 permit modification. All requests and subsequent procedures must comply with applicable provisions of §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee) and must comply with any applicable statutory or regulatory requirements which take effect prior to final administrative disposition of the modification request.

(A) Extension requests made under this paragraph shall be submitted during the periods authorized under paragraph (1) or (2) of this subsection. Construction of the unit is authorized under this subsection until the commission takes final action on the modification request.

(B) The commission shall not consider requests made under this paragraph which are submitted after the expiration of the time periods authorized under paragraph (1) or (2) of this subsection.

(4) Under circumstances which require a delayed or staged unit construction schedule longer than that specified under paragraph (1) of this subsection, justification for the proposed extended schedule shall be submitted with the permit application. The submitted schedule shall become part of the permit only upon the approval of the commission. Requests for changes to the approved schedule submitted during the period covered by the approved schedule shall comply with Class 2 or Class 3 permit modification rules, pursuant to §305.69. The class of the modification shall be determined by the length of the extension requested. An extension request of six months or less shall be a Class 2 modification and an extension request of greater than six months shall be a Class 3 modification request. All requests and subsequent procedures must comply with applicable provisions of §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee) and must comply with any applicable statutory or regulatory requirements which take effect prior to final administrative disposition of the modification request.

(c) Authorization status. Unit construction or management of hazardous waste in a unit is not authorized under any of the following conditions:

(1) the permittee has not constructed the unit within the time period specified under subsection (b)(1) of this section and:

(A) the permittee does not submit a modification request as specified in subsection (b)(2) or (3) of this section; or

(B) the commission has denied a request for an extension under subsection (b)(2) or (3) of this section and the construction period time limit specified in subsection (b)(1) or (2) of this section has expired;

(2) the unit has not been constructed within the time period specified in the permit as per subsection (b)(4) of this section and:

(A) the permittee does not submit a modification request as specified in subsection (b)(4) of this section; or

(B) the commission has denied a request for an extension under subsection (b)(4) of this section and the construction period time limit specified in the permit has expired.

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 June 1, 1994.

TRD-9441818

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

Earliest possible date of adoption: July 8, 1994

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

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 9. Property Tax Administration

##### Subchapter A. Practice and Procedure

###### • 34 TAC §9.17

The Comptroller of Public Accounts proposes an amendment to §9.17, concerning notice of public hearing on tax increase. The Tax Code, §26.06, requires the comptroller to prescribe by rule the form and content of the notice of a public hearing on a tax increase. The rule adopts by reference amended model Form 26.06. The form is amended to delete unnecessary information.

The amendment is necessary because Senate Bill 7, 73rd Legislature, 1993, abolished county education districts. The abolishment of county education districts returned to school districts the portion of the school district's tax rate formerly levied by the county education district. The current notice reflects the abolition of county education districts. Because county education districts levied taxes for the last time in 1992, reference to county education districts is no longer needed on the notice.

The amendment deletes the optional information for school districts concerning county education districts on model Form 26.06. Amendment of the rule also changes the address of the Comptroller of Public Accounts, Property Tax Division, and deletes the date of the amendment of the form.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period

the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig 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 in providing new information regarding property tax responsibilities. There are no significant fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Barbara Truesdale, Manager, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.

The amendment is proposed under the Tax Code, §26.06, which requires the comptroller by rule to prescribe the form and wording for notice of a public hearing on a tax increase.

The amendment implements the Tax Code, §26.06.

###### §9.17. Notice of Public Hearing on Tax Increase.

(a) (No change.)

(b) Model Form 26.06, as amended [August 23, 1993], is adopted by reference. Copies may be obtained from the Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528 [4301 Westbank Drive, Building B, Suite 100], Austin, Texas 78711-3528 [78746-6565].

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 June 1, 1994.

TRD-9441805

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

Earliest possible date of adoption: July 8, 1994

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

###### • 34 TAC §9.19

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

The Comptroller of Public Accounts proposes the repeal of §9.19, concerning notice of effective and rollback tax rates, because Tax Code, §26.04 only requires that the comptroller prescribe the form. Adoption of the form by rule is not necessary.

Mike Reissig, chief revenue estimator, has determined that repeal of the rule will not result in any fiscal implications to the state or to units of local government.



Mr. Reissig also has determined that there will be no cost or benefit to the public from the repeal of this rule. There are no significant fiscal implications for small businesses. There is no anticipated significant economic cost to the public.

Comments on the proposed repeal may be submitted to Barbara Truesdale, Manager, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.

The repeal is proposed under the Tax Code, §26.04, which requires the comptroller to prescribe the form for publishing notice of effective and rollback tax rates.

The repeal implements the Tax Code, §26.04.

#### §9.19. Notice of Effective and Rollback Tax Rates.

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 June 1, 1994.

TRD-9441604 Martin E. Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 8, 1994

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

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 81. Administrative Provisions

##### General

##### • 37 TAC §81.11

The Texas Youth Commission (TYC) proposes an amendment to §81.11, concerning state inscription. The amendment will add state vehicles used by personnel whose duties require regular and extended travel away from their home base to the list of vehicles currently exempted from the inscription requirement. The inscription currently impedes the possibility of apprehension of runaway youth.

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

Mr. Franks 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 minimize

the possibility of personal injury to TYC staff and assist in apprehension of runaways. 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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendments are proposed under and implements the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

#### §81.11. State Inscription

(a) Policy. All state vehicles shall bear the inscription as provided in Texas Civil Statutes, Article 6701m-1, except passenger cars, station wagons, and buses normally used by personnel who transport youth in the vehicle, who are on 24-hour emergency call, or whose duties require regular and extended travel away from their home base. [for the transportation of children, or driven by administrative personnel who are on 24 hour emergency call in order to facilitate apprehension of runaways.] The purposes to be served by not printing the inscription on these vehicles are to avoid public identification of youth as wards of the state, to facilitate the apprehension of runaways and to minimize the possibility of personal injury and vandalism of State property. [and to avoid embarrassment to youth who might be identified publicly as wards of the State by being passengers in the vehicle.]

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 24, 1994

TRD-9441483 Steve Robinson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: July 8, 1994

For further information, please call: (512) 483-5244

#### Chapter 93. General Provisions

##### Records, Reports and Forms

##### • 37 TAC §93.57

The Texas Youth Commission (TYC) proposes an amendment to §93.57, concerning access to youth records. The amendment will require that staff receiving a subpoena for a TYC youth's file will consult with the TYC legal department before responding to the subpoena.

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

Mr. Franks 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 ensure compliance by TYC staff of state and federal laws and regulations limiting access to youth records. 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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.073, which provides the Texas Youth Commission with the authority to keep written records on each child subject to its control. These records are not public and are available only according to the provisions of Family Code, §51.14(B).

The proposed rule implements the Human Resource Code, §61.034.

#### §93.57 Access to Youth Records.

(a) (No change.)

(b) Rules.

(1) (No change.)

(2) Subpoena Received.

(A) On receipt of subpoena for a youth's file, fax or mail the subpoena immediately to the legal department for review and determination of attendant legal issues and contact the records custodian [should be contacted].

(B)[(E)] The staff served the subpoena shall consult the legal department director and respond based on advice received [shall prepare the copies requested, then certify that the records are true and correct copies, in the form of a notarized certificate or affidavit].

(C)[(B)] If the file has not been purged at the time of receipt of the subpoena, it shall not be purged until the case has been settled.

(D)[(C)] If a consent form signed by the youth to release information regarding alcohol and drug use is not received, the file must be edited so that such confidential information is not released. Some information may be flagged with a stamped statement identifying it as confidential.

(E)(D)] Original information is never sent to the courts for copying.

(3) Prosecuting Attorney. A prosecuting attorney may obtain a copy of a youth's adjudication for a felony-grade offense pursuant to the Human Resources Code §61.095. Requests under this paragraph are directed to the custodian of records.

(4)-(6) (No change.)

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

Issued in Austin, Texas, on May 31, 1994.

TRD-9441580 Steve Robinson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: July 8, 1994

For further information, please call: (512) 483-5244

## TITLE 40. SOCIAL SERVICE AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 47. Primary Home Care

The Texas Department of Human Services (DHS) proposes amendments to §§47.2902, 47.2904, 47.2909, 47.2912, 47.2913, 47.3901, and 47.3906, concerning requesting prior approval, critical omissions/errors, physician supervision, service plan changes, prior approval renewal, claims requirements, and claims payment reviews and audits, in its Primary Home Care chapter. The purpose of the amendments is to streamline the prior approval process to require only initial prior approval of medical need, with the following exceptions: Annual renewal of prior approval of medical need by the DHS regional nurse is required for applicants who are eligible under the provisions of the Social Security Act, §1929(b); and DHS's regional nurse gives a time-limited prior approval for applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve. The requirement for an annual physician's order for primary home care is also being changed. A physician's order is only required for initial prior approval and for renewal of prior approval for time-limited services.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in

effect the public benefit anticipated as a result of enforcing the sections will be a streamlined process in which provider agencies will not be required to submit a prior approval packet to the DHS regional nurse to obtain reauthorization of primary home care. Also, service plan changes may be authorized faster since the approval will be handled directly by the caseworker. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections

Questions about the content of the proposal may be directed to Linda Carsner at (512) 450-3215 in DHS's Community Care Section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-087, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

#### Service Requirements

- 40 TAC §§47.2902, 47.2904, 47.2909, 47.2912, 47.2913

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement §§22.001-22.024 and 32.001-32.041 of the Human Resources Code.

#### §47.2902. Requesting Prior Approval.

(a) Provider agencies must obtain, from the regional nurse, prior approval of medical need for applicants and renewal of prior approval for certain clients.

(1) Except as indicated in paragraph (2) of this subsection, only initial prior approval of medical need by the department regional nurse is required for applicants who have a chronic medical condition causing functional impairment in personal care that is expected to be long-standing. However, annual reauthorization of service by the caseworker is required.

(2) Annual renewal of prior approval by the department regional nurse is required for clients who are eligible under the provisions of the Social Security Act, §1929(b).

(3) The department regional nurse gives a time-limited prior approval for applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve in less than 12 months.

(b)-(g) (No change.)

#### §47.2904. Critical Omissions/Errors.

(a) If the client health assessment/proposed service plan form or the physician's order for primary home care is missing, or if any of the following critical omissions or errors has occurred in the required documentation, the provider agency cannot obtain prior approval.

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

(5) For clients who require renewal of prior approval as specified in §47.2902(a) of this title (relating to Requesting Prior Approval), the client health assessment/proposed service plan form has a date that is earlier than 60 days before the end of the prior approval period.

(6)-(12) (No change.)

(13) For clients with time-limited (less than 12 months) prior approval who request renewal of prior approval, the physician's order has a date that is earlier than 30 days before the end of the time-limited prior approval. [For renewal of prior approval, the physician's order has a date that is earlier than 30 days before the end of the prior approval period.]

(b) (No change.)

§47.2909. Physician Supervision. An individual seeking initial prior approval for primary home care, or a client with time-limited (less than 12 months) prior approval who wants to renew prior approval, must have a physician's order for the service. [The client's physician must renew his order for primary home care at least every 12 months.]

#### §47.2912. Service Plan Changes.

(a) (No change.)

(b) When a caseworker initiates a service plan change, he authorizes the service plan change on the prior approval/confirmation of services form. [the RN supervisor must document agreement or disagreement on the primary home care attendant orientation/RN supervisory form. The RN supervisor must forward this form to the regional nurse with the approval for CCAD services-referral response form and the summary of client need for service form, if provided, within seven days of receipt of the approval for CCAD services-referral response form.]

(c) (No change.)

(d) If the caseworker notifies the RN supervisor that an immediate [service plan] change is needed, the RN supervisor and the caseworker [contacts the regional nurse to] discuss:

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

(e) The RN supervisor must send the primary home care attendant/RN supervisory form to the caseworker [regional nurse] within 30 days of receiving verbal approval for a client needing an immediate service plan change. The form must include the following documentation:

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

(3) the name of the caseworker [regional nurse] giving verbal approval.

#### §47.2913. Prior Approval Renewal.

(a) For clients who have time-limited prior approval and who request renewal of prior-approval of medical need by the regional nurse, [To request renewal of prior approval,] the RN supervisor must send the following forms to the regional nurse:

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

(b) For clients who are eligible for primary home care under the provisions of the Social Security Act, §1929(b), the RN supervisor must send the following forms to the regional nurse to obtain renewal of prior approval:

(1) summary of client need for service, if provided;

(2) approval for CCAD services - referral response, if received from the caseworker; and

(3) client health assessment/proposed service plan.

(c)[(b)] The RN supervisor must submit the prior approval material to the regional nurse in time for it to be post-marked or date-stamped by the department no later than one day after the termination date of the current prior approval period. If the required forms are not submitted within this time frame, a gap in client coverage occurs.

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 June 1, 1994.

TRD-9441506

Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1994

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



## Claims Payment

### • 40 TAC §47.3901, §47.3906

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement §§22.001-22.024 and §§32.001-32.041 of the Human Resources Code.

#### §47.3901. Claims Requirements.

(a) (No change.)

(b) The provider agency is not entitled to payment if:

(1)-(8) (No change.)

(9) services are ordered by a physician who has been excluded from the Medicare or Medicaid program or both; [or]

(10) services are billed at a unit rate that does not match the client's priority level; or [.]

(11) the physician's order for primary home care services form does not meet department requirements.

(c)-(d) (No change.)

#### §47.3906. Claims Payment Reviews and Audits.

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

(h) List of administrative errors. Administrative errors include, but are not limited to, the following.

(1)-(14) (No change.)

[(15) The provider agency makes a claim for services, but a valid physician's order is missing for the period claimed by the agency. The department applies the error to the total number of units claimed and not covered by a valid order.]

(i) List of financial errors. In the absence of acceptable secondary documentation, financial errors include, but are not limited to, the following.

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

(7) The provider agency makes a claim for services, but a valid physician's order is missing. The department applies the error to the total number of units claimed and not covered by a valid order.

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 June 1, 1994.

TRD-9441608

Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1994

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

## Chapter 48. Community Care for Aged and Disabled

### Eligibility

#### • 40 TAC §48.2918

The Texas Department of Human Services (DHS) proposes an amendment to §48.2918, concerning eligibility for primary home care, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to streamline the prior approval process to require only initial prior approval of medical need, with the following exceptions: Annual renewal of prior approval by the DHS regional nurse is required for applicants who are eligible under the provisions of the Social Security Act, §1929(b); and DHS's regional nurse gives a time-limited prior approval for applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve. The requirement for an annual physician's order for primary home care is also being changed. A physician's order is only required for initial prior approval and for renewal of prior approval for time-limited services.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined process in which provider agencies will not be required to submit a prior approval packet to the DHS regional nurse to obtain reauthorization of primary home care. Also, service plan changes may be authorized faster since the approval will be handled directly by the caseworker. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Linda Carsner at (512) 450-3215 in DHS's Community Care Section. Written comments on the proposal may be

submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-087, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provide the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements §§22.001-22.024 and 32.001-32.041 of the Human Resources Code.

*§48.2918. Eligibility for Primary Home Care.*

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

(d) Applicants [An applicant or client] must have prior approval of medical need for primary home care from the department regional nurse. Only initial prior approval of medical need is required for applicants who have a chronic medical condition causing functional impairment in personal care that is expected to be long-standing. Annual prior approval by the department regional nurse is required for clients who are eligible under the provisions of the Social Security Act, §1929(b). Time-limited prior approval is given to applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve in less than 12 months. For clients who have time-limited prior approval and who request renewal of prior approval, a new physician's order is required. [Prior approval for primary home care is valid for up to 12 months from the date the physician signs the orders.]

(e) Services for eligible clients are authorized for 12 months, with the exception of time-limited services specified in subsection (d) of this section.

(f)(e) Establishment of a priority level is made by the community care case manager based on an assessment of the client's circumstances and on discussions with the client and others actively involved with the client. A Priority 1 primary home care client is an individual who is dependent upon the services of the primary home care attendant for the performance of certain personal care tasks and whose health, safety, or well-being may be jeopardized if services on a normally scheduled service

shift were not provided. An individual is considered a Priority 1 primary home care client if the following criteria are met.

(1) The individual is completely unable to perform one or more of the following activities without hands-on assistance from another person:

(A) transferring himself into or out of bed or a chair or on off a toilet;

(B) feeding himself;

(C) getting to or using the toilet;

(D) preparing meal; or

(E) taking self-administered prescribed medications.

(2) During a normal scheduled service shift, no one is readily available who is capable of providing, and who is willing to provide, the needed assistance other than the primary home care attendant.

(3) The Texas Department of Human Services community care case manager determines that there is a high likelihood the individual's health, safety, or well-being would be jeopardized if primary home care services were not provided on a single given shift.

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 June 1, 1994.

TRD-9441607 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1994

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

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**Part XV. Texas Veterans  
Commission**

**Chapter 452. Administration  
General Provisions**

• 40 TAC §452.1

The Texas Veterans Commission proposes new §452.1 concerning charges for copies of public records. The new section provides that the Commission may charge the amounts set forth in the General Services Commission's rules for copies of public records and that the

Executive Director may waive or reduce these charges if he determines that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

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

Mr. Buerschinger 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 clear rules for charges by the agency for copies of public records. 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 Billy G Green, Texas Veterans Commission, P.O. Box 12277, Austin, Texas 78711

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

*§452.1. Charges for Copies of Public Records.* The charge to any person requesting copies of any public records of the Texas Veterans Commission will be the charge established by the General Services Commission; however, the Texas Veterans Commission will charge the following amounts necessary to recoup the costs for items as follows:

(1) computer resources charges (mainframe and programming time): as determined by the Department of Licensing and Regulation;

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

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

Issued in Austin, Texas, on May 27, 1994.

TRD-9441559 Douglas K Brown  
Executive Director  
Texas Veterans  
Commission

Earliest possible date of adoption: July 8, 1994

For further information, please call. (512) 463-5538

# WITHDRAWN RULES

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

## TITLE 1. ADMINISTRATION

### Part XII. Advisory Commission on State Emergency Communications

#### Chapter 251. Regional Plans—Standards

##### • 1 TAC §251.1

The Advisory Commission on State Emergency Communications has withdrawn from consideration for permanent adoption a proposed amendment to §251.1, which appeared in the December 10, 1993, issue of the *Texas Register* (18 TexReg 9153). The effective date of this withdrawal is May 27, 1994.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441493 Mary A Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Effective date: May 27, 1994

For further information, please call (512) 327-1911

##### • 1 TAC §251.6

The Advisory Commission on State Emergency Communications has withdrawn from consideration for permanent adoption a proposed new §251.6, which appeared in the December 10, 1993, issue of the *Texas Register* (18 TexReg 9156). The effective date of this withdrawal is May 27, 1994.

Issued in Austin, Texas, on May 26, 1994

TRD-9441494 Mary A Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Effective date: May 27, 1994

For further information, please call (512) 327-1911

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 281. Application Processing

##### Application Processing

##### • 30 TAC §§281.1, 281.2, 281.22, 281.30-281.32

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed amendment to §§281.1, 281.2, 281.22, 281.30-281.32, which appeared in the December 21, 1993, issue of the *Texas Register* (18 TexReg 9824). The effective date of this withdrawal is June 1, 1994.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441617 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Effective date: June 1, 1994

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

#### Chapter 285. On-Site Wastewater Treatment

##### General Procedures and Information

##### • 30 TAC §§285.11-285.17

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed repeal to §§285.11-285.17, which appeared in the January 25, 1994, issue of the *Texas Register* (19 TexReg 404). The effective date of this withdrawal is June 1, 1994.

Issued in Austin, Texas, on June 1, 1994

TRD-9441624 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Effective date: June 1, 1994

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

#### Administrative Requirements for On-Site Sewerage

##### • 30 TAC §§285.101-285.109

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed repeal to §§285.101-285.109, which appeared in the January 25, 1994, issue of the *Texas Register* (19 TexReg 405). The effective date of this withdrawal is June 1, 1994.

Issued in Austin, Texas, on June 1, 1994

TRD-9441622 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Effective date: June 1, 1994

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

#### On-Site Sewerage Facility (OSSF) Program Administration

##### • 30 TAC §§285.101-285.107, 285.109-285.113, 285.115

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed new §§285.101-285.107, 285.109-285.113, and 285.115, which appeared in the January 25, 1994, issue of the *Texas Register* (19 TexReg 405). The effective date of this withdrawal is June 1, 1994.

Issued in Austin, Texas, on June 1, 1994

TRD-9441623 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Effective date: June 1, 1994

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

**Chapter 305. Consolidated  
Permits**

**Additional Conditions for Solid  
Waste Storage, Processing or  
Disposal Permits**

• **30 TAC §305.149**

The Texas Natural Resource Conservation Commission has withdrawn from consideration for permanent adoption a proposed new §305.149, which appeared in the December 21, 1993, issue of the *Texas Register* (18 TexReg 9830). The effective date of this withdrawal is June 1, 1994.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441616

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

Effective date: June 1, 1994

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



# 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 29. Texas Agricultural Diversification Program: Matching Grants

- 4 TAC §§29.2, 29.6, 29.8, 29.9, 29.11-29.13

The Texas Department of Agriculture (the department) adopts amendments to §§29.2, 29.6, 29.8, 29.9, and 29.11-29.13, concerning the administration, implementation, and procedure for participation in the Texas Department of Agriculture Matching Grants Program, without changes to the proposed text as published in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3044).

The amendments are adopted to provide for more efficient, cost-effective operation of the matching grants programs, enhancing the potential for generating and fostering new agricultural technologies and entities in Texas.

The amendments delete references to the preproposal process and clarify procedures related to grant applications and approval.

No comments were received regarding adoption of the amendments.

The amendments are proposed under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with general rule-making authority; the Texas Government Code, §2001.004, which requires that the department adopt rules of practice stating the nature and requirements of all available formal and informal procedures, and Texas Agriculture Code, §44.002, which provides that the commissioner shall create an agricultural diversification program.

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

Issued in Austin, Texas, on May 31, 1994

TRD-9441613 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: June 22, 1994

Proposal publication date: April 22, 1994

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

- 4 TAC §29.10

The Texas Department of Agriculture (the department) adopts the repeal of §29.10, concerning the preproposal process for matching grants under the department's Agricultural Diversification Matching Grants Program, without changes to the proposed text as published in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3045).

The repeal is adopted to provide greater efficiency and cost-effectiveness to the grant applications process.

The repeal deletes references to the preproposal process.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with general rule-making authority; the Texas Government Code, §2001.004, which requires that the department adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Texas Agriculture Code, §44.002, which provides that the commissioner shall create an agricultural diversification program.

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

Issued in Austin, Texas, on May 31, 1994.

TRD-9441612 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: June 22, 1994

Proposal publication date: April 22, 1994

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

## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Licensing and Regulation

#### Chapter 74. Elevators, Escalators and Related Equipment

- 16 TAC §§74.10, 74.80, 74.100

The Texas Department of Licensing and Regulation adopts amendments to §§74.10, 74.80 and 74.100, concerning elevators, escalators and related equipment, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3220).

The amendments add a definition of annual inspection, lower the fee for a seal crimping tool and require test tags to be dated annually. The amendments clarify existing rules and increase public safety.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, Chapter 754, which provides the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

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

Issued in Austin, Texas, on May 31, 1994

TRD-9441572 Jack W. Garrison  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Effective date: June 21, 1994

Proposal publication date: April 29, 1994

For further information, please call (512) 463-7357

## Part IX. Texas Lottery Commission

### Chapter 401. Administration of the State Lottery Act

#### Subchapter E. Retailer Rules

##### • 16 TAC §401.367

The Texas Lottery Commission adopts new §401.367, concerning minimum ticket sales criteria, with changes to the proposed text as published in the April 1, 1994, issue of the *Texas Register* (19 TexReg 2256).

The new section works to generate more revenue for the State of Texas by ensuring that on-line ticket terminals are placed with Lottery sales agents who have a higher volume of ticket sales.

The new sections requires that Lottery sales agents maintain ticket sales as provided in the minimum ticket sales criteria established by the Texas Lottery Commission's Executive Director.

The Texas Lottery Commission did not receive any comments regarding the proposed rule. However, changes have been made based on discussions between the Lottery Commissioners during the Commission meeting at which this rule was adopted. The purpose of the changes is to ensure consistency with the State Lottery Act and to give the Executive Director discretion regarding placing a sales agent on probation.

The new section is adopted under the Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt all rules necessary to administer the State Lottery Act and Texas Government Code, §446.151, which grants authority to the director to license as a sales agent each person the director believes will best serve the public interest.

##### §401.367. Minimum Ticket Sales Criteria.

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

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

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 27, 1994.

TRD-9441507 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Effective date: June 17, 1994

Proposal publication date: April 1, 1994

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

#### Subchapter G. Lottery Security

##### • 16 TAC §401.501

The Texas Lottery Commission adopts new §401.501 concerning the security for the lottery, without changes to the proposed text as published in the April 1, 1994, issue of the *Texas Register* (19 TexReg 2256).

The rule sets out the requirements for security at the Lottery, including the development of an internal security plan. The purpose of the internal security plan is to preserve the integrity and security of the Lottery.

The effect of the adopted rule is to establish the guidelines for security at the Lottery.

No comments were received regarding adoption of the new section.

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

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 27, 1994.

TRD-9441508 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Effective date: June 17, 1994

Proposal publication date: April 1, 1994

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

## TITLE 22. EXAMINING BOARDS

### Part XII. Board of Vocational Nurse Examiners

#### Chapter 235. Licensing

##### Application for Licensure

##### • 22 TAC §235.3

The Board of Vocational Nurse Examiners adopts new §235.3, concerning Application for Licensure, without changes to the proposed text as published in the April 26, 1994, issue of the *Texas Register* (19 TexReg 3129).

The rule is adopted for renumbering purposes.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4528c, §5(f), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to carry in effect the purpose of the law.

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

Issued in Austin, Texas, on May 27, 1994.

TRD-9441528 Marjorie A. Bronk, R.N.,  
M.S.H.P.  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: June 17, 1994

Proposal publication date: April 26, 1994

For further information, please call: (512) 835-2071, Ext. 203

##### • 22 TAC §235.4

The Board of Vocational Nurse Examiners adopts the repeal of §235.4, concerning Application for Licensure as published in the April 26, 1994, issue of the *Texas Register* (19 TexReg 3129).

The repeal of this rule is for renumbering purposes and to adopt new §235.4.

No comments were received regarding adoption of the repeal.

The new section is adopted under Texas Civil Statutes, Article 4528c, §5(f), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to carry in effect the purposes of the law.

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



Issued in Austin, Texas, on May 27, 1994.

TRD-9441527

Marjorie A. Bronk, R.N.,  
M.S.H.P.  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: June 17, 1994

Proposal publication date: April 26, 1994

For further information, please call: (512)  
835-2071, Ext. 203

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**Part XXVI. Texas Board  
of Licensure for  
Professional Medical  
Physicists**

**Chapter 601. Medical  
Physicists**

- 22 TAC §§601.2, 601.7,  
601.14-601.16

The Texas Board of Licensure for Professional Medical Physicists (Board) with the approval of the Texas Department of Health (department) adopts amendments to §§601.2, 601.7, 601.14, 601.15 and 601.16 concerning licensed medical physicists and temporary licensed medical physicist, without changes to the proposed text as published in the February 11, 1994, issue of the *Texas Register* (19 TexReg 1005).

The amendments add a new definition for upper division semester hour credits; expand the full-time work experience date for licensure without examination; add a passing score for the examination taken by out-of-state applicants; define deceptive advertising; and add a criminal conviction related to the profession of medical physicists.

The following comment was received concerning the proposed amendments.

**COMMENT:** Concerning §601.14(m), a commenter suggested that the phrase "each contractor, employer or client" be changed to "each contractor, employer or client in Texas".

**RESPONSE:** The board does not accept the comment for rule changes. The board acknowledges that the rules are only enforceable in the State of Texas.

The commenter was an individual who was generally in favor of the rules but suggested a change of language as mentioned previously.

The amendments are adopted under the Texas Medical Physics Practice Act, Texas Civil Statutes, Article 4512n, §11, which requires the Texas Board of Licensure for Professional Medical Physicists to adopt rules, with the approval of the Texas Department of Health, that are reasonably necessary for the proper performance of its duties under the Texas Medical Physics Practice Act (Act).

These sections implement the Texas Medical Physics Practice Act, Texas Civil Statutes, Article 4512n.

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 Austin, Texas, on June 1, 1994.

TRD-9441602

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

Effective date: June 22, 1994

Proposal publication date: February 11, 1994

For further information, please call: (512)  
834-6655

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**TITLE 25. HEALTH SER-  
VICES**

**Part I. Texas Department  
of Health**

**Chapter 5. Grants and  
Contracts**

**Contracts for Regional Poison  
Control Centers**

- 25 TAC §§5.51-5.59

The Texas Department of Health (department) and the Advisory Commission on State Emergency Communications (commission) jointly adopt new §§5.51-5.59 concerning criteria for funding the Texas Poison Control Network. Sections 5.51, 5.53-5.57, and 5.59 are adopted with changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1766). Sections 5.52 and 5.58 are adopted without changes and will not be republished.

The rules establish the criteria for funding the six regional sites that will comprise the Texas Poison Control Network. The rules explain the relationship of the Poison Control Coordinating Committee to the department and the commission; require the adoption of a statewide telecommunications network plan; require each regional poison control center to develop an operations plan; provide procedures for application for funding; establish criteria for funding and contracting requirements; and assign to the six sites geographic regions for delivery of poison control services. The rules will provide that the six sites receive periodic funding from the department to provide poison control services in accordance with Health and Safety Code, Chapter 777.

A summary of comments received and the department's and commission's responses are as follows.

**COMMENT:** Concerning the proposed rules in general, one commenter expressed concerns that West Texas has particular needs in terms of types of poison exposures, the presence of non-English speaking people, the importance of poison services in rural areas where medical care is not readily available, and the presence of drugs and products from Mexico. The commenter expressed his concern that the law be implemented to its fullest degree.

**RESPONSE:** The department and the commission agree that poison services are needed in West Texas and that the proposed rules provide a mechanism to implement a network to serve all of the people of Texas. The proposed rules provide the flexibility for each center to develop areas of expertise based upon its region. In addition, the law provides that poison services will be made available to persons who do not speak English. There are currently private companies that provide translation services in most languages.

**COMMENT:** Concerning §5.51(a), five commenters suggested that language be added to clarify that grants would be awarded to "each of the six designated poison control centers."

**RESPONSE:** The department and the commission disagree with the comment, since the centers that are eligible to apply for funding are designated in §5.52 of the proposed rules.

**COMMENT:** Concerning §5.51(a)(2), five commenters suggested that the advice and recommendations of the poison control coordinating committee be "made directly" to the department and the commission. The commenters also objected to the procedure that requires the poison control coordinating committee to submit advice and recommendations to the subject matter committees of the governing bodies of the department and the commission rather than to the full bodies.

**RESPONSE:** The department and the commission disagree with the comment and believe the subsection as proposed directs that written communication is required to be sent to the respective committees of each governing board. Each governing body has an established internal structure for conducting its business, and the proposed rules recognize the existing committee structures in each.

**COMMENT:** Concerning §5.51(d), five commenters suggested that the terms "network" and "system" are used interchangeably in the proposed rules and neither are defined. The commenters suggest that an appropriate definition be included that utilizes the American Association of Poison Control Centers (AAPCC) guidelines for 24-hour coverage and would require each center to meet the certification criteria of the AAPCC.

**RESPONSE:** The department and the commission agree that the terms "network" and "system" are used inconsistently in the proposed rules. "Network" is the preferred term and will be used throughout the rules. Since its usual definition applies, there is no need to include a separate definition. The department and the commission disagree with the need to include a definition of 24-hour coverage and believe that §5.58(a)(3) adequately addresses AAPCC certification standards.

**COMMENT:** Concerning §5.53, six commenters suggested that subsection (b) be deleted and that subsection (a) be amended to read that the department and the commission shall adopt a statewide telecommunications operations plan that shall be in accordance with other features as appropriate, e.g. staffing needs.

**RESPONSE:** The department and the commission disagree with the comment. The network will be need to be phased in since not all six sites are currently operational. The purpose of the network telecommunications plan is to implement the requirement that each poison control center (poison control answering point) be linked to the state 9-1-1 system (public safety answering point) in accordance with Health and Safety Code, §777 002(b).

**COMMENT:** Concerning §5.54, six commenters suggested that proposed staffing be for 24-hour operations in accordance with the standards of the AAPCC's.

**RESPONSE:** The department and the commission disagree and believe that §5.56(a)(3) adequately addresses AAPCC certification standards.

**COMMENT:** Concerning §5.55, a commenter suggested that the title be changed to "Procedures for Requests for Funding" to more appropriately identify the section.

**RESPONSE:** The department and the commission agree with the comment and have revised the proposed rules to change the title from "Procedures for Requests for Services" to "Procedures for Requests for Funding."

**COMMENT:** Concerning §5.55(a), a commenter suggested that the provision concerns the contract and should be moved to §5.57(a). In addition, the commenter suggested that the disbursement of funds be monthly to be in accordance with state fiscal policies

**RESPONSE:** The department and the commission agree with the comment and have revised the proposed rules by moving §5.55(a) to the end of §5.57(a) and revising the language to reflect that disbursements will be made on a monthly basis. The remaining subsections in §5.55 have been renumbered accordingly. The department's standard reimbursement procedure allows an initial one-time advance equalling two months operating costs and thereafter, the contractor is reimbursed monthly. The advance funds must be liquidated during the last two months of the contract term

**COMMENT:** Concerning proposed §5.55(d), six commenters suggested that the language be changed to use the word "shall" to require the proposal for contract be submitted.

**RESPONSE:** The department and the commission disagree with the comment. There may be circumstances for which an applicant fails to meet the eligibility or funding criteria. In such instances, there would be no proposal for contract.

**COMMENT:** Concerning proposed §5.55(d)(2), one commenter suggested that the execution date of the contract be no later than August 31 to coincide with the end of the state fiscal year

**RESPONSE:** The department and the commission agree with the comment and have revised the final rule in §5.55(c)(2) to reflect that contracts must be executed no later than August 31

**COMMENT:** Concerning proposed §5.55(e), a commenter suggested that this section deals with contract requirements, and therefore it should be moved under §5.57 concerning "Contracts."

**RESPONSE:** The department and the commission agree with the comment and have revised the final rule by moving proposed §5.55(e) to adopted §5.57(f).

**COMMENT:** Concerning proposed §5.55(e), one commenter suggested that centers that were not fully operational could not send reports in electronic form.

**RESPONSE:** The department and the commission disagree that this requirement cannot be met by the centers. The proposed rule allows flexibility in the interpretation of "electronic form", and the centers will be able to work with the department on transitional methods of data delivery.

**COMMENT:** Concerning §5.56(a)(3), one commenter suggested that there must be an assurance of adequate funding in the future for personnel in order to work toward certification.

**RESPONSE:** The department and the commission disagree that the proposed rules need to address prospective funding issues. The Texas Legislature meets biennially and can change the law and the agencies' appropriations.

**COMMENT:** Concerning §5.56(b)(2), one commenter suggested that the centers cannot develop a budget without knowing what the proposed telecommunications and information systems will be, and if the centers will have uniform capabilities.

**RESPONSE:** The department and the commission disagree that the proposed rules will not allow the centers to develop an operations budget. Based upon regional population, the centers will be able to project potential call volume based upon data developed by the American Association of Poison Control Centers. The department and the commission are working collaboratively to develop the statewide telecommunications network plan. The intent of this proposed rule was to enunciate an assumption that the goal of the network will be to have uniformity whenever possible in using information and telecommunication technology.

**COMMENT:** Concerning §5.56(b)(3), one commenter suggested that each center must have 24-hour operations to meet certification requirements.

**RESPONSE:** The department and the commission disagree on the basis that Health and Safety Code, Chapter 777, does not require that each center be certified.

**COMMENT:** Concerning §5.56(b)(4), one commenter suggested that the language be changed to state that each center "will be funded."

**RESPONSE:** The department and the commission disagree on the basis that Health and Safety Code, Chapter 777, requires that funding be awarded only on the basis of criteria developed by the department and the commission.

**COMMENT:** Concerning §5.57(e), a commenter suggested that the state should fund no more than what the state reimburses for allowable travel expenses. The commenter recognized that some institutions may reimburse travel at rates less than the state.

**RESPONSE:** The department and the commission agree with the comment and have revised the last sentence of the proposed rule §5.57(e) to read "Reimbursement for travel shall not exceed the rates that apply in the travel regulations of the State of Texas." The poison control centers may have internal travel rates which are lower than the State of Texas travel rates, and this change clarifies that the department will fund a lower rate that may be used by the institutions establishing the poison control centers.

Minor editorial changes were made for clarification purposes.

The following provided comments on the proposed rules. Botanical Research Institute of Texas, Inc.; Dallas Zoo; El Paso Poison Control Steering Committee; El Paso Pharmaceutical Association; Environmental Protection Agency-Region 6; Northwest Texas Healthcare System; Parkland Memorial Hospital; Presbyterian Hospital of Dallas-Hyperbaric Medicine Unit; River Legacy Foundation; Thomason Hospital; University of Texas Health School of Public Health (El Paso); University of Texas at El Paso; University of Texas Southwestern Medical Center at Dallas; Jose R. Villescas, Jr., R.Ph.; and department staff.

While none of the commenters were against the rules in their entirety, they expressed concerns, questions, and made recommendations. Twenty-one commenters were for the rules as proposed.

The new sections are adopted under the Health and Safety Code, Chapters 771 and 777, which requires the department and the commission to adopt rules to establish funding criteria for poison control centers, and Health and Safety Code, §12 001, which provides the Texas Board of Health with authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health

#### *§5 51 General Program Information.*

(a) Authority. The Health and Safety Code, Chapter 777, provides the Texas Department of Health (department) and the Advisory Commission on State Emergency Communications (commission) with the authority to establish a program to award grants to fund a network of regional poison control centers.

(1) Purpose and task. The purpose and task of the Poison Control Coordinating Committee (PCCC) is to assist and provide professional and technical recommendations and advice to the department and commission in undertaking the duties and responsibilities relating to the Health and Safety Code, Chapter 777. More specif-

ically, the PCCC shall advise the department and commission regarding the development, adoption and implementation of policies and rules, and the imposition and allocation of poison control surcharge revenues in accordance with the poison control provisions of the Health and Safety Code, Chapters 771 and 777 and these sections.

(2) Advice and recommendations. The advice and recommendations of the PCCC regarding such matters shall be provided to the department and the commission in writing, in the following fashion.

(A) In accordance with departmental organization, advice and recommendations to the department shall be referred to the Texas Board of Health through the Health and Clinical Services Committee, or any similar committee officially established for such purposes by the Texas Board of Health.

(B) In accordance with commission organization, advice and recommendations to the commission shall be referred to the commission through the commission's poison control committee, or any similar committee officially established for such purposes by the commission.

(b) Objective. The objectives of the program described in this section are to.

(1) promote public safety and injury prevention through well coordinated poison control activities within the State of Texas;

(2) provide information and educational programs for communities and health care professionals;

(3) provide poison prevention education;

(4) provide technical assistance to state agencies requesting toxicology assistance; and

(5) provide consultation services concerning medical toxicology.

(c) Scope. These sections describe contracts and grants available to poison control centers and procedures for awarding such contracts and grants.

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

(1) AAPCC—American Association of Poison Control Centers.

(2) Commission—The Advisory Commission on State Emergency Communications.

(3) Department—The Texas Department of Health.

(4) PCAP—Poison Control Answering Point; also referred to as Designated Regional Poison Control Center for the State.

(5) PCCC—Poison Control Coordinating Committee.

(6) PSAP—Public Safety Answering Point.

(7) State Fiscal Year—A period of time which begins September 1 of a given year and ends August 31 of the following year.

(8) UG&CMS—Uniform Grant and Contract Management Standards, consisting of a set of rules set forth in 1 Texas Administrative Code, Chapter 5, Subchapter A, promulgated pursuant to the Uniform Grant and Contract Management Act, Government Code, §783.

#### §5.53. State Network Operations Plan.

(a) The Advisory Commission on State Emergency Communications (commission) and the Texas Department of Health (department) shall adopt a statewide telecommunications network plan. The plan may establish phased implementation of the network.

(b) The plan shall consider the following:

(1) uniform statewide 800-service availability for community and professional access for poison information and referral;

(2) direct access from Public Safety Answering Points (PSAP) to Poison Control Answering Points (PCAP) for emergency calls; and

(3) other features as appropriate and identified by this section.

§5.54. Poison Control Answering Point (PCAP) Operations Plan. To be eligible for operational funding, a PCAP shall develop an operations plan that includes, but may not be limited to, the following:

(1) a five-year strategic plan;

(2) an assessment of regional needs;

(3) proposed staffing for operations as needed to insure statewide 24-hour access to the poison control network;

(4) a community education plan; and

(5) a professional education plan.

§5.55. Procedures for Requests for Funding.

(a) The Texas Department of Health (department) shall mail to each Poison Control Answering Point (PCAP) a request for services for funding no later than January 1st of each contract expiration year. Each PCAP will return to the department a response to the funding request no later than June 1st following receipt.

(b) Requests for funding must comply with all requirements of the Uniform Grant and Contract Management Standards.

(c) Based upon the criteria for funding, the department and the Advisory Commission on State Emergency Communications (commission) shall prepare a proposal for contract with a PCAP. The proposal for contract may be submitted to the PCAP no later than July 1st of each year.

(1) The PCAP may request reconsideration by submitting a request in writing to the department within 15 days of receipt of the proposal. The commission and the department shall review the request and make their final decision on the award no later than August 1st.

(2) Each PCAP shall execute a contract with the department for funding no later than August 31st.

#### §5.56. Criteria for Funding.

(a) Criteria. The criteria for funding Poison Control Answering Points (PCAP) must consider:

(1) the need of the region based on population served for poison control services and the extent to which the grant would meet the identified need;

(2) the assurance of providing quality service;

(3) that the PCAP is working towards achieving and/or maintaining certification as a poison control center with the American Association of Poison Control Centers (AAPCC);

(4) the availability of other funding sources;

(5) the maintenance of effort; and

(6) the development or existence of telecommunications systems.

(b) General funding assumptions.

(1) The centers will be configured as a network.

(2) To the extent practical, telecommunications and information systems shall be uniform statewide for each PCAP consistent with the statewide telecommunications network plan.

(3) Staffing shall be configured to provide 24-hour access to poison control

services for each PCAP region through a statewide network.

(4) All six designated PCAPs will be considered for initiation or operational funding on or before September 1, 1994.

(5) The Advisory Commission on State Emergency Communications (commission), the Texas Department of Health (department) and the Poison Control Coordinating Committee (PCCC) shall work together with the AAPCC to certify the statewide poison control network and/or individual centers as required.

(c) Amendment of criteria. These criteria assumptions are subject to amendment by the commission and the department upon advice from the PCCC.

(d) Request for reimbursement. Poison centers may submit requests for funding of costs accrued for searches and hiring of initial personnel. Monies available prior to September 1, 1994, shall be disbursed in accordance with §5.57 of this title (relating to Contracts).

§5.57. Contracts.

(a) Poison Control Answering Points (PCAP) must execute contracts with the Texas Department of Health (department) to receive funding. These contracts are governed by the Uniform Grant and Contract Management Standards (UG&CMS), 1 Texas Administrative Code, §§5.141-5.167. The contract period shall be for one year. Disbursement shall be monthly.

(b) Budget categories for funding shall be as follows:

- (1) personnel;
- (2) fringe benefits,
- (3) travel;
- (4) capital expenditures;
- (5) supplies;
- (6) contractual services; and
- (7) other. Other types of expenses shall include, but not be limited to the following:

- (A) rent;
- (B) printing and publications;
- (C) maintenance and repairs;
- (D) communications;
- (E) postage and mailing;

- (F) utilities;
- (G) dues and subscriptions,
- (H) public education;
- (I) training; and
- (J) janitorial services.

(c) The guidelines established by the American Association of Poison Control Centers (AAPCC) will be considered in the distribution of personnel among the centers.

(d) Fringe benefits shall be granted upon the prevailing rate of the PCAP institution.

(e) Travel shall include expenses of PCAP staff for training and educational purposes, and the travel of PCAP staff for community and professional education activities. Reimbursement for travel will not exceed the rates that apply in the travel regulations of the State of Texas.

(f) Each funded PCAP shall have and maintain daily poison reporting data consistent with the American Association of Poison Control Centers (AAPCC) data collection standards and legislative reporting requirements. To the extent practical, PCAPs shall utilize similar management information network standards of compatibility. Quarterly reports of medically-attended poisonings shall be sent in electronic form to the department. The PCAPs shall adhere to the provisions the Health and Safety Code, Chapter 84, relating to reporting confirmed or suspected acute occupational pesticide poisonings.

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 Austin, Texas, on June 1, 1994

TRD-9441596 Susan K Steeg  
General Counsel, Office of  
General Counsel  
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Health

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Proposal publication date. March 15, 1994

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

Chapter 14. County Indigent Health Care Program

The Texas Department of Health (department) adopts amendments to §14.103 and §14.104, the repeal of §14.109, and amendments to §14.203 and §14.204 without changes to the proposed text as published in

The February 11, 1994, issue of the Texas Register (19 TexReg 1006).

These amendments are being adopted to comply with Chapter 61, Health and Safety Code, the Indigent Health Care and Treatment Act, which specifies that the standards and procedures must be consistent with the standards and procedures used to determine eligibility in the AFDC-Medicaid program.

Section 14.103 is amended to delete a reference to "a male parent" that was adopted in error. Section 14.104 language is changed to state that the monthly maximum income standards will correspond to the current AFDC recognizable needs amounts for the household's size. Currently the actual dollar amounts used for the maximum monthly income standards are published in §14.109 which is being repealed, therefore the actual dollar amounts will no longer be included. Section 14.203 is amended to correspond to new payment methodology in Medicaid. Section 14.204 is amended to delete a reference to Medicare that is in error.

No comments were received on the proposed amendments or the repeal during the comment period.

Subchapter B. Determining Eligibility

• 25 TAC §14.103, §14.104

The amendments are adopted under Chapter 61 of the Health and Safety Code and Chapters 22 and 32 of the Human Resources Code. The authority to administer the County Indigent Health Care Program was transferred to the Texas Department of Health under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

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 Austin, Texas, on June 1, 1994.

TRD-9441597 Susan K Steeg  
General Counsel, Office of  
General Counsel  
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Health

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For further information, please call: (512) 338-6458

• 25 TAC §14.109

The repeal is adopted under Chapter 61 of the Health and Safety Code and Chapters 22 and 32 of the Human Resources Code. The authority to administer the County Indigent Health Care Program was transferred to the Texas Department of Health under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

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

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Health

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338-6458



### Subchapter C. Providing Services

#### • 25 TAC §14.203, §14.204

The amendments are adopted under Chapter 61 of the Health and Safety Code and Chapters 22 and 32 of the Human Resources Code. The authority to administer the County Indigent Health Care Program was transferred to the Texas Department of Health under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

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

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For further information, please call: (512)  
338-6458



### Chapter 98. HIV and STD Control

#### • 25 TAC §98.23, §98.31

The Texas Department of Health (department) adopts amendments to §98.23 and §98.31, without changes to the proposed text as published in the March 8, 1994, issue of the *Texas Register* (19 TexReg 1627).

The sections cover AIDS/HIV service providers under the Texas HIV Services Grant Program. Specifically, the sections cover client complaints, internal reconsideration, and due process requirements; and investigation of public complaints.

The amendments are adopted to specify due process requirements for complaints involving clinical or direct client care. The amendments ensure that clients receive quality clinical care and that the evaluation of complaints relating to direct clinic care be performed by department staff with clinical expertise.

One commenter expressed the clinic staff support of the proposed rule change and stated in the response that the change would improve client care.

The commenter was Valley Pediatric Subspecialty Clinic in Pharr, Texas.

The amendments are adopted under the Health and Safety Code, §85.016 and §85.032, which provide the Texas Board of Health with the authority to adopt rules concerning state grant programs; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

Issued Austin, Texas, on June 1, 1994.

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Health

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Proposal publication date: March 8, 1994

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



### Chapter 143. Medical Radiologic Technologists

#### • 25 TAC §§143.4, 143.7, 143.10, 143.11, 143.14

The Texas Department of Health (department) adopts amendments to §§143.4, 143.7, 143.10, 143.11 and 143.14, concerning the certification of medical radiologic technologists. Sections 143.10 and 143.11 are adopted with changes to the proposed text as published in the February 11, 1994, issue of the *Texas Register* (19 TexReg 1008). Sections 143.4, 143.7, and 143.14 are adopted without changes and will not be republished.

The sections update the procedures for late renewal of a certificate, allow a technologist to convert a general certificate to a limited certificate, allow more continuing education credits to be earned in the "indirectly related" category, and strengthen the rules relating to violations for which disciplinary actions are authorized.

The following comments were received concerning the proposed sections.

COMMENT: One commenter recommended correcting the wording of the phrase, "date of origin approval letter" in §143.10(b)(1).

RESPONSE: The department agrees and has corrected the wording.

COMMENT: Concerning §143.10(f), a commenter recommended that wording be added to clarify the expiration date of a certificate which is renewed late and that a technologist who had not earned continuing education would not be eligible for a 120-day certificate under subsection (e)(7) of this section.

RESPONSE: The department agrees with the concerns. Wording has been added to subsection (f)(1) and (f)(1)(C) clarifying the expiration of a certificate issued under the late renewal procedures and clarifying that a technologist applying for late renewal without having completed the required continuing education is not eligible for renewal or a 120-day certificate.

COMMENT: One comment was received from an individual in favor of the amendments to §143.10.

RESPONSE: No changes were requested.

COMMENT: Concerning §143.11(f), a commenter recommended that wording be added in paragraphs (3) and (4) to clarify the rules.

RESPONSE: The department agrees with the comment and has added the wording.

One individual provided the comment in favor of the rules. The remaining comments were from staff.

The amendments are adopted under Texas Civil Statutes, Article 4512m, §2.05, which provide the Texas Board of Health with the authority to adopt rules concerning the regulation and certification of medical radiologic technologists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

The sections implement the Medical Radiologic Technologist Certification Act, Texas Civil Statutes, Article 4512m

#### §143.10. Certificate Issuance, Renewals and Late Renewals.

(a) Purpose. The purpose of this section is to set out the rules for issuing certificates (limited or general) and temporary certificates (limited or general) and certificate renewal.

(b) Issuance of certificates

(1) The Texas Department of Health (department) shall send each applicant whose application has been approved for a general or limited certificate a form to complete and return with the prorated certification fee. Failure to pay the fee requested within 60 days of the date of the original approval letter shall result in the application being invalidated.

(2) -(3) (No change.)

(c)-(e) (No change.)

(f) Late renewals.

(1) A person whose certificate has expired for not more than one year may renew the certificate by submitting to the department the completed renewal form, completed continuing education report forms (if required), the renewal fee, and the late renewal fee. A certificate issued under

this subsection shall expire two years from the date the previous certificate expired, not including a 120-day certificate issued in accordance with subsection (e)(7) of this section.

(A) If the certificate has been expired for 90 days or less, the person may renew the certificate by paying the one to 90-day late renewal fee.

(B) If the certificate has been expired for over 90 days but not more than one year, the person may renew the certificate by paying the 91-day to one year late renewal fee.

(C) The person must comply with the continuing education requirements for renewal as set out in §143.11 of this title (relating to Continuing Education Requirements) before the late renewal is effective. The person is not eligible for a 120-day certificate as described in subsection (e)(7) of this section.

(2) The late renewal is effective if it is mailed to the department or personally delivered by the MRT or LMRT or his/her agent to the department not more than one year after certificate expiration. If mailed, the postmark date shall be considered the date of mailing. A postage metered date is not considered as a postmark. A certificate not renewed within one year after expiration cannot be renewed.

(3) A person whose certificate has expired may not administer a radiologic procedure during the one-year period in violation of the Act. A person may not use a title that implies certification while the certificate is expired.

(4) A person whose certificate has been expired for more than one year may apply for another certificate by meeting the requirements of the Act and this chapter which apply to all new applicants.

(g)-(h) (No change.)

#### §143.11. Continuing Education Requirements.

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

(c) Content. All continuing education activities should provide for the professional growth of the technologist.

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

(3) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are indirectly related to radiologic technology. For the purpose of the section, indirectly related topics include, but are not limited to, patient care, computer

science, computer literacy, introduction to computers or computer software, physics, human behavioral sciences, mathematics, communication skills, public speaking, technical writing, management, administration, accounting, ethics, adult education, medical sciences, and health sciences. Other courses may be accepted for credit provided there is a demonstrated benefit to patient care.

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

(h) Activities unacceptable as continuing education. The department shall not grant credit for:

(1)-(5) (No change.)

(6) Learning activities indirectly related to radiologic technology which exceed 50% of the contact hour requirement as set out in subsection (c)(3) of this section;

(7)-(11) (No change.)

(i) Failure to complete the required continuing education.

(1) An MRT or LMRT who has failed to complete the requirements for continuing education may be granted a 120-day certificate as described in §143.10(e)(7) of this title (relating to Certificates, Renewals, and Late Renewals). The 120-day extension is the maximum that shall be granted and there will be no exceptions, nor may an additional extension period be granted.

(2) (No change.)

(3) An MRT or LMRT who has not corrected the deficiency by the expiration date of the 120-day certificate shall be considered as non-compliant with the renewal requirements and may no longer perform radiologic procedures under the expired certificate.

(4) The person may renew late under §143.10(f) of this title (relating to Certificates, Renewals, and Late Renewals).

(j)-(k) (No change.)

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

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TRD-9441601 Susan K. Steeg  
General Counsel, Office of  
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For further information, please call: (512) 834-6617

## TITLE 28. INSURANCE PART I. TEXAS DEPARTMENT OF INSURANCE

### Chapter 5. Property and Casualty Insurance

#### Subchapter B. Insurance Code, Chapter 5, Subchapter B Rules to Implement the Omnibus Health Care Rescue Act's Reduction In Certain Professional Liability Insurance Premiums

##### • 28 TAC §§5.1301-5.1309

The Texas Department of Insurance adopts amendments to §§5.1301-5.1309. Section 5.1301 and §5.1308 are adopted with changes to the proposed text as published in the March 18, 1994, issue of the *Texas Register* (19 TexReg 1899). Sections 5.1302-5.1307 and §5.1309 are adopted without changes and will not be republished.

The amendments to §§5.1301-5.1309 implement the amendments to the Insurance Code, Article 5.14-4, occasioned by the 73rd Legislature, 1993. The amendments clarify and define the scope of those persons and entities entitled to a reduction in professional liability insurance premiums; add criteria allowing health clinics to receive a premium discount for professional liability coverage; revise the definition of medical malpractice claims as defined by Section 110.001 of the Civil Practice and Remedies Code; and clarify the required data collection and reporting requirements. Two changes were made to §5.1301 and are as follows: in the first line of §5.1301 the terms defined were changed to read "[as] used in §§5.1301 through 5.1309" rather than "§§5.1302-5.1309" because those terms defined are also used to define other terms in §5.1301; and clarification of the definition of "insurer". The effective date for the new annual data collection forms and instructions was changed in §5.1308 from April 1, 1994, as published in the *Texas Register* to July 1, 1994. This change was necessary to permit sufficient time for reporting after adoption of the amendments.

The amendments provide orderly and efficient procedures for determining which persons and entities qualify for health care liability insurance premium reductions. The amendments add criteria allowing health clinics to receive a premium discount for health care liability coverage and revise the definition of medical malpractice claims. Section 5.1301 defines the terms used throughout the sections. Section 5.1302 specifies the filing requirements with the Texas Department of Insurance that participating insurers must fulfill. Section 5.1303 addresses the amount of premium discount that health care providers may receive. Section 5.1304 specifies the qualifications that health care professionals, health centers and health clinics must meet to be entitled to a discount. Section 5.1305

specifies the requirements for requesting a premium discount. Section 5.1306 provides the procedures for auditing health care professionals, health centers and health clinics and specifies the penalties for failure to meet the statutory requirements. Section 5.1307 addresses the provisions governing the insurers right to cancel or non renew policies. Section 5.1308 specifies new data collection and reporting requirements. Section 5.1309 specifies the date which the funding for the program will expire unless renewed by the legislature.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Insurance Code, Articles 5.15-4, 1.02, 1.03A, and 1.04C and the Government Code, §2001.004, et seq. Article 5.15-4 authorizes the State Board of Insurance to adopt rules to carry out the purposes of this article which relates to the reduction of certain professional liability insurance premiums as specified within the article. This authority is interpreted to be delegated to the Commissioner of Insurance under Article 1.02 of the Insurance Code, as amended by the 73rd Texas Legislature in House Bill 1461, which provides that a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. Article 1.04C of the Insurance Code, as enacted in House Bill 1461, requires the Commissioner of Insurance to develop and implement policies that provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the Commissioner's jurisdiction. The Government Code, §2001.004 et seq. (Administrative Procedure Act) authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state agency.

**§5.1301. Definitions.** The following words and terms, when used in §§5.1301-5.1309 of this title (relating to Insurer Filing Requirements; Determination of Premium Discount Amount; Qualifications for Premium Discount; Request for Premium Discount; Audit and Penalty Provisions; Prohibitions and Sanctions on Insurers; Data Collection and Reporting Requirements; and Expiration), shall have the following meanings, unless the context clearly indicates otherwise.

**Act**—The Omnibus Health Care Rescue Act (Insurance Code, Article 5.15-1, §3 and §4B, and Article 5.15-4).

**Charity care or services**—Care or services provided by a health care professional, health center, or health clinic under:

(A) Chapters 31, 32, 35, or 61, Health and Safety Code;

(B) the Medicaid program under Human Resources Code, Chapter 32;

(C) a contract with a migrant, community, or homeless health center that receives funds under 42 United States Code, §§254b, 254c, or 256;

(D) Subchapter B, Chapter 311, Health and Safety Code, or 42 United States Code, § 1395dd, to the extent the professional or the hospital in which the care or services are provided is not compensated;

(E) an approved family practice residency training program established under Subchapter I, Chapter 66, Education Code, to the extent the professional is not compensated for the services;

(F) an indigent health care program of a hospital district created under the authority of Article IX, Sections 4 through 11, of the Texas Constitution; or

(G) a county correctional institution health care program for inmates who are in the custody of such county correctional institution operated by such county or under contract with such county.

**Eligible health care liability claim**—A health care liability claim as defined in the Medical Liability and Insurance Improvement Act of Texas (Texas Civil Statutes, Article 4590i) against a health care professional or health clinic that renders charity care in at least 10% of the patient encounters engaged in by said health care professional or health clinic during the policy year in which the claim was made, or a claim against a health center or against a health care professional who participates in a Medicaid managed care project established under the Human Resources Code, §32.041. For the purpose of implementing the provisions of the Act, the Texas Department of Insurance has interpreted an eligible health care liability claim as being made when the alleged negligent act or omission resulting in a claim arose.

**Health care professional**—A person who is either:

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

(C) recognized by the Board of Medical Examiners as a physician assistant; or

(D) a health care professional who participates in a Medicaid managed care project established under the Human Resources Code, §32.041

**Health center**—A federally qualified health center, as that term is defined by 42 United States Code, §1396d.

**Health clinic**—A clinic or other facility providing health care in conjunction with an approved family residency practice program.

**Insurer**—Any one of the following entities:

(A) an insurance company chartered to write or admitted to write and writing health care liability or medical professional liability insurance in Texas;

(B) (No change.)

(C) any self-insurance trust created under the Insurance Code, Chapter 21, Subchapter E, Article 21.49-4, to provide health care liability or medical professional liability insurance;

(D) a purchasing group domiciled, registered, and writing health care liability or medical professional liability insurance for health centers in the state; or

(E) an institution of higher education that provides health care liability or medical professional liability coverage under the Education Code, Chapter 59.

**Health care liability claim**—A claim or action against a health care professional, health center, or health clinic for treatment, lack of treatment, or other claimed departure from accepted standards of medical care or health care or safety which proximately results in injury to or death of a patient, without regard to whether said claim or action is based upon tort or contract principles.

**Patient encounter**—An occasion on which a health care professional, health center, or health clinic renders professional health care services to a patient. For the purposes of implementing the provisions of the Act, the Texas Department of Insurance has interpreted a patient encounter to be as provided in subparagraphs (A) and (B) of this definition. A telephone consultation with or about the patient is not considered a patient encounter. A patient encounter is as follows:

(A) a face to face visit with the patient; or

(B) a consultative service with or about the patient which is recorded in the patient's chart.

**§5.1308. Data Collection and Reporting Requirements.**

(a) Each insurer shall submit to the Texas Department of Insurance, by the 31st day of January of each year, information for the prior 12-month period regarding participation and claims for all insureds that have applied for or received a premium reduction under the provisions of the Act. Such information shall be submitted on TDI FORM PLR-93 adopted by the Texas Department of Insurance. The Department hereby adopts and incorporates herein by reference for annual data collection TDI FORM PLR-93 and instructions effective July 1, 1994. TDI FORM PLR-93 and instructions, which medical malpractice insurers shall use in complying with this section, are available from the Texas Department of Insurance, Professional Liability, Mail Code 104-2B, Box 149104, Austin, Texas 78714-9104.

(b) The Texas Department of Insurance shall, at least annually, publish reports summarizing the aggregate data reported on TDI FORM PLR-93 and shall make these summary reports available to the public.

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 31, 1994.

TRD-9441577      D. J. Powers  
                            Legal Counsel to the  
                            Commissioner  
                            Texas Department of  
                            Insurance

Effective date: June 21, 1994

Proposal publication date: March 18, 1994

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

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part III. Texas Youth Commission**

**Chapter 87. Treatment**

**Program Planning**

**• 37 TAC §87.29**

The Texas Youth Commission (TYC) adopts an amendment to §87.29, concerning independent living preparation, without changes to the proposed text as published in the April 19, 1994, issue of the *Texas Register* (19 TexReg 2897).

The justification for the amendment is that TYC will provide more efficient documentation of TYC youth participating in independent living preparation programs.

The amendment will define how TYC youth

receiving primary services or supplemental services are counted.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.076, which provides the Texas Youth Commission with the authority to place youth in programs it deems appropriate.

The proposed rule implements the Human Resource Code, §61.034.

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 24, 1994.

TRD-9441482      Steve Robinson  
                            Executive Director  
                            Texas Youth Commission

Effective date: June 17, 1994

Proposal publication date: April 19, 1994

For further information, please call: (512) 483-5244

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**Chapter 93. General Provisions**

**Records, Reports and Forms**

**• 37 TAC §93.75**

The Texas Youth Commission (TYC) adopts new §93.75, concerning population management, without changes to the proposed text as published in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3048).

The justification for amending the section is to provide more efficient management of TYC population and increase safety for youth and staff.

The new rule will allow for immediate movement of committed delinquent youth from Texas Youth Commission maximum restriction facilities to high restriction facilities to relieve overpopulation which creates a high possibility of danger to youth and staff.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order the child's confinement under conditions it believes is best designed for the child's welfare and the interests of the public.

The proposed rule implements the Human Resource Code, §61.034.

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 24, 1994.

TRD-9441481      Steve Robinson  
                            Executive Director  
                            Texas Youth Commission

Effective date: June 17, 1994

Proposal publication date: April 22, 1994

For further information, please call: (512) 483-5244

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part XV. Texas Veterans Commission**

**Chapter 451. Veterans County Service Officers Accreditation**

**• 40 TAC §451.1, §451.3**

The Texas Veterans Commission adopts new §451.1 and §451.3 concerning definitions and general provisions, with changes to the proposed text as published in the March 24, 1994, issue to the *Texas Register* (19 TexReg 2190).

The new sections are justified because they will provide for additional training for Texas Veterans County Service Officers thereby allowing them to receive accreditation and present claims to the Department of Veterans Affairs on behalf of veterans and their dependents and survivors in the name of the Texas Veterans Commission.

The new sections will function by allowing Veterans County Service Officers to participate in the Agency's Accreditation Program to receive accreditation to present claims in the name of the Texas Veterans Commission.

Several grammatical and other nonsubstantive changes have been made to the rules for clarity.

Several comments were received from Texas Veterans County Service Officers regarding the adoption of the new section. In general the comments were supportive of the proposed rules. The Vice President of the Veteran County Service Officers Association of Texas voiced the Association's strong support for the rules and opined that this would strengthen the relationship between the Association and the Commission by enhancing the delivery of services to Texas veterans and their dependents. Several indicated they wanted accreditation for the purpose of certification of dependency documents only. This can be accomplished with the formulation and publication of the procedures to implement the adopted rules. One Texas Veterans County Service Officer was concerned about any liability the county would incur. It is the Commission's understanding that the County Service Officer and County may not have any more nor less liability than it currently may have.

A comment was received requesting that the Commission pay if there are additional costs for any additional training required for accreditation. This is a procedural issue, which will be addressed according to the availability of funds, i.e., if Commission funds are available they may be used for this purpose.

A comment was received indicating accreditation should be optional to all County Service



Officers. Accreditation is optional to County Service Officers who meet eligibility requirements.

A comment was received indicating a concern that testing for accreditation would be conducted only at the Commission Fall Conference. The final rule allows the Commission to conduct testing at other than just the Fall Conference.

Some expressed concern over the 1,000 hour requirement. This is not a Texas Veterans Commission or State requirement. This is a federal law as set forth in 38 Code of Federal Regulation §14.629.

One County Service Officer (CSO) who is accredited with the National Association of County Veterans Service Officers (NACVSO) recommended that a provision be made to grant accreditation on a reciprocal basis with the NACVSO. Another CSO who is also accredited with the NACVSO feels that CSO's who choose to attend the Annual NACVSO's Conference may, because of budgetary constraints, skip one of the TVC semi annual conferences. This would reduce the CSO's exposure to personal and professional networking advantages as well as restricting the CSO's exposure to TVC training.

Notwithstanding a CSO's affiliation or accreditation with the NACVSO's by Federal law, the Commission is responsible for ensuring that every CSO considered for accreditation with the TVC meets certain criteria.

In the Commission's view, this responsibility can most clearly be met by requiring CSO's who desire to be accredited to receive accreditation training, testing and mentoring from the TVC.

A comment was received concerning pay equalization between county and state employees which is beyond the scope of this proposal.

A comment was received concerning separate training periods and different levels of training. Periods of training can be addressed in procedures implementing the adopted rules.

The new sections are adopted under the Government Code, §434.010, which authorizes the Texas Veterans Commission to adopt rules for administration. Section 434.007(3)(5)(6) gives the Commission authority to assist veterans in presenting federal claims and allows the Commission to cooperate with all government bodies to secure services and benefits.

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

**Accreditation**—Recognition by the United States Department of Veterans Affairs of representatives, attorneys, and agents to represent claimants.

**Accredited Representative of the Texas Veterans Commission**—A representative of the Texas Veterans Commission approved by the Secretary for the preparation, presentation and prosecution of

claims under laws administered by the Secretary.

**Certified**—Having met the requirements of §450.3 of this title (relating to General Provisions) for "certification".

**Commission**—The Texas Veterans Commission which is a "recognized organization" by the United States Department of Veterans Affairs.

**Credit Hour**—Unit of measuring credit earned for attending a number of classroom periods at a Commission training conference.

**Initial training**—Introductory training provided to newly appointed officers as defined in Chapter 450 of this title (relating to Certificate of Training).

**Officer**—Veterans County Service Officer or Assistant Veterans County Service Officer appointed by a County Commissioners Court.

**Recognized organization**—An organization certified by the United States Department of Veterans Affairs to represent claimants.

**Representative**—Person who has been recommended by a recognized organization and accredited by the United States Department of Veterans Affairs.

**Secretary**—The Secretary of the United States Department of Veterans Affairs.

**Training conference**—Classroom training sponsored and conducted by the Commission.

### *§451.3. General Provisions.*

(a) All officers shall be provided a copy of information concerning accreditation by the Commission when information is received indicating an appointment has been made by a County Commissioners Court.

(b) Officers must meet the following minimum standards as set forth in 38 Code of Federal Regulation §14.629 for consideration to be an accredited representative of the Commission:

(i) is a paid employee of the county working for it not less than 1,000 hours annually;

(ii) has successfully completed a course of training and an examination which have been approved by the VA District Counsel within the State; and

(iii) will receive annual training to assure continued qualification as a representative in the claim process.

(c) To be an accredited representative of the Texas Veterans Commission, the officer must be currently certified by the Commission under the provisions of §450.3 of this title (relating to General Provisions) and have attained at least 24 credit hours after completion initial training.

(d) Officer must submit a formal written request for accreditation to the Commission, which will review the application for eligibility.

(e) Credit hours may not be earned by attending training sponsored or conducted by organizations other than the Commission.

(f) Examinations for accreditation and to maintain accreditation will be administered annually by the Commission at a location(s) and time(s) designated by the Commission.

(g) The officer must agree to follow procedures promulgated by the Commission

(h) When all criteria have been met by the officer, the Commission will request accreditation from the United States Department of Veterans Affairs via VA Form 2-21.

(i) To maintain accreditation, an officer must successfully complete an annual proficiency exam and be certified under the provisions of §450.3 of this title.

(j) Inquiries concerning accreditation shall be directed to and answered by the chief of information and training of the Commission. Disputes shall be reviewed and a decision rendered by the chief of information and training. Disputes which remain unresolved shall be referred to the executive director of the Commission or the executive director's designee(s). The decision of the executive director or the executive director's designees(s) shall be final.

(k) The executive director of the Commission or the executive director's designee(s) may revoke the accreditation upon termination of the officer from the office or as otherwise deemed appropriate.

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 27, 1994.

TRD-9441560

Douglas K Brown  
Executive Director  
Texas Veterans  
Commission

Effective date June 21, 1994

Proposal publication date: May 24, 1994

For further information, please call: (512) 463-5538

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Name: David Nolen

Grade: 9

School: Boles Junior High, Arlington ISD



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# 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 Commission on Alcohol and Drug Abuse

Wednesday, June 8, 1994, 10:00 a.m.

710 Brazos, Perry Brooks Building, Eighth Floor Conference Room

Austin

Emergency Meeting

According to the complete agenda, the Grant and Contract Review Committee will call to order; consideration of fiscal year 1995 contract renewals for in prison therapeutic communities, substance abuse felony punishment facilities, and treatment alternatives to incarceration; fiscal year 1995 non-competitive renewal of prevention/intervention grants; fiscal year 1994 treatment alternatives to incarceration additional funds; fiscal year 1994 Houston recovery campus funding adjustments; fiscal year 1994-1995 gambling prevention and outreach programs; new business; next meeting; and adjourn.

Reason for Emergency: To make immediate funding decisions affecting fiscal year 1994 programs.

Contact: Steve Casillas or Lynn Brunn-Shank, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8265.

Filed: June 2, 1994, 9:37 a.m.

TRD-9441670

Tuesday, June 14, 1994, 8:30 a.m.

710 Brazos, Eighth Floor Conference Room  
Austin

According to the complete agenda, the Board of Commissioners will call to order; approval of April 12, 1994 minutes; public comments; report on Criminal Justice Division activities; report on Treatment Alternatives to Incarceration Program (TAIP), report on Substance Abuse Felony Punishment Facility Program (SAFP), report on In-Prison Therapeutic Community Program (ITC), report on Continuum of Care Program (TTC), report on Juvenile Justice Initiative, and report on Criminal Justice Treatment Initiative Training Center; report on Criminal Justice Committee activities; action by consent on approval of proposed amendments to DWI Education Program Standards, DWI Repeat Offender Educational Program Standards, Alcohol Awareness Program Standards, and Drug Offender Education Program Standards; report on current substance abuse trends; report on fiscal year 1994 (Nine-Month) operating budget expenditures; report on Audit Committee activities; report on internal audit activities; report on Program Compliance activities; peer assistance program, complaint investigations and fiscal auditing; action on appointments to Counselor Advisory Committee; report on Offender Credentialing Committee activities; report on Grant and Contract Committee activities; report on Insurance Committee activities; congressional update; action on appointment of commission panel to study and recommend alternatives to current funding and program development systems; meet in executive session to discuss employment matters relating to exempt positions; reconvene to hear executive director's report; chairman's report; and adjourn.

Contact: Ben Bynum, 710 Brazos, Austin, Texas 78701, (512) 867-8802.

Filed: June 2, 1994, 9:37 a.m.

TRD-9441669

## Texas Department of Commerce

Wednesday, June 8, 1994, 9:00 a.m.

11th Floor Board Room, 816 Congress Avenue, Frost Bank Plaza

Austin

According to the agenda summary, the Policy Board will call to order; recess into executive session; call back to order of open meeting; adoption of minutes from meeting of May 11, 1994; report from executive director; repeal of Texas Rental Rehabilitation Program Rules; repeal of the Rural Industrial Development Finance Plan rules, 10 TAC §§161.1-16.102; final adoption of Memoranda of Understanding as rules, 10 TAC §§195.1-195.12; final adoption of Texas Exporters Loan Fund rules, 10 TAC §§162.1, 162.3-162.6, and 162.8-162.10; approval to publish in the *Texas Register* the proposed Open Records Charges rules, 10 TAC §§192.1-192.6; approval to publish in the *Texas Register* proposed Job Training Partnership Act rules related to general definitions, performance standards and financial management; approval to publish in the *Texas Register* amendments to the Smart Jobs Fund Program rules; public comments; and adjourn.

Contact: Pat Segura, 816 Congress Avenue, Austin, Texas 78701, (512) 320-9612.

Filed: May 31, 1994, 4:48 p.m.

TRD-9441592

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**Texas Education Agency**

**Thursday, June 9, 1994, 8:00 a.m.**

William B. Travis Building, Room 1-109,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee on the Permanent School Fund (PSF) will discuss public testimony; adoption of long-term asset allocation and strategic plan and ancillary recommendations for the PSF; recommended PSF investment program for June and the funds available for the program; review of PSF securities transactions and the investment portfolio; and report of the PSF executive administrator.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:35 p.m.

TRD-9441657

**Thursday, June 9, 1994, 11:00 a.m.**

William B. Travis Building, Room 1-104,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee of the Whole will discuss public testimony, commissioner's overview of the June 1994 SBOE meeting, adoption of additional indicators for the 1994 and 1995 Academic Excellence Indicator System; composition of advisory committees; presentation of draft policy statement from the Task Force on Students with Disabilities, overview of Goals 2000, Educate America Act; adoption of five-year plan for assessment and discussion of next steps for curriculum, and discussion of pending litigation. The discussion of pending litigation will be held in Room 1-103 in executive session in accordance with §551.071(1)(A), Texas Government Code, and will include a discussion of Edgewood ISD et al v Meno and related school finance litigation, Angel G. et al. v. Meno et al, and potential litigation against the federal government regarding illegal immigrants.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:35 p.m.

TRD-9441656

**Thursday, June 9, 1994, 2:00 p.m.**

William B. Travis Building, Room 1-104,  
1701 North Congress Avenue

Austin

According to the complete agenda, the Joint Meeting of the Committee on Students and the Committee on School Finance will discuss proposed repeal and adoption of new 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials; discussion of proposed six-year budget and options for reduction in projected expenditure for textbooks adopted under Proclamation 1991 and Proclamation 1992.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:36 p.m.

TRD-9441661

**Thursday, June 9, 1994, 2:00 p.m.**

William B. Travis Building, Room 1-111,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee on Personnel will discuss public testimony; proposed requirements for developing state and local appraisal systems; approval request from Abilene Christian University and Southern Methodist University for educator preparation programs, discussion of gender equity and fairness in professional staff development programs and status of counselor certification, statewide standards on duties of a school board member, and status report on the accreditation of school districts.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:35 p.m.

TRD-9441659

**Thursday, June 9, 1994, 2:00 p.m., or upon adjournment of the Joint Meeting of the Committee on Students and the Committee on School Finance.**

William B. Travis Building, Room 1-100,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee on Students will discuss public testimony; proposed amendments to 19 TAC §89.331, State Parent Advisory Council for Migrant Education; proposed amendments to 19 TAC §75.62, Other Languages; proposed repeal and adoption of new 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials, discussion of proposed six-year budget and options for reduction in projected expenditure for text-

books adopted under Proclamation 1991 and Proclamation 1992; elementary, middle, and high school education mentor-network update.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:35 p.m.

TRD-9441660

**Thursday, June 9, 1994, 2:00 p.m., or upon adjournment of the Joint Meeting of the Committee on Students and the Committee on School Finance.**

William B. Travis Building, Room 1-104,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee on School Finance will discuss public testimony; school finance update; proposed repeal and adoption of new 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials; proposed amendments to 19 TAC §129.21(k)(1), Requirements for Student Attendance Accounting for State Funding Purposes; request for authorization to apply for federal fund for innovation in education; state content standards for English and foreign languages; review of adult education continuation special projects and teacher training for fiscal year 1994-1995; discussion of proposed six-year budget and options for reduction in projected expenditure for textbooks adopted under Proclamation 1991 and Proclamation 1992.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:34 p.m.

TRD-9441654

**Thursday, June 9, 1994, 7:00 p.m.**

Hyatt Regency Hotel, Hill Country C Room, 208 Barton Springs Road

Austin

According to the complete agenda, the State Board of Education (SBOE) will hold a dinner meeting to review the proceedings of the June State Board of Education meetings.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:34 p.m.

TRD-9441653

**Friday, June 10, 1994, 8:30 a.m.**

William B. Travis Building, Room 1-104,  
1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) Committee on Long-Range Planning will discuss public testimony; expert speaker--issues related to literacy education; creation of a state panel for the Goals 2000: Educate America Act; development of the SBOE Long-Range Plan for Public Education, 1995-1999; Texas teacher diversity and recruitment; and discussion of federal governmental relations activities.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:34 p.m.

TRD-9441655

Friday, June 10, 1994, 10:30 a.m.

William B. Travis Building, Room 1-109, 1701 North Congress Avenue

Austin

According to the complete agenda, the State Board of Education (SBOE) Ad Hoc Committee on Legislation will discuss legislative recommendations for the 74th Texas Legislature--this discussion will provide an opportunity to discuss broad themes around which specific legislative recommendations can be developed.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:33 p.m.

TRD-9441652

Friday, June 10, 1994, 1:00 p.m.

William B. Travis Building, Room 1-104, 1701 North Congress Avenue

Austin

According to the agenda summary, the State Board of Education (SBOE) will discuss approval of May 13, 1994 SBOE minutes; public testimony; SBOE resolutions; approval of consent agenda; adoption of additional indicators for the 1994 and 1995 Academic Excellence Indicator System; adoption of five-year plan for assessment and discussion of next steps for curriculum; proposed requirement for developing state and local appraisal systems; 19 TAC §89.331, State Parent Advisory Council for Migrant Education; 19 TAC §75.62, Other Languages (third year of American Sign Language); 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials; 19 TAC §129.21, Requirements for Student Attendance Accounting for State Funding Purposes; request for authorization to apply for federal fund for innovation in education--state content standards for English and foreign languages; creation of a state panel for the Goals 2000: Educate America Act; adoption of long-term asset allocation and strategic plan and ancillary

recommendations for the Permanent School Fund (PSF); recommended PSF investment program for June and the funds available for the program; and information on agency administration.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9701.

Filed: June 1, 1994, 4:35 p.m.

TRD-9441658

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**Texas Ethics Commission**

Friday, June 10, 1994, 9:30 a.m.

1101 Camino La Costa, Room 235

Austin

According to the agenda summary, the Texas Ethics Commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the May 13, 1994, meeting; conduct briefing, discussion, and possible action to award a contract to assist in providing ethics training to state employees pursuant to the Invitation for Bids issued November 15, 1993; conduct a briefing, discussion, and possible action regarding the project to establish an electronic database under Government Code, §71.066; conduct briefing, discussion, and possible action to waive certain fines assessed for late filing of a report; public discussion and possible action to propose a rule concerning gifts to regulatory agency officers and employees, and to withdraw proposed rule on this subject matter that was published in the February 4, 1994, issue of the *Texas Register* (19 TexReg 750); discussion and possible action in response to the following Advisory Opinions Requests Numbers 192, 236, 238, 239, 240, and 242; and adjournment.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78701, (512) 463-5800.

Filed: June 2, 1994, 9:54 a.m.

TRD-9441687

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**Texas Commission on Fire Protection**

Wednesday-Thursday, June 8-9, 1994, 1:00 p.m. and 10:00 p.m. respectively.

Senate Office Building, Fifth Floor Conference Room One, 15th and Lavaca

Austin

Emergency Revised Agenda. Rescheduled from Reagan Building, Room 103, Austin.

According to the complete agenda, the Texas Commission on Fire Protection will meet in executive session under §551.071, Texas Government Code, to discuss pend-

ing litigation with attorney (at 1:00 p.m., June 8, 1994); *Borland vs. Lee et al* in the 53rd Judicial District Court of Travis County and *Helen Campbell vs. the Texas Commission on Fire Protection* in the 98th Judicial District Court of Travis County, Texas; and discussion and possible action regarding the authority, structure, and enforcement policies of the Commission on Fire Protection (at 10:00 a.m., June 9, 1994).

Reason for emergency: Does not meet seven-day filing requirement.

Contact: Carol Manchu, 12875 North Research, Austin, Texas 78758, (512) 918-7100.

Filed: June 1, 1994, 11:28 a.m.

TRD-9441629

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**Texas Funeral Service Commission**

Wednesday, June 15, 1994, 9:00 a.m.

Courtyard Marriott, 5660 North IH-35

Austin

According to the complete agenda, the Board will call to order; public comment period; committee reports; consideration of final adoption of changes to rules and MOU; consideration of proposed parental and family medical leave policies; consideration of cases to be closed and penalties to be assessed; executive session; presentation of proposed agreed orders; executive director's report; and adjourn.

Contact: Larry Farrow, 8100 Cameron Road, Austin, Texas 78753, (512) 834-9992.

Filed: June 1, 1994, 1:57 p.m.

TRD-9441637

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**Office of the Governor, Criminal Justice Division**

Friday, June 10, 1994, 9:00 a.m.

Texas Capitol Extension, Room E2.020, 1400 Congress Avenue

Austin

According to the complete agenda, the Juvenile Justice and Delinquency Prevention Advisory Board will call to order; approval of minutes; recommend final draft changes in Title III, Texas Family Code as they relate to the mandates of the Juvenile Justice and Delinquency Prevention Act; public comment; and adjourn.

Contact: Jim Kester, P.O. Box 12428, Austin, Texas 78701, (512) 463-1919.

Filed: June 1, 1994, 4:04 p.m.

TRD-9441651

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**Texas Department of Health**

Friday, June 10, 1994, 9:00 a.m.

Room S-400, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Advisory Committee on Nursing Facility Affairs will discuss approval of the minutes of April 7, 1994 and discuss and possibly act on: committee reports (complaints; education; finance; and policies and procedures); executive secretary's report; state standards examination and computer delivery of National Association of Board of Examiners for Nursing Home Administrators examination; proposed rules; and setting of future committee and board meetings.

Contact: Marlin Johnston, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7709. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 31, 1994, 4:47 p.m.

TRD-9441588

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**Texas Department of Health  
Benefits Purchasing Cooperative**

Friday, June 10, 1994, 10:30 a.m.

2222 Welborn Street, Scottish Rite Hospital for Children

Dallas

According to the complete agenda, the Texas Health Benefits Purchasing Cooperative will review and adopt minutes of previous meeting; report of the executive director; report of the administrator; discussion of carrier RFP; and discussion of timeline for carrier RFP.

Contact: Rebecca Lightsey, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956.

Filed: June 1, 1994, 2:17 p.m.

TRD-9441643

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**Texas House of Representatives**

Monday, June 6, 1994, 1:00 p.m.

Capitol Extension, Room E2.028

Austin

Rescheduled from Tuesday, June 7, 1994

According to the agenda summary, the Subcommittee on Legislative Reporting Requirements called to order; roll call; explanation of charge and opening remarks; invited testimony; closing remarks; set date for next meeting; and adjourned.

Contact: Mance Bowden, P.O. Box 2910, Austin, Texas 78768, (512) 463-0766.

Filed: May 31, 1994, 10:28 a.m.

TRD-9441563

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**Texas Department of Insurance**

Tuesday, June 14, 1994, 9:00 a.m.

300 West 15th Street, Fifth Floor

Austin

According to the agenda summary, the Texas Department of Insurance will discuss a request by Insurance Corporation of America for a hearing regarding the Department of Insurance's decision to deny management's comments to be attached to examination reports.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 2, 1994, 9:53 a.m.

TRD-9441683

Wednesday, June 15, 1994, 9:00 a.m.

300 West 15th Street, Fifth Floor

Austin

According to the agenda summary, the Texas Department of Insurance will consider the application of Ronald E. Watson, Dallas, Texas, for a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 2, 1994, 9:53 a.m.

TRD-9441685

Friday, June 17, 1994, 9:00 a.m.

300 West 15th Street, Fifth Floor

Austin

According to the agenda summary, the Texas Department of Insurance will consider whether disciplinary action should be taken against Roger Reynaldo Jimenez, San Antonio, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 2, 1994, 9:53 a.m.

TRD-9441684

**Texas Juvenile Probation  
Commission**

Friday, June 3, 1994, 9:00 a.m.

2015 South IH-35

Austin

Emergency meeting

According to the complete agenda, the Program Committee called to order, excused absences, public comments, approve guidelines for: community corrections; innovative and creative grants; challenge grants; discretionary funding; sanctions for departments not meeting performance targets; and adjourned.

Reason for Emergency: Performance targets for fiscal year 1995 for departments must be set. If any changes occur in performance targets, rules must be posted in the *Texas Register* before September 1, 1994.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: May 31, 1994, 4:48 p.m.

TRD-9441591

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**Lamar University System**

Thursday, June 9, 1994, 9:00 a.m.

Lamar University-Beaumont, Mary and John Gray Library, Eighth Floor, 4400 Martin Luther King

Beaumont

According to the agenda summary, the Board of Regents will call to order; chair's report; chancellor's report; executive session; reconvene open meeting/recess for committee meetings; advancement committee; academic affairs committee; student relations and services committee; building and grounds committee; personnel committee; finance and audit committee; reconvene board of regents meeting; and consider approval of committee reports.

Contact: James A. Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: June 2, 1994, 9:53 a.m.

TRD-9441686

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**Texas Natural Resource Conservation Commission**

Wednesday, June 8, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission will discuss addendum to contested agenda of June 8, 1994, setting interim rates for Twin Lake Club, Inc.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 31, 1994, 11:24 a.m.

TRD-9441570

Thursday, June 9, 1994, 10:00 a.m.

6300 Ocean Drive, Texas A&M University  
Corpus Christi, Conrad Blucher Institute  
Corpus Christi

According to the complete agenda, the Management Committee of the Corpus Christi Bay National Estuary Program will call to order/introduction/minutes; program update; discussion/approval of fiscal year 1995 scopes of services; review/discussion of vision statement; and additional items/ad-journ.

Contact: Richard Volk, TAMU-CC, Campus Box 290, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: May 31, 1994, 1:51 p.m.

TRD-9441576

◆ ◆ ◆  
**Board of Vocational Nurse  
Examiners**

Monday-Tuesday, June 20-21, 1994, 8:00 a.m.

Courtyard Marriott, 5660 North IH-35  
Austin

According to the agenda summary, the Board will: Monday, June 20: call to order; approval of minutes; introduction of new staff; education report (program matters, program actions, meetings/seminars attended); unfinished business (budget update; quarterly report on key performance targets; CE update; school nurse update; Janet Monteros update on law review); executive director's report; new/changed rules: §231.50—Charges agency will make for public records (new); §233.7—required minimum grade necessary for exam.

Tuesday, June 21: administrative hearings; Board Member Budget Committee; any unfinished business, and adjournment.

On Call: executive session to discuss personnel changes/matters.

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758.

Filed: June 1, 1994, 4:43 p.m.

TRD-9441664

**Texas Optometry Board**

Thursday-Friday, June 9-10, 1994, 2:30 p.m. and 8:00 a.m. respectively.

Houston Plaza Hilton, 6633 Travis  
Houston

According to the agenda summary, on Thursday: the Investigation-Enforcement Committee will meet at 2:30 p.m. followed by the Continuing and Therapeutic Education Committee meeting at 5:00; at 7:30 p.m., all remaining committees of the board will meet. On Friday: beginning at 8:00 a.m., Investigation-Enforcement Committee will meet, followed by all remaining committees meeting at 8:30 a.m. A regular meeting of the board will be held at 9:30 a.m. to include reports of secretary-treasurer, executive director, committee chairpersons; hear reports of recent meetings attended, i.e., Governor's Conference for board members, National Board of Examiners; adoption of rule (amendment) §275.1 regarding continuing education for serious disabled licensees; adoption of proposed rule regarding costs assessed for copies; hear reports/update on Health Professions Council; consider strategic plan, legislative appropriations request, annual report of agency activities, changes to renewal form, and achievement bonuses; executive session in accordance with §551.071, Government Code, to discuss with board attorney pending litigation in *Lens Express v. Texas Optometry Act, M. L. Ray, O.D., v. Texas Optometry Board, and Texas Optometry Board vs. N. Pham, O.D.*

Contact: Lois Ewald, 9101 Burnet Road, Austin, Texas 78758, (512) 835-1938.

Filed: June 1, 1994, 3:59 p.m.

TRD-9441649

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**Texas Department of Protec-  
tive and Regulatory Ser-  
vices**

Friday, June 10, 1994, 9:00 a.m.

701 West 51st Street, First Floor Confer-  
ence Room, West Tower, and Public Hear-  
ing Room, East Tower

Austin

According to the complete agenda, the Texas Board of Protective and Regulatory Services will conduct a work session to discuss: status of the development of legislative initiatives; draft fiscal year 1996-1997 legislative appropriations request; draft operating budget for fiscal year 1995; and policy issues related to the child protective services program of DPRS. The board will convene beginning at 1:00 p.m. in the Public Hearing Room to hear public testimony.

The board will reconvene, if necessary, in Conference Room 103-W for the continuation of the work session. Adjournment will be no later than 5:00 p.m.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 450-3645.

Filed: June 1, 1994, 2:05 p.m.

TRD-9441638

◆ ◆ ◆  
**Public Utility Commission of  
Texas**

Wednesday, June 8, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard  
Austin

According to the agenda summary, the Public Utility Commission will consider the following dockets: P-11620, P-10900, P-12334, 11980, 12441, 11864, 10831, 12330, 12573, 12916, 10832, 12456, and 12298.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 31, 1994, 1:53 p.m.

TRD-9441579

Wednesday, June 8, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard  
Austin

Emergency Revised Agenda

According to the complete agenda, (in addition to the previously submitted agenda) the Commissioners will also consider the Appeal of Examiner's Order Number 31 and the Motion for Rehearing in Docket Number 12065-complaint of Kenneth D. Williams against Houston Lighting and Power Company.

Reason for Emergency: Prompt commission action is necessary to preserve jurisdiction over the subject matter of the appeal and Motion for Rehearing.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 1, 1994, 10:31 a.m.

TRD-9441627

Thursday, June 9, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard  
Austin

According to the agenda summary, the Administrative will discuss: reports, discussion and action on report on Fiber Optic technologies; final report on SWB Five-State audit; scope of competition report; Quality Steering Committee report; PUC contribution to

NRRI; interaction with Legislative Committees and/or Sunset Commission; 1995 operating budget; 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: June 1, 1994, 2:05 p.m.

TRD-9441639

Thursday, June 9, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Revised Agenda

According to the complete agenda, (in addition to the previously submitted agenda) the Public Utility Commission of Texas will also consider in executive session: City of Alvin, et al vs. Public Utility Commission of Texas, et al, 03-92-00459-CV (Tex. App -Austin)

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 1, 1994, 3:59 p.m.

TRD-9441650

Friday, June 10, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Public Utility Commission will hold a prehearing conference for Docket Number 12592-application of Cap Rock Electric Cooperative, Inc. to amend Certificate of Convenience and Necessity for proposed transmission line within Midland, Glasscock, Reagan, Upton, Howard, and Mitchell counties

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 31, 1994, 4.48 p.m.

TRD-9441590

## Texas Municipal Retirement System

Friday, June 10, 1994, 8:30 a.m.

Hilton-Waco, 113 South University Park Drive, Town Square Central Room

Waco

According to the complete agenda, the Board of Trustees (Regular Meeting) will

hear and approve minutes of the March 19, 1994 meeting; review and approve service retirements, disability retirements; review and approve extended supplemental death benefits coverage; supplemental death benefits payments; consider, review, and act on financial statements; actuarial report, highlights, presentation of actuarial report and approval of 1995 contribution rates; presentation and approval of supplemental death benefits contribution rates for 1995; status report on retiree health care feasibility study; receive report on December 31, 1993; audit and consider and act on recommendations in auditor's letter on internal control and accounting procedures; presentation of 1993 annual report; consider and act on proposed amendment to §129.12 of the Texas Administrative Code, relating to payments to an alternate payee pursuant to a qualified domestic relations order; continue consideration of Texas Municipal League's desire for input on proposed legislation; director and staff reports; report by legal counsel; consider any other business to come before the board; and adjourn.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: June 1, 1994, 8:36 a.m.

TRD-9441594

## Structural Pest Control Board

Tuesday-Wednesday, June 14-15, 1994, 1:00 p.m. and 9:00 a.m. respectively.

Joe C. Thompson Conference Center, 2405 East Campus Drive, Room 3.122

Austin

According to the agenda summary, the Structural Pest Control Board (Regular Meeting) will discuss approval of board minutes of February 18, 1994 meeting; public comment period and public hearing on the proposed amendments to §§591.11, 593.5, 593.6, 593.24, and 595.3; and consider for adoption amendments to §§591.11, 593.5, 593.6, 593.24, and 595.3.

Contact: Benny M. Mathis, Jr., 9101 FM 1325, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: June 2, 1994, 9:54 a.m.

TRD-9441688

## Texas Sustainable Energy Development Council

Friday, June 10, 1994, 7:30 a.m.

1000 Red River, Teacher Retirement System Cafeteria

Austin

According to the complete agenda, the Texas Sustainable Energy Development Council will call to order; discuss strategic planning; discuss administrative matters; and adjourn.

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: June 1, 1994, 4:43 p.m.

TRD-9441662

## Teacher Retirement System

Thursday, June 9, 1994, 9:00 a.m.

1000 Red River, Fifth Floor Board Room

Austin

According to the agenda summary, the Investment Advisory Committee will discuss approval of March 14, 1994 minutes; investment outlook and market conditions; review of investments; consideration of changes to approved common stock lists; consideration of recommended allocation of cash flow for current quarter; report of Real Estate Finance Committee; review of portfolio performance; and review of Wellington relationship.

A quorum of the Board of Trustees may attend and enter into discussions, but no official board action will take place.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: June 1, 1994, 11:49 a.m.

TRD-9441632

Thursday, June 9, 1994, Noon.

1000 Red River, Room 420

Austin

According to the complete agenda, the Nominations Committee will discuss consideration of appointment to medical board.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: June 1, 1994, 11:49 a.m.

TRD-9441636

Thursday, June 9, 1994, 1:00 p.m.

1000 Red River, Room 514E

Austin

According to the agenda summary, the Audit Committee will discuss approval of minutes; review real estate related audits; operational audits/special projects; EDP audits; follow-up audits; other internal audit activity; and audit committee responsibilities.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.



Filed: June 1, 1994, 11:49 a.m.

TRD-9441633

Thursday, June 9, 1994, 1:00 p.m.

1000 Red River, Room 229

Austin

According to the complete agenda, the Budget Committee will discuss approval of minutes of March 13, 1994, and May 20, 1994, meetings; and review and consideration of proposed 1994-1995 operating budgets.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: June 1, 1994, 11:49 a.m.

TRD-9441634

Thursday, June 9, 1994, 2:30 p.m.

1000 Red River, Room 514

Austin

According to the complete agenda, the General Policy Committee will discuss approval of minutes of May 26, 1994, meeting; and consideration of proposed changes to by-laws of the Board of Trustees.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: June 1, 1994, 11:49 a.m.

TRD-9441635

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**University of North Texas/  
University of North  
Texas Health Science Center**

Thursday, June 2, 1994, 1:30 p.m.

Chestnut and Avenue C, 201 Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents, Role and Scope Committee discussed: UNTHSC: holiday schedule; strategic plan; promotion and tenure recommendations; award of honorary degree; appointments/reappointments to TCOM foundation; quality assurance policies; update on development of institutes; UNT: routine academic reports; University of North Texas planning documents; faculty development leaves; tenure and/or promotion recommendations; Regents Professor recommendations; personnel transaction; presentation by North Texas Democrats; UNT/UNTHSC: appointments to Tarrant Medical Education Consortium Board.

Reason for Emergency: To correct an error in posting of a regularly scheduled major Board meeting.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: May 31, 1994, 11:24 a.m.

TRD-9441569

Thursday, June 2, 1994, 1:30 p.m.

Chestnut and Avenue C, Board Room, Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents, Advancement Committee discussed: UNTHSC: goals for institutional advancement; UNT: Music and Fine Arts Education Building; gift reports-year to date; personnel update; capital campaign planning, Phase II; athletic marketing initiatives; special events status; and public affairs report

Reason for Emergency: To correct an error in posting of a regularly scheduled major Board meeting.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: May 31, 1994, 11:24 a.m.

TRD-9441568

Thursday, June 2, 1994, 3:00 p.m.

Chestnut and Avenue C, Board Room, Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents, Budget and Finance Committee discussed: UNTHSC: medical student fee increase; selection of bond counsel; selection of financial advisor, gift report; 1994-1995 budget recommendation; report on interest earnings; internal audit update, UNT: various fees for fiscal year 1995 tuition fee brochure; various fee waivers; depository and collateral agreement; gift report; 1994-1995 budget recommendation, report on interest earnings; and internal audit update

Reason for Emergency: To correct an error in posting of a regularly scheduled major Board meeting.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: May 31, 1994, 11:24 a.m.

TRD-9441567

Thursday, June 2, 1994, 4:00 p.m.

Chestnut and Avenue C, Conference Room, Administration Building, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents, Facilities Committee discussed: UNTHSC: modernization of the elevators in Medical Education Building I; project status report; UNT: parking and traffic proposals for 1994-1995; upgrade parking lots; purchase of 909 Avenue E; facilities planning; UPC priorities; Music and Fine Arts Education Building; thermal storage project; and project status report.

Reason for Emergency: To correct an error in posting of a regularly scheduled major Board meeting.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: May 31, 1994, 11:24 a.m.

TRD-9441566

Friday, June 3, 1994, 8:00 a.m.

Diamond Eagle Suite, University Union, University of North Texas

Denton

Emergency Meeting

According to the complete agenda, the Board of Regents discussed: UNTHSC: (executive session, UNTHSC/UNT: legislative update; HSC: affiliations; student disciplinary issue; specific personnel issues, MSRDP office; current lawsuits; UNT: athletic update; nondiscrimination and diversity policies, course fee audit; update on current lawsuits; outside review, specific job positions; faculty issues-Finance, Philosophy; School of Visual Arts, English, Economics); holiday schedule; strategic plan; promotion/tenure recommendations; award of honorary degree; appointments/reappointments, TCOM foundation; quality assurance policies; medical student fee increase; selection of bond counsel, selection of financial advisor, gift report; 1994-1995 budget recommendation; legislative appropriations request, 1995-1997; elevators, Med Ed I; clinical pathology accreditation; UNT: routine academic reports; UNT planning documents; faculty development leaves; tenure and/or promotion recommendations; regents professor recommendations; personnel transactions; various fees for fiscal year 1995 tuition fee brochure; various fee waivers; depository and collateral agreement; gift report; 1995-1995 budget recommendation; legislative appropriations request for 1995-1997; parking and traffic proposals for 1994-1995; upgrade parking lots; purchase of 909 Avenue E; project status report; appointments to Tarrant Medical Education Consortium Board; access and equity 2000 plan; Dallas Education Center.

Reason for Emergency: To correct an error in posting of a regularly scheduled major Board meeting.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515.

Filed: May 31, 1994, 11:23 a.m.

TRD-9441565

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**University of Texas System**

Thursday, June 9, 1994, 10:00 a.m.

Room 470, Mesa Building, U. T. Permian Basin, 4901 East University Boulevard  
Odessa

According to the agenda summary, the Board of Regents and Standing Committee will consider: amendments to RRR; chancellor's docket (submitted by system administration); operating and capital budgets for fiscal year 1995; medical/dental insurance rates for fiscal year 1995; degree programs; student fees, parking fees; agreements; appointments to endowed academic positions, development boards and advisory counsels; UTPB-student housing rates; buildings and grounds matters including project authorization, approval of preliminary and final plans, appointment of architects, award of contracts, and appropriations; investment matters; acceptance of gifts, bequests and estates, establishment of endowed positions and funds; potential litigation, real estate, and personnel matters as detailed on the complete agenda.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: May 31, 1994, 11:15 a.m.

TRD-9441564

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**Texas Board of Veterinary  
Medical Examiners**

Thursday-Friday, June 9-10, 1994, 8:30 a.m.

1946 South IH-35, Fourth Floor Conference Room

Austin

Emergency Revised Agenda

According to the complete agenda, the agenda is being revised to include consideration of a negotiated settlement of Docketed Case 1993-14, Texas State Board of Veterinary Medical Examiners vs. Donald L. Ross, D.V.M., Harold M. Mark, D.V.M., James G. Sloat, D.V.M., and James R. Weedon, D.V.M.; and consideration of the April examination for licensure results is being added to the executive director's report, Item C.3.

Reason for Emergency: The docketed case has just been negotiated; in order to avoid

further delay, in disposing of this case, it is being included on the June agenda.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78701, (512) 447-1183.

Filed: June 2, 1994, 9:12 a.m.

TRD-9441666

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**Regional Meetings**

**Meeting Filed May 31, 1994**

**The Golden Crescent Private Industry Council Planning Committee** will meet at 2401 Houston Highway, Victoria, June 8, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9441581.

**The Hansford Appraisal District Appraisal Review Board** will meet June 9, 1994, at 9:00 a.m. Information may be obtained from Lovida Giblin, Box 519, Spearman, Texas 79081-0519, (817) 659-5575. TRD-9441575.

**The Texas Municipal Asset Pool Special Board of Directors** met at Riverway Bank, Five Riverway, Conference Room, First Floor, Houston, June 3, 1994, at 8:00 a.m. Information may be obtained from Jamie D. Hall, P.O. Box 56572, Houston, Texas 77256, (713) 552-2618. TRD-9441589.

**The North Plains Ground Water Conservation District Number Two Board of Directors** will meet at 603 East First Street, Dumas, June 14, 1994, at 10:00 a.m. Information may be obtained from Richard Bowers, 603 East First Street, Dumas, Texas 79029, (806) 935-6401. TRD-9441593.

**The Permian Basin Regional Planning Commission Board of Directors** will meet at PBRPC Offices, Midland, June 8, 1994, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9441574.

**The Stephens County Rural WCS (Regular Monthly Meeting) Board** met at 301 West Elm Street, Breckenridge, June 2, 1994, at 7:30 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9441554.

**The TML Group Benefits Risk Pool Executive Committee** of the Board of Trustees met at the San Jacinto Center, Suite 1800, 98 San Jacinto Boulevard, Austin, June 3, 1994, at 10:30 a.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9441562.

**The Wood County Appraisal District Appraisal Review Board** met at 217 North

Main, Conference Room, Wood County, Appraisal District, Quitman, June 6-7, 1994, at 9:00 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9441582.

◆ ◆ ◆  
**Meetings Filed June 1, 1994**

**The Bell-Milam-Falls Water Supply Corporation Board of Directors** will meet at the WSC Office, FM 485 West, Cameron, June 7, 1994, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9441628.

**The Denton Central Appraisal District (Special Meeting) Board of Directors** met at 3911 Morse Street, Denton, June 6, 1994, at 4:00 p.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904. TRD-9441644.

**The Edwards Central Appraisal District Board of Directors** will meet at the New County Annex Building, Rocksprings, June 16, 1994, at 10:00 a.m. Information may be obtained from Natalie Pruitt, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9441665.

**The Lavaca County Central Appraisal District Board of Directors** will meet at 113 North Main Street, Hallettsville, June 13, 1994, at 4:00 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9441663.

**The Texas Rural Communities, Inc. Board of Directors** will meet at the Lakeway Inn Resort, 101 Lakeway Drive, Austin, June 7, 1994, at 1:00 p.m. Information may be obtained from Leslie Janca, 1016 LaPosada Drive, Suite 200, Austin, Texas 78752, (512) 458-1016. TRD-9441642

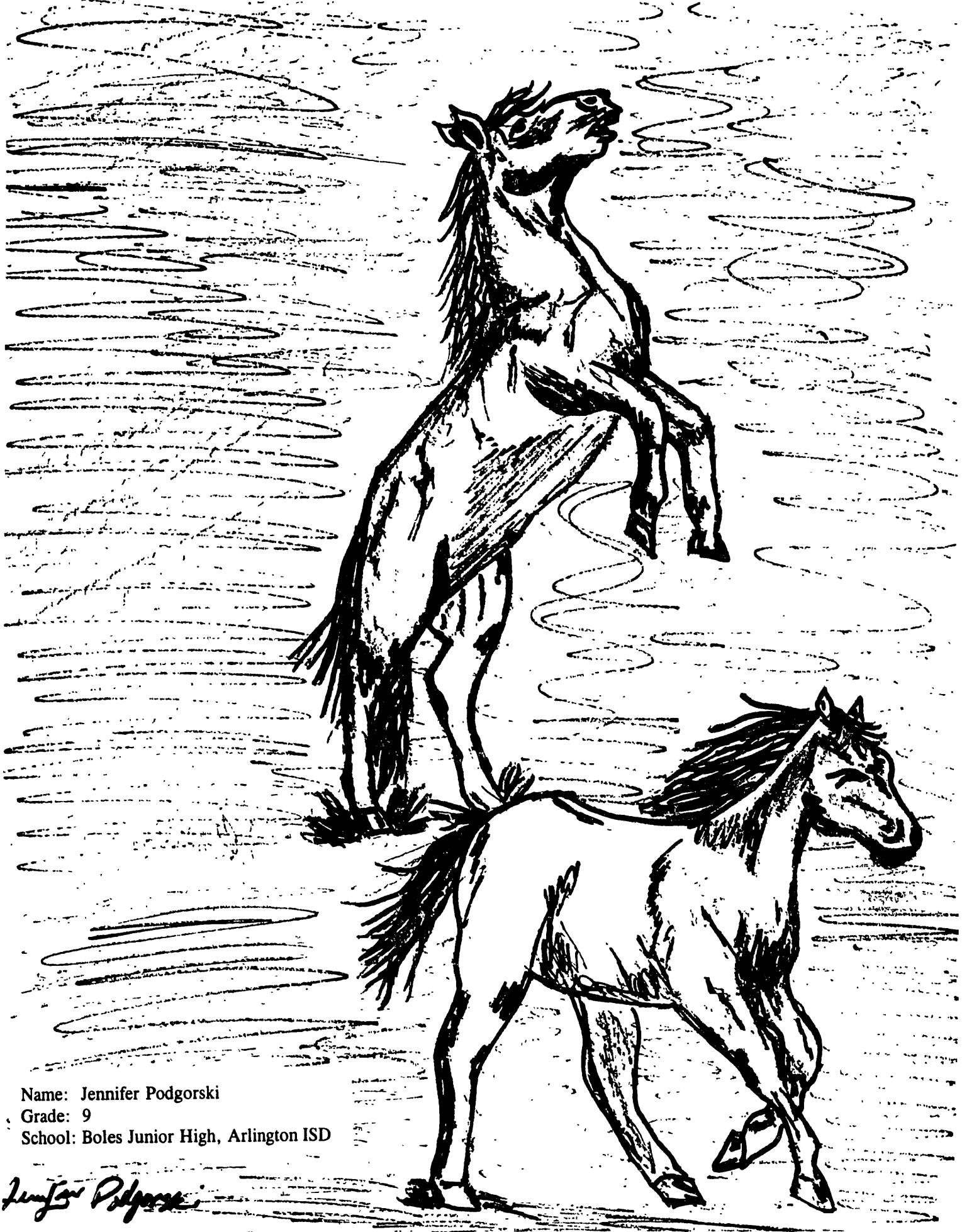
◆ ◆ ◆  
**Meetings Filed June 2, 1994**

**The Appraisal District of Jones County Board of Directors** will meet at the District's Office, 1137 East Court Plaza, Anson, June 16, 1994, at 8:30 a.m. Information may be obtained from Susan Holloway, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9441668.

**The Garza County Appraisal District Board of Directors** will meet at the Appraisal District Office, 124 East Main, Post, June 9, 1994, at 9:00 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9441667.

**The North Central Texas Council of Governments (NCTCOG) Transportation Department will meet at the NCTCOG, 616 Six Flags Drive, Centerpoint Two, Suite 324, Arlington, June 13, 1994, at 4:00 p.m. Information may be obtained from Michael Morris, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 695-9240. TRD-9441682.**





Name: Jennifer Podgorski

Grade: 9

School: Boles Junior High, Arlington ISD

*Jennifer Podgorski*

# 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.

## Central Texas Council of Governments HHW Disposal Request

This request for services is filed pursuant to the Texas Civil Statutes, Article 6252-11c. The Central Texas Council of Governments is requesting priced bids on a one day program for the collection and management of Household Hazardous Waste (HHW).

The event will be a one day pilot program for the drop-off of HHW for approximately 60,000 residents in the Temple-Belton area in the summer of this year, preferably in August 1994.

CTCOG is seeking proposals from qualified contractors to provide a turn-key operation for the proper handling, transportation, and disposal of HHW collected from Bell County residents.

Proposals will be evaluated on: background and experience; technical proposals; and cost proposal.

A detailed scope of work and guidelines for the proposals's content can be obtained from Sara Koeninger, Regional Planner, CTCOG, P.O. Box 729 Belton, Texas 76513. Telephone (817) 939-1801. The deadline for receipt of proposals is due 2:00 p.m. on June 17, 1994, at the CTCOG office, 100 South East Street, Belton, Texas.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441558 Sara R. Koeninger  
Regional Planner  
Central Texas Council of Governments

Filed: May 31, 1994

## Texas Education Agency Notice of Contract Award for an Evaluation Study of the Bexar County Summer Academy

In accordance with Texas Education Code, §11.32(e), the Region XX Education Service Center publishes this notice of contract award. The proposal request appeared in the April 19, 1994, issue of the *Texas Register* (19 TexReg 2990). The contractor is to conduct an evaluation study of the Bexar County Summer Academy, an academically accelerated extended year program being offered in nine school districts in Bexar County during the summer of 1994.

The contractor selected to perform this study is the Texas Center for Education Research, 7703 North Lamar Boulevard, Austin, Texas 78768-2947. The maximum amount of

this contract is \$67,160. The contract will begin May 27, 1994, and will terminate by September 29, 1995.

At the conclusion of this project, the contractor will prepare a final report and submit it to the Region XX Education Service Center no later than September 29, 1995. The documentation of this report will include, but is not limited to findings, conclusions, and recommendations reflective of the purpose of the study.

Issued in Austin, Texas, on May 30, 1994.

TRD-9441585 Judy Castleberry  
Executive Director  
Region XX Education Service Center

Filed: May 31, 1994

## 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, 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 (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, Room 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 from 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 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 31, 1994.

TRD-9441586  
Lionel R. Meno  
Commissioner of Education  
Texas Education Agency

Filed. May 31, 1994

## Texas Department of Health Extension of Comment Period

The Texas Department of Health (department) is extending the comment period for proposed Texas Asbestos Health Protection rules as published in the May 3, 1994, issue of the *Texas Register* (19 TexReg 3336). The comment period is extended to July 2, 1994.

For further information relating to the proposed rules contact Jerry Lauderdale, Director, Division of Occupational Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189, (512) 834-6610 or (800) 572-5548.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441603  
Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: June 1, 1994

## HIV/AIDS Interagency Coordinating Council

**INTRODUCTION:** The HIV/AIDS Interagency Coordinating Council was created by the 73rd Legislature to facilitate communication between state agencies concerning HIV/AIDS policies. ( Texas Health and Safety Code, §85. 017(a).)

The law requires the Council to "develop an annual report to be presented to the legislature and the governor containing recommendations and plans for coordinated activities that address issues and problems involved with AIDS and HIV infection prevention and delivery of health services to individuals with AIDS or infected with HIV." The Council has identified five issues relating to HIV infection and AIDS. ( Texas Health and Safety Code, §85.017(f)(3).)

**CLIENT SERVICES:** Increasing rate of HIV infection in women, minorities, substance abusers, individuals in criminal and juvenile justice systems and in populations with special needs.

**RECOMMENDATION:** Increase the availability, awareness and access to HIV/AIDS education, testing and services for women (especially women of childbearing age), minorities, high risk youth, individuals in the criminal and juvenile justice systems and populations with special needs at minimal or no cost to the client.

**RECOMMENDATION:** Increase the understanding of the connection between substance abuse and the increased risk of HIV infection.

### STRATEGY:

1. Provide educational programs which emphasize the connection between substance abuse and HIV infection in public schools (including alternative learning centers) and outreach programs;
2. Increase the number of low/no cost prevention, treatment and outreach programs for substance users;
3. Collect and evaluate data which reflect the trends in the populations affected;
4. Change the current law to allow for the establishment of a needle exchange programs with an evaluation component;
5. Develop a directory of substance abuse programs and make it available to facilities that provide services to HIV infected individuals and include the information in the TDH Community Resource Directory.

**RECOMMENDATION:** Increase the availability of services for individuals who are a part of the criminal or juvenile justice systems.

**STRATEGY:**

1. Legislatively appropriate more funding for mandatory HIV/AIDS education in the criminal and juvenile justice systems;
2. Facilitate the access to external HIV/AIDS services for parolees prior to and after release from criminal and juvenile justice systems;
3. Make condoms available at no cost to individuals within the criminal and juvenile justice systems.

**RECOMMENDATION:** Increase availability of access to HIV/AIDS services for individuals with special needs including, but not limited to mental illness, developmental disabilities, visual, physical or hearing impairment.

**STRATEGY:**

1. Expand and promote the use of existing HIV/AIDS related education and training programs;
2. Legislatively appropriate funds to meet Federal mandates for the development and conversion of educational and training materials to the appropriate educational level and media.

**RECOMMENDATION:** Increase resources for caregivers, friends and families of individuals who are infected with HIV or who have AIDS.

**STRATEGY:**

1. Expand the use of existing HIV/AIDS education and training programs;
2. Increase the availability of support groups;
3. Increase the availability of respite programs.

**PROVIDER EDUCATION:** Lack of consistent and coordinated HIV/AIDS education and training programs for providers.

**RECOMMENDATION:** Increase the availability of education and training on universal precautions for direct client care providers.

**STRATEGY:**

1. The Texas Department of Health and the Health and Human Services Commission should reaffirm the OSHA standards of Universal Precautions and body substance isolation as the standard for all health and human service providers;
2. Develop a standardized educational program for infection control practitioners, nurses, health educators and appropriate trainers who will then be responsible for training individuals in their respective agencies;
3. Develop and adopt a standardized instrument to use as a guide when implementing universal precautions;
4. Increase the train-the-trainer opportunities for agency staff who are HIV educators;
5. Develop a standardized HIV/AIDS training curriculum which will be used by all agencies.

**YOUTH EDUCATION:** Increasing rate of HIV infection among youth, including the juvenile justice population.

**RECOMMENDATION:** Legislatively mandate the implementation of an age appropriate HIV/AIDS curricula for grades K-12 which includes the assurance of parental consent for student participation.

**STRATEGY:**

1. The HIV/AIDS Interagency Coordinating Council should endorse the Centers for Disease Control and Prevention Guidelines for Effective HIV/AIDS Education;
2. Youth education programs should include issues relating to substance abuse and high risk behaviors (i.e. injecting drug use, unprotected sex, etc.);
3. Texas Department of Health and the Texas Education Agency should collaboratively develop and implement a standardized education and training program for all individuals responsible for providing HIV/AIDS training programs in the schools;
4. Include HIV/AIDS education and universal precautions as part of annual continuing education for teachers and other school personnel.

**RECOMMENDATION:**

Offer individual HIV/AIDS risk assessment and follow-up counseling to all youth.

**STRATEGY:**

1. Evaluate existing risk assessment tools for youth populations;
2. Agencies involved in doing assessments should coordinate with each other to develop a standardized risk assessment process.

**RECOMMENDATION:** Develop and distribute HIV/AIDS information and materials to enhance youth education.

**STRATEGY:**

1. Distribute materials through community-based organizations;
2. Offer workshops on HIV/AIDS educational methods;
3. Develop and sponsor training programs for peer teaching;
4. Develop public service announcements;
5. Develop and expand outreach programs.

**RECOMMENDATION:** Develop and expand outreach programs for school dropouts and homeless youth.

**REGULATION:** Lack of regulation related to education and practice of all health and human service professionals relating to HIV/AIDS.

**RECOMMENDATION:** Legislatively mandate continuing education relating to HIV/AIDS for all health and human service professionals.

**RECOMMENDATION:** Maintain voluntary HIV testing for all health and human service providers.

**RECOMMENDATION:** Adopt the Texas Department of Health, Bureau of HIV and STD Prevention guidelines for Establishing Expert Review Panels to Evaluate the Professional Practice of HIV and Hepatitis B Infected Health Care Workers (HCW), which will benefit the infected HCW and the HCW's employer.

**RECOMMENDATION:** Distribute policies and procedures relating to occupational exposures to all health and human service settings.

**COORDINATION OF STATE EFFORTS:** Lack of coordination among agencies and organizations in-

volved in the provision of HIV/AIDS education and services.

**RECOMMENDATION:** Develop a consolidated state plan for addressing HIV/AIDS issues and needs.

**STRATEGY:**

1. In coordination with the members of the Council, the Texas Department of Health should facilitate the formulation of a consolidated state plan which provides a broad overview of the responsibilities of each agency involved in providing HIV/AIDS services. Each agency will have the option of developing a detailed document about specific agency activities.

**RECOMMENDATION:** Expand the existing Texas Department of Health, Bureau of HIV and STD Prevention, HIV/AIDS community resource directory to include the following information.

**STRATEGY:**

1. List of programs with individuals knowledgeable about HIV/AIDS in each agency;
2. List of substance abuse programs that provide services to clients infected with HIV/AIDS,
3. Make the directory available on disk to organizations that provide information regarding HIV/AIDS services statewide

**RECOMMENDATION:** Maintain an autonomous 1-800 voice and TDD line for all HIV/AIDS services.

**RECOMMENDATION:** Consolidate the legislatively mandated councils and committees as appropriate.

**STRATEGY:**

1. Expand the role of the HIV/AIDS Interagency Council to include oversight of all HIV/AIDS related councils and committees,
2. Make recommendations regarding continuing, combining or abolishing existing councils or committees

**GLOSSARY OF TERMS:**

1. Acquired immunodeficiency syndrome (AIDS)-AIDS is a clinical condition that is the final stage of HIV infection. Individuals at this stage have been diagnosed with infections that are commonly seen in individuals whose immune system is so damaged that the body cannot adequately protect itself from certain diseases. In 1993 the Centers for Disease Control and Prevention expanded the AIDS case definition to include not only those individuals with opportunistic infections but also individuals with helper T-cell (CD4) counts less than 200

2. Community based organizations-A local organization whose primary objective is to help individuals, groups and other collectives of people with common interests or from the same geographical areas to deal with social problems and to enhance social well-being through planned collective action

3. Education-The process by which one obtains knowledge. This is done by providing relevant information in a way that is understandable to the individual, offering advice and suggestions, identifying alternatives and their probable consequences, modeling behaviors, teaching problem-solving techniques or clarifying perceptions.

4. Health and Human Services Provider-The individual or business entity that is responsible for providing goods or services. Examples include hospitals, rehabilitation facilities, hospice programs, home health agencies, physicians, nurses, care-givers, substance abuse programs, educators, vocational rehabilitation programs, drug treatment programs etc.

5. High risk-Behaviors which increase the risk of individuals contracting HIV including: unprotected sexual intercourse (anal, vaginal or oral), sharing contaminated needles, sexual history of multiple sex partners (more than 2), injecting drug use (IDU), previous history of sexually transmitted disease, especially herpes, syphilis and chancroid, exposure to contaminated blood products and perinatal HIV infection.

6. Human Immunodeficiency virus (HIV)-HIV is a virus that causes the disease called AIDS. HIV damages the body's immune system, especially white cells called T-cells or CD4 cells.

7. Individual with special needs-An individual with needs, either physical, mental or emotional, which require assistance from others in order to function as other persons in the general population.

8. Minority population-A part of a population perceived to be different from others in some characteristics, often subjected to differential treatment, and sometimes entitled to benefits

9. Training-Instruction to make one proficient in the knowledge of a specific subject or field, to change behavior through the acquisition of knowledge, skills or abilities

10. Substance abuse-The use of any substance which has negative consequences including chemical dependency.

For further information please contact Linda Moore, M.S.R.N., Director, Special Projects and Clinical Resources Program, (Telephone (512) 458-7463)\*n

Issued in Austin, Texas, on May 31, 1994

TRD-9441551 Susan K. Steele  
General Counsel, Office of General Counsel  
Texas Department of Health

Filed: May 31, 1994

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**Texas Health and Human Services  
Commission  
Public Notices**

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-16, Amendment Number 445

The amendment incorporates the preprint age from Program memorandum 94-2 concerning standards for payments for NF and ICFs/MR. The amendment is effective April 1, 1994

If additional information is needed, please contact Marc Gold, Department of Human Services, at (512) 450-3174



Issued in Austin, Texas, on May 26, 1994.

TRD-9441522 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: May 27, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-12, Amendment Number 441.

The amendment revises the reimbursement methodology for Rehabilitative Services for the Mentally Ill by removing the 62-1/2% limitation and by establishing a median unit cost as the approved rate. The amendment is effective March 24, 1994.

If additional information is needed, please contact Nancy Dittmar, Department of Mental Health/Mental Retardation, at (512) 206-4539.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441523 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: May 27, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-08, Amendment Number 437.

The amendment addresses the requirements imposed by §4211(b) of the Omnibus Budget Reconciliation Act (OBRA) of 1987 and §§4801(e)1(1)(A), (B), and (e)(19) of OBRA 1990. The amendment is effective January 1, 1994.

If additional information is needed, please contact Pam McDonald, Department of Human Services, at (512) 450-4086.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441524 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: May 27, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-05, Amendment Number 434.

The amendment deletes the Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) policy that lowers the Medicaid rate to the provider's customary charge when the charge is consistently less than the average Medicaid reimbursement rate for similar service. The amendment is effective April 1, 1994.

If additional information is needed, please contact Kathy Hall, Department of Human Services at (512) 450-3702.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441525 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: May 27, 1994



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-24, Amendment Number 409.

The amendment establishes a reimbursement methodology under the EPSDT expansion provisions for ventilator service agreements and for DME which does not have a manufacturer's discount. The amendment is effective August 17, 1993.

If additional information is needed, please contact Janet Kres, Texas Department of Health, at (512) 338-6465.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441526 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: May 27, 1994



## Texas Department of Human Services Notice of Correction

The Texas Department of Human Services published a public notice in the May 31, 1994, issue of the *Texas Register* (19 TexReg 4283), announcing the availability of an Electronic Benefit Transfer (EBT) document, entitled "Acquirer Interface Specifications". The title of this document was published incorrectly and it should have read "Processor Interface Specifications."

Issued in Austin, Texas, on May 31, 1994.

TRD-9441584 Nancy Murphy  
Section Manager, Policy and Document  
Support  
Texas Department of Human Services

Filed: May 31, 1994



## Texas Department of Insurance Notice

The Notice published in *Texas Register* (19 TexReg 3598), May 10, 1994, for Firemen's Insurance Company under the title Flex Rate Filing, contained an erroneous identification of the line of insurance. The reference to the line of insurance should read as follows.

The Commissioner of Insurance, or his designee, will consider approval of a rate filing outside the promulgated flexibility bands filed by Firemen's Insurance Company of Newark, NJ pursuant to Article 5.101, §3(f), requesting a rate 40% above the benchmark rate for commercial automobile.

This rate filing is subject to Department approval without a hearing unless an objection is filed with the Associate Commissioner of Policy and Research, 333 Guadalupe, P.O. Box 149140, Austin, Texas 78714-9140, within 30 days after publication of the May 10, 1994 notice.

Issued in Austin, Texas, June 1, 1994.

TRD-9441611

D. J. Powers  
Legal Counsel to the Commissioner  
Texas Department of Insurance

Filed: June 1, 1994

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**Notice of Public Hearing**

The Commissioner of Insurance will hold a public hearing under Docket Number 2099, on June 20, 1994, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, for the purpose of soliciting comments and recommendations concerning industry aggregate and company specific rates for workers compensation insurance in Texas. The Commissioner has called the meeting to take evidence on current rating levels for workers compensation, whether those rates meet statutory criteria, insurers' plans for rate changes for the remainder of 1994, and actions the Department should take to ensure compliance with statutory rate standards.

The public is invited to attend the hearing and present oral or written testimony. The Department requests that all exhibits and written comments be provided at least one week before the hearing to the Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy should be sent to Birny Birnbaum, Mail Code 112-1A, P.O. Box 149104, Austin, Texas 78714-9104.

This hearing will be held pursuant to Texas Insurance Code, Articles 1.04C, 5.55, 5.59, 5.96 and 5.98. Article 1.04C provides that the commissioner shall provide an opportunity for the public to address the commissioner on any subject within the Department's jurisdiction. Article 5.55 provides that the commissioner may disapprove a workers compensation insurance rate that fails to meet the requirements of the statute. Article 5.59 authorizes the commissioner to require sworn statements from workers compensation insurers regarding information for the Department to carry out its duties. Article 5.96 authorizes the Department to adopt uniform manual rules, rating plans, and classification plans for workers compensation insurance. Article 5.98 authorizes the Department to adopt rules to accomplish the purposes of the Insurance Code, Chapter 5, which purposes include the regulation of workers compensation insurance rates. No rules will be promulgated in this hearing, but the information obtained may be used for the promulgation of rules in the future.

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

Issued in Austin, Texas, on May 31, 1994.

TRD-9441578

D. J. Powers  
Legal Counsel to the Commissioner  
Texas Department of Insurance

Filed: May 31, 1994

The Commissioner of Insurance will hold a public hearing under Docket Number 2100, on June 20, 1994, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a petition by the Texas Catastrophe Property Insurance Association (TCPIA) for approval to distribute individual company equity account balances of former member companies to the Receiver or Ancillary Receiver in Texas, as appropriate. The former member companies are Members Mutual Insurance Group, which includes Members Mutual Insurance Company, Members Service Insurance Company, and Members Insurance Company; Southern Lloyds Insurance Underwriters; First Southwest Lloyds Insurance Company; and Cascade Insurance Company. The companies are former members of the TCPIA that because of insolvency have been placed in receivership or ancillary receivership in Texas.

The Texas Catastrophe Property Insurance Association (TCPIA) is composed of all insurers authorized to transact property insurance in this state and operates pursuant to the Texas Code, Article, 21.49, to provide windstorm and hail insurance to certain designated areas of the state. The TCPIA Plan of Operation and all amendments to the Plan are adopted by the Commissioner of Insurance pursuant to the Texas Code, Article, 21.49, and are set forth in 28 TAC §5.4001.

A company which has been placed in receivership or ancillary receivership ceases to be a member of the TCPIA and is no longer liable for assessments in the TCPIA. Pursuant to 28 TAC §5.4001(c)(3), balances in equity accounts in the TCPIA for former members of TCPIA that have been placed in receivership or ancillary receivership in Texas may not be distributed without the approval of the Commissioner of Insurance.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5A, which provides that the Commissioner, after notice and hearing, may issue any orders considered necessary to carry out the purposes of Article 21.49 (Catastrophe Property Insurance Pool Act), including, but not limited to, maximum rates, competitive rates, and policy forms. Any person may appear and testify for or against the requested distribution of equity account balances.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441610

D. J. Powers  
Legal Counsel to the Commissioner  
Texas Department of Insurance

Filed: June 1, 1994

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The Commissioner of Insurance will hold a public hearing under Docket Number 2101 on June 20, 1994, at 9:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider commercial property rating schedule filing procedures for insurers intending to continue to use on and after September 1, 1994, commercial property rating schedules currently in effect. These procedures are necessary to ensure a smooth transition on and after September 1, 1994, following the privatization of the commercial property inspection and rating function

Under the procedures, individual commercial property insurers will be permitted to continue to use on and after September 1, 1994, promulgated commercial property rat-

regarding the proposed filing procedures. The filing procedures were approved by the Commissioner on June 1, 1994. These filing procedures are set forth in the Texas Commercial Property Insurance Rate Filing Procedures by the Texas Department of Insurance, Insurance Code Article 5132.001. The filing procedures for insuring commercial property are subject to the rating which is determined by the Commercial Property insurer. The filing procedures are pursuant to the Insurance Code, Article 5132.001, not disapproved by the Commissioner pursuant to Article 5132. The procedures will not permit private entities performing the commercial property inspection and rating function on and after September 1, 1994, to file a letter of intent on behalf of an individual insured.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 513.2, 514, and 525. Article 513.2 provides for a file and use rate system for insurers writing commercial property insurance in Texas and requires each such insurer to file with the Commissioner all rates, supplemental rating information, and reasonable and pertinent supporting information for risks written in this state. Article 513.2, authorizes the Commissioner to disapprove a rate if the Commissioner determines that the rate filing procedure under this article does not meet the standards established under the rate standards section of Article 513.2. These rate standards include the requirement that rates may not be excessive, inadequate, or unfairly discriminatory. Article 514 requires that all rates shall be in accordance with this article, which includes the requirement that rates shall be reasonable, adequate, not unfairly discriminatory, and non-confiscatory as to any class of insurer. Article 514 addresses the conduct of commercial property or property liability adjustment and the prescription of a manual of rules and rating schedules for commercial property or liability insurance and Allied Lines of Commercial Property.

This hearing is held pursuant to the Insurance Code, Article 1.04C(b) which requires the Commissioner to provide the public with a reasonable opportunity to appear before the Commissioner and speak on any issue under the jurisdiction of the Commissioner. Any person may appear and testify for or against the proposed filing procedures. Written comments may be submitted to the Office of the Chief Clerk of the Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

Issued in Austin, Texas, on June 1, 1994.

TND-9441609

D. J. Powers  
Legal Counsel to the Commissioner  
Texas Department of Insurance

Filed June 1, 1994

## Texas Lottery Commission

### Game Procedures Instant Game Number 31

#### 10 Name and Style of Game.

A The name of Instant Game No. 31 is "INSTANT MILLION." The ticket features two play areas, or "games." The play style of Game 1 is a "Match Your Symbols to the Lucky Symbol" play style. The play style of Game 2 is a "Match 3 Like Prize Amounts" play style.

#### 11 Price of Instant Ticket.

A Tickets for Instant Game No. 31 shall be \$2.00 per ticket.

#### 12 Definitions in Instant Game No. 31.

A Display Printing-That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B Latex Overprint-The removable scratch-off covering over the Play Symbols on the front of the ticket.

C Play Symbol-One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols for Game 1 are: MILLION, \$500, \$250, \$20.00, \$10.00, \$5.00, \$4.00, \$2.00, \$1.00, HAT, HORN, PRESENT, BALLOON, CUPCAKE, CANDY, CONE, or RING. The possible Play Symbols for Game 2 are: MILLION, \$500, \$250, \$20.00, \$10.00, \$5.00, \$4.00, \$2.00, or \$1.00.

D Play Symbol Caption-The small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive.

The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows.

PLAY SYMBOL	CAPTION
MILLION	ONE MIL
\$500	FIV HUND
\$250	TWO FIFTY
\$20.00	TWENTY
\$10.00	TENS\$
\$5.00	FIVES\$
\$4.00	FOURS\$
\$2.00	TWOS\$
\$1.00	ONES\$
HAT	HAT
HORN	HORN
PRESENT	PRSNT
BALLOON	BALON
CUPCAKE	CCAKE
CANDY	CANDY
CONE	CONE
RING	RING

E. Retailer Validation Code-Three small letters found under the removable scratch-off covering over the Play Symbol area, which retailers use to verify and validate instant winners. The possible validation codes are:

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Non-winning and high-tier winning tickets will have different combinations of any three of the following letters, excluding the previous combinations: C, D, E, G, H, I, L, R, S, U, V, Z.

The letters F, N, O, T, and W will only appear on winning tickets. The letter O will always have a slash through it.

F. Validation Number—A unique 12 digit number appearing under the latex scratch-off covering on the front of the ticket. Nine digits of the Validation Number relate to the game Play Symbols. There is a one digit prize code and a two digit check digit, which will verify the recording accuracy of the ten digit Validation Number, or VERN (Void If Removed Number). There is a four digit control number which will be underscored and will float within the VERN number. The four digit control number will change positions within the Validation Number in a random manner. The Validation Number is positioned beneath the bottom row of play data in scratched-off play area. The format will be: 000000000000.

G. Low-Tier Prize—A prize of \$2.00, \$4.00, \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize—A prize of \$40.00 or \$500.

I. High-Tier Prize—A prize of \$1,000,000.

J. Bar Code—A 16 character interleaved two of five bar code which will include a two digit game ID, the 6 digit pack number and eight digits of the Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number—An eleven digit number consisting of the two digit game number (31), a six digit pack number and a three digit ticket number. Ticket numbers start with 000 within each pack. The format will be: 31-000001-000

L. Pack—A pack of "INSTANT MILLION" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two. Tickets 000 to 001 are on the top page; tickets 002 to 003 are on the next page, etc.; and tickets 248 to 249 are on the last page.

M. Non-Winning Ticket—A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16

TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket—A Texas Lottery "INSTANT MILLION" Instant Game No. 31 ticket.

2.0. Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in Game 1 of the "INSTANT MILLION" Instant Game is determined once the latex on the ticket is scratched off to expose the "Lucky Symbol", "Your Symbols", and "Prize" Play Symbols on the front of the ticket. The holder of a ticket wins "Prize" amount if a Play Symbol shown under "YOUR SYMBOLS" matches the Play Symbol appearing under "LUCKY SYMBOL." A prize winner in Game 2 of the "INSTANT MILLION" Instant Game wins the prize amount that appears three times on the play area. No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the Instant Game.

2.1. Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly six Play Symbols must appear under each of the two Games on the right front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;
5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. The ticket shall be intact;
7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
8. The Validation Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

10. The ticket must not be counterfeit in whole or in part;

11. The ticket must have been issued by the Texas Lottery in an authorized manner;

12. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

14. The ticket must be complete and not miscut, and have exactly six Play Symbols and exactly six Play Symbol Captions under each of the two Games on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

15. The Validation Number of an apparent winning ticket shall correspond with the Texas Lottery's Validation Numbers for winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

17. Each of the six Play Symbols appearing under each of the two Games must be exactly one of those described in Section 1.2.C, of these Game Procedures, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in Section 1.2.D, of these Game Procedures;

18. Each of the six Play Symbols appearing under each of the two Games on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Validation Numbers must be printed in the Validation font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

20. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

## 2.2. Programmed Game Parameters.

A. Tickets can win up to two times on the same ticket (once in Game 1 and once in Game 2).

B. When Game 2 has a match three winning combination and Game 1 is non-winning, the Game 1 prize amount will be different from the winning combination in Game 2.

C. Adjacent tickets will not have identical patterns in either game.

D. There will never be three or more like prize symbols on any ticket except a Game 2 winning ticket or a multiple win ticket.

E. Game 2 will never contain more than one set of three matches

F. Game 2 winning tickets will not contain any pairs of non-winning prize amounts.

## 2.3. Procedure for Claiming Prizes.

A. To claim a "INSTANT MILLION" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$250, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.2.B; of these Game Procedures

B. To claim an "INSTANT MILLION" Instant Game prize of \$1,000,000, the claimant must sign the winning ticket and present it at Texas Lottery Headquarters in Austin. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly

C. As an alternative method of claiming a "INSTANT MILLION" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and present both at any Texas Lottery claim center. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A claimant may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, State Treasurer, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. in default on a loan guaranteed under Texas Civil Statutes, Chapter 57, the Education Code. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4. Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.2.D, of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5. Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "INSTANT MILLION" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant

in the amount of the prize payable to the order of the minor.

2.6. If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "INSTANT MILLION" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7. Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0. Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0. Number and Value of Instant Prizes. There will be approximately 100,080,000 tickets in the Instant Game No. 31. The expected number and value of prizes in the game are as follows:

Prize Amount	Approximate Number of Winners	Chances of Winning
\$2.00	10,008,000	1:10.00
\$4.00	8,006,400	1:12.50
\$5.00	1,000,800	1:100.00
\$10.00	1,501,200	1:66.67
\$20.00	700,560	1:142.86
\$40.00	400,000	1:250.20
\$500	26,000	1:3,849
\$1,000,000	8	1:12,510,000
<b>Total</b>	<b>21,642,968 / 100,080,000</b>	<b>1:4.62</b>

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0. Termination of the Instant Game. The Executive Director may, at any time, announce a termination date for the Instant Game No. 31 without advance notice, at which point no further tickets in that game may be sold.

6.0. Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 31, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

Issued in Austin, Texas, on May 27, 1994.

TRD-9441505 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Filed: May 27, 1994

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**Texas Natural Conservation  
Commission  
Consultant Contract Extension**

The Texas Natural Resource Conservation Commission (TNRCC) has extended a consultant contract to advise and assist in the development of a strategic plan for the state's involvement in expanding markets for Texas recyclable materials. The consultant is Mt. Auburn Associates, Incorporated, 408 Highland Avenue, Somerville, Massachusetts 02144. The total cost of the contract remains unchanged and will not exceed \$121,003. The publication date invit-

ing response for the Request for Proposals resulting in the contract award was June 25, 1993 (18 TexReg 4217). The notice of award was published in October 10, 1993, issue of the *Texas Register* (18 TexReg 6968). The contract starting date was September 1, 1993. The original ending date for the contract was May 31, 1994. The ending date for this contract has been extended to August 31, 1994. The final report for this project will be completed no later than August 31, 1994.

For more information contact: Erv Sandlin at (512) 239-6759.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441615 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: June 1, 1994

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**Public Notices**

The Texas Natural Resource Conservation Commission (commission) requests written comments pertaining to the draft list of water quality segment priority for protective or remedial action. The list is developed and promulgated pursuant to the requirements of the Clean Water Act, §303(d). The list is used to select waterbodies for which "total maximum daily load" (TMDL) studies will be planned during the next two years. The 303(d) list will also be included in the next edition of the State of Texas Water Quality Inventory. A copy of the draft list and a description of how the list was developed may be obtained upon written or verbal request from Becky Ledesma, TNRCC, Watershed Management Division, P.O. Box 13087, Austin, Texas 78711-3087, or (512) 463-8469.

The draft list contains all of the 366 designated segments in Texas, for purposes of reference, but only four segments



can be targeted for TMDL development within a two-year period. However, five or six segments are identified as targeted, so that work can progress even if weather or other conditions prevent data collection required for TMDL development in one or two of the segments.

The commission staff requests specific comments about the ranking process and/or the final results as shown in the draft list. In particular, any information not included in the ranking process that could alter the selection of targeted segments is sought. The ranking is based on recorded water quality data and general information available to commission staff in the central office. Local residents, river authorities, or other entities may possess knowledge of specific problems, programs, or conditions that are unknown to commission staff but which should be considered while selecting targeted segments. Useful information may include additional threats to water quality and water resources, or additional resource values to be protected, or both. Changes to the data analysis parts of the process, if appropriate, could not occur until the next cycle begins in two years. However, additional information about conditions amenable to or supportive of a TMDL control program could change the subset of segments targeted for TMDL development during the next two years.

Comments shall be provided in written form and sent to Larry Koenig, TNRCC, Watershed Management Division, Research and Environmental Assessment Section, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted for 60 days after publication of this notice.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441625      Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: June 1, 1994

The Texas Natural Resource Conservation Commission will conduct a public hearing beginning at 5:00 p.m., July 28, 1994, City of Amarillo, City Hall, Third Floor, City Commissioners Chambers, 509 East Seventh Avenue, Amarillo, Texas.

This hearing is scheduled to receive testimony concerning the waste load evaluation report for Dissolved Oxygen in the Upper Prairie Dog Town Fork Red River in the Red River Basin (Segment 0229). The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.037.

The primary purpose of a waste load evaluation is to define treatment levels for wastewater dischargers to a segment and specify other program actions that need to be taken in order to attain and maintain the water quality standards, describe nonpoint source pollution from tributaries to a segment, and identify treatment level alternatives using receiving stream water quality simulations. A section containing recommended treatment levels and other proposed recommended actions is also included.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the waste load evaluation. Written testimony which is submitted prior to or during the public hearing will be included in the record. The Commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Mark

Rudolph, TNRCC, Watershed Management Division, P.O. Box 13087, Austin, Texas 78711 or call (512) 475-2213.

A limited number of copies of the draft waste load evaluation are available for review in the TNRCC Library, Park 35 Complex, Building A, Room 102, 120100 Park 35 Circle in Austin. A copy of the report may be obtained upon written request from Mark Rudolph at the previous post office box address. There are no charges for the pre-hearing draft copies of the waste load evaluation; however, a fee will be charged for the finalized post-hearing copies.

The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441626      Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: June 1, 1994

## Request for Proposal

The Corpus Christi Bay National Estuary Program (CCBNEP) invites interested parties to submit proposals for an "Inventory and Analysis of Bay Management Structure" to be conducted during fiscal year 1995 starting September 1, 1994.

The CCBNEP is funded through a Cooperative Agreement between the TNRCC of the State of Texas and EPA. The EPA provides for 75% of the program's funding and requires a 25% match of non-federal funds. All contracts will be with the TNRCC. Contractors are encouraged, but not required to provide cost sharing. The CCBNEP and TNRCC anticipate receiving funds totalling \$50,000 for the project.

Potential contractors must submit 40 copies of their Proposal Work Plan for the project. The Proposal Work Plan should describe the potential contractor's approach to the project and should be submitted to the CCBNEP Program Office by no later than 5:00 p.m., July 7, 1994. It is the responsibility of the potential contractor to verify that the Proposal Work Plan has been received by the Program office by the deadline. Faxed Proposal Work Plans will not be accepted.

Appropriate Management Conference Committees will review the Proposal Work Plans and forward initial recommendations to the Management Committee for award. The Management Committee will then require verbal summary presentations of Proposal Work Plans which meet the minimum requirements as described in the "Contract For Consulting Services" and the Guidelines for Proposal Work Plans. Presentations to the Management Committee are scheduled for August 11, 1994.

Copies of the Contract for Consulting Services, Guidelines for Proposal Work Plans and Guidelines for Verbal Presentation may be obtained by contacting the Program Office. Any and all expenses incurred during the development and/or presentation of Proposal Work Plans shall be the responsibility of the potential contractor. Contract execution is contingent upon funding appropriation to the granting agency. Send copies of Proposal Work Plans to Corpus Christi Bay National Estuary Program, TAMU-

CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, Attention: Proposal Work Plan (fiscal year 1995).

Any questions regarding these projects or the review process should be directed to Richard Volk, CCBNEP Program Director at (512) 985-6767.

Issued in Austin, Texas, on June 1, 1994.

TRD-9441621 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: June 1, 1994

## Public Utility Commission of Texas

### Notice of Petition of the City of Morgan Exchange for Expanded Local Calling Service to the Clifton, and Meridian Exchanges, Docket Number 12922

On September 27, 1994, a Petition to Extend Local Service (ELS) to the Morgan exchange was filed pursuant to Public Utility Commission Substantive Rule 23.49(c). The Morgan exchange is served by Contel of Texas, Inc., (Contel). In accordance with the rule, the Morgan exchange satisfied the balloting requirements to the Clifton, Meridian and Lakeside exchanges. On April 12, 1994, the Commission approved Morgan's petition with respect to the Clifton and Meridian exchanges. The Clifton exchange is served by Centel Telephone Company and the Meridian exchange is served by Southwest Bell Telephone Company (SWB).

The Clifton and Meridian exchanges were served because they are located in a Local Access and Transport Area (LATA) which is different from the LATA in which the Morgan exchange is located. The Morgan exchange is in the Dallas LATA while the Clifton and Meridian exchanges are in the Waco LATA. Pursuant to a consent decree entered by Contel's parent corporation in the *United States of America v. GTE Corporation*, Civil Action Number 83-1298-HHG, Contel is prohibited from carrying telephone traffic across LATA boundaries. The same restriction applies to SWB pursuant to the Modified Final Judgement entered in *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982).

Upon severance of the Clifton and Meridian exchanges, a new docket was opened and assigned Docket Number 12922. The purpose of this docket is to take evidence on community of interest and to consider whether to direct Contel and SWB to apply for a waiver of the restriction precluding them from transporting interLATA traffic.

The deadline for intervention in Docket Number 12922 is June 13, 1994. Persons who wish to intervene or comment on these proceedings should notify the Commission by June 13, 1994. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal creek Boulevard, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission's Public Information Office at (512) 458-0388, or (512) 458-0221 teletypewriter for the deaf.

Issued in Austin, Texas, on May 31, 1994.

TRD-9441583 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 31, 1994

## Public Utility Commission Request Comments on Form for Applications for Electric Transmission Facilities

The Public Utility Commission of Texas has established a project (Project Number 12955) to consider, pursuant to 16 Texas Administrative Code, §22.80 (West April 1, 1994), amending its form for an application to amend a certificate of convenience and necessity for proposed electric transmission facilities. The current form was drafted years ago. The commission staff has drafted an amended form that would better address the information that is now used to review the applications. The amended form drafted by the staff reorganizes the existing form and would require more detailed information on proposed and existing facilities, the need for the proposed facilities, planning criteria, options to the proposed facilities, routing for the proposed facilities, permits from other governmental agencies, community values, induced voltage, airstrips, and environmental impact. The amended form also consolidates the existing, separate substation questionnaire into the basic application form.

The commission seeks written comments on the amended application form from interested parties. The amended form is available for review and copying in the commission's Central Records office. Comments (13 copies) should be submitted to John M. Renfrow, secretary of the commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of the publication of this notice. Comments should refer to Project Number 12955. After comments have been received, the commission staff will prepare a written summary of the comments and will make a written recommendation to the commission.

Issued in Austin, Texas, on May 27, 1994.

TRD-9441529 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 27, 1994

## Texas Rehabilitation Commission Solicitation of Impartial Hearing Officers

The Texas Rehabilitation Commission is soliciting individuals to serve on an independent contract basis as Impartial Hearing Officers for client appeals before the Commission. Qualified individuals should have knowledge of the delivery of vocational rehabilitation services, the Texas Rehabilitation Commission State Plan for provision of rehabilitation services, and federal and state laws, rules, and regulations governing the provision of such services. Interested persons should contact Diane Miller, Hearings Technician, at (512) 483-4064, to request an application. Completed applications of qualified individuals must be received by 5:00 p.m., Friday, July 15, 1994.

Issued in Austin, Texas, on May 27, 1994.

TRD-8441573

Charles W. Schiesser  
Associate Commissioner for Legal Services  
Texas Rehabilitation Commission

Filed: May 31, 1994

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**Waco Urban Transportation Study,  
(City of Waco)**

**Request for Proposal**

The Metropolitan Planning Organization (MPO) for the Waco Urban Transportation Study is requesting proposals from qualified sources to perform a street inventory for the Cities of Bellmead, Beverly Hills, Hewitt, Lacy-Lakeview, Northcrest, Robinson and Woodway, which are part of the City of Waco MSA.

The WUTS MPO is comprised of the Cities of Bellmead, Beverly Hills, Hewitt, Lacy-Lakeview, Northcrest, Robinson, Waco and Woodway; McLennan County and the Texas Department of Transportation. Other participating agencies include the Heart of Texas Council of Governments, the Federal Highway Administration and the Federal Transit Administration. The study area includes the above named cities as well as part of Golinda and unincorporated areas in the county. The area encompasses 261 square miles and supports a population of approximately 151,272. The City of Waco is the designated grantee for the MPO and receives funding from the TxDoT and FTA.

The purpose of this request is to solicit proposals from qualified consultants to provide an inventory of the exist-

ing streets in the above listed cities. This inventory will assist in developing short-term and long-term goals for transportation improvements. The inventory must meet the requirements of the Intermodal Surface Transportation Efficiency Act of 1991 Pavement Management System.

To request a copy of or ask questions concerning this RFP packet, contact Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, (817) 750-5655.

The MPO and the City of Waco reserve the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the MPO or City of Waco. This RFP does not commit the MPO or City of Waco to award a contract or to pay cost incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the City no later than 5:00 p.m. on July 8, 1994. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570, or shipped to 300 Austin Avenue, Fourth Floor, Waco, Texas 76701.

Proposals will be evaluated by a staff committee. Each proposal will be evaluated for acceptability with emphasis on the various factors enumerated as follows, assigning to that factor a numerical weight. The scores will be used to develop a list of proposers with whom negotiations may be conducted. Additional documentation shall be at the discretion of the MPO and City of Waco. Interviews, if necessary, will be conducted. The staff committee recommendation is subject to approval by the Waco City Council.

<u>Criteria</u>	<u>Maximum Points</u>
Firm and Staff Experience	30
Project Approach	30
Demonstrated Past Performance Success	20
Current Workload	10
Conformance with RFP Requirements	<u>10</u>
	100 Total

The firm selected to provide this study must be approved by the Waco City Council. The MPO and City of Waco may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The MPO and City of Waco reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the MPO and City of Waco, price, content, and other factors being considered in the Request for Proposal.

Issued in Waco, Texas, on May 20, 1994.

TRD-8441557

Anna K. Hayes  
MPO Coordinator  
Waco Urban Transportation Study

Filed: May 31, 1994

**Texas Water Development Board**

**Notice of Meeting**

The Trans-Texas Water Program Policy Management Committee will meet at the Sheraton South Padre Island Beach Resort, Peppers, Second Floor, Third South Padre Boulevard, South Padre Island, Texas, on June 23, 1994, at 9:00 a.m. Information may be obtained from Dennis Crowley, P.O. Box 13231, Austin, Texas 78711, (512) 463-7976.

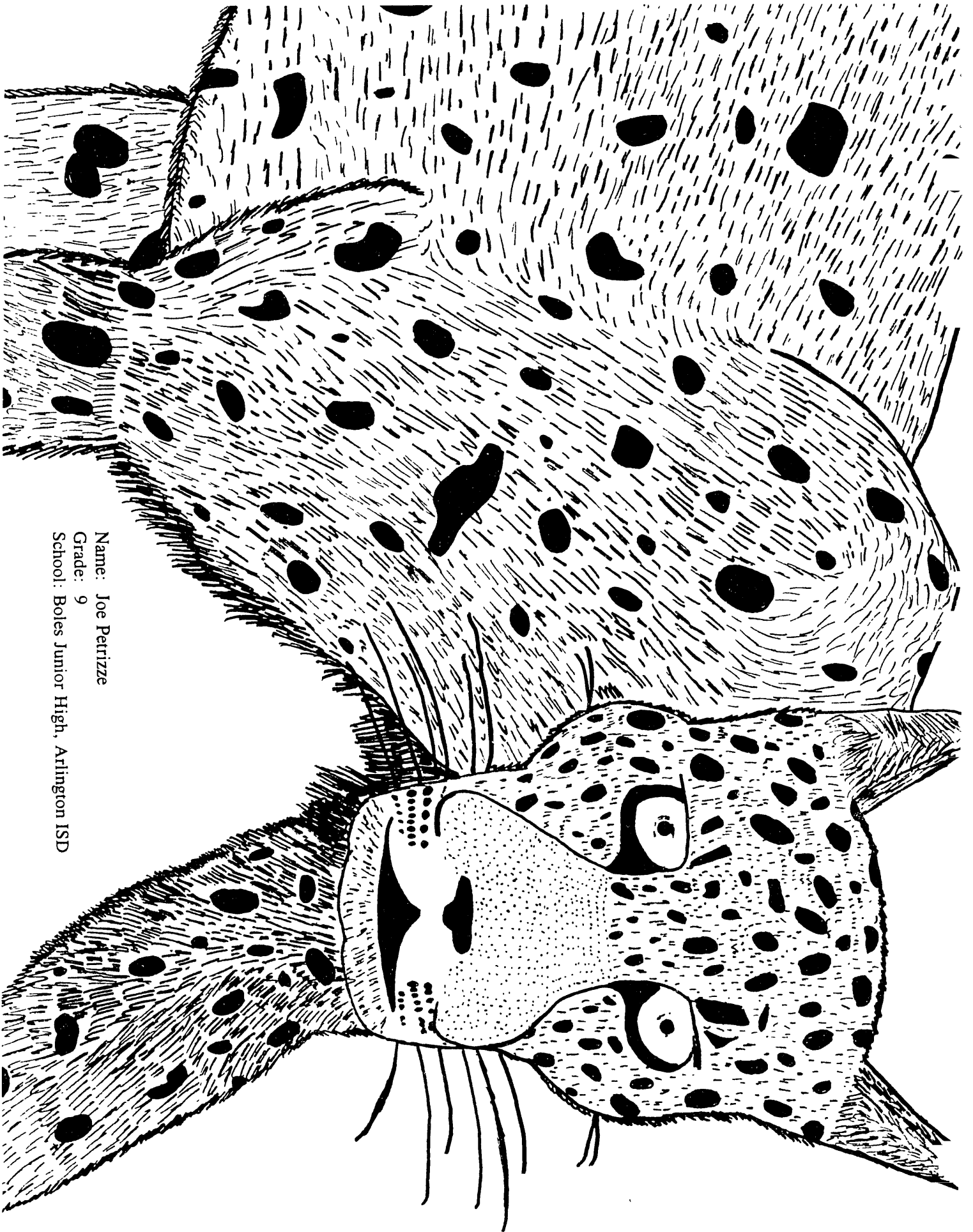
Issued in Austin, Texas, on June 1, 1994.

TRD-9441614

Suzanne Schwartz  
General Counsel  
Texas Water Development Board

Filed: June 1, 1994

◆ ◆ ◆



Name: Joe Petrizzo

Grade: 9

School: Boles Junior High, Arlington ISD

# TAC Titles Affected

The following is a list of the administrative rules that were published in the May 1994 issues.

## TITLE 1. ADMINISTRATION

### Part I. Office of the Governor

1 TAC §5.195.....4175

### Part II. Texas Ethics Commission

1 TAC §20.1.....3993

### Part IV. Office of the Secretary of State

1 TAC §71.50.....4251

1 TAC §78.53.....4251

1 TAC §91.1.....3309

1 TAC §§91.21, 91.23-91.26, 91.28.....3309

1 TAC §91.42, §91.43.....3311

1 TAC §91.51.....3311

1 TAC §§91.73-91.75.....3312

1 TAC §91.112, §91.113.....3313

1 TAC §9.135.....3313

### Part V. General Services Commission

1 TAC §113.2, §113.20.....3363

1 TAC §113.15, §113.18.....3397

1 TAC §113.19.....3395, 3398

1 TAC §121.5, §121.9.....3364

### Part XII. Advisory Commission on State Emergency Communications

1 TAC §251.5.....4194

### Part XIII. Texas Incentive and Productivity Commission

1 TAC §273.9.....3575

### Part XVI. Council on Competitive Government

1 TAC §401.22.....4195

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

4 TAC §3.70, §3.71.....3613

4 TAC §§18.1-18.8, 18.15, 18.17-18.24, 18.26, 18.27, 18.29-18.39.....4009

4 TAC §§18.1-18.17.....4009

### Part II. Texas Animal Health Commission

4 TAC §35.1.....3398

4 TAC §35.2.....3399

4 TAC §35.4.....3400

4 TAC §36.2.....3461

4 TAC §41.2.....3400

4 TAC §49.1.....3462

4 TAC §49.2.....3459

4 TAC §51.2.....3459

### Part V. State Seed and Plant Board

4 TAC §§82.1-82.5.....3537

## TITLE 7. BANKING AND SECURITIES

### Part I. State Finance Securities

7 TAC §1.305.....3463

### Part II. Banking Department of Texas

7 TAC §10.1.....3459

7 TAC §§13.1-13.12.....3314

7 TAC §§13.1, 13.3-13.11, 13.13-13.20.....3314

7 TAC §§13.21-13.26.....3316

7 TAC §§13.31-13.35.....3317

7 TAC §§13.41-13.44.....3317

7 TAC §§13.50-13.56.....3317

7 TAC §§13.51-13.55.....3318

7 TAC §§13.61-13.71.....3318

7 TAC §§13.81-13.89.....3318

7 TAC §§13.101-13.106.....3318

7 TAC §§13.101-13.103.....3319

7 TAC §§13.121-13.131.....3319

### Part III. State Banking Board

7 TAC §§17.1-17.4.....3320

7 TAC §§17.11-17.16.....3320

7 TAC §§31.1-31.7.....3320

7 TAC §§31.1-31.4.....3321

7 TAC §§31.20-31.22.....3322

7 TAC §31.40, §31.41.....3323

7 TAC §§33.1-33.10.....3324

7 TAC §§33.21-33.24.....3324

7 TAC §§33.51-33.55.....3324

7 TAC §33.61.....3325

7 TAC §33.71.....3325

7 TAC §§33.101-33.115.....3325

7 TAC §§35.1-35.6.....3325

7 TAC §§35.11-35.16.....3326

<b>Part IV. Texas Savings and Loan Department</b>	
7 TAC §63.15 .....	3401
7 TAC §63.14 .....	3464
7 TAC §67.5 .....	3464
7 TAC §77.31 .....	3401
7 TAC §77.105 .....	3465
7 TAC §79.108 .....	3402
7 TAC §79.121 .....	3403

<b>Part V. Office of Consumer Credit Commissioner</b>	
7 TAC §82.2 .....	3403

<b>Part VII. State Securities Board</b>	
7 TAC §101.5 .....	4059
7 TAC §109.13 .....	4195
7 TAC §109.17 .....	4195
7 TAC §§117.1-117.5, 117.7 .....	4059, 4173
7 TAC §§121.2-121.4, 121.10 .....	4063
7 TAC §§121.3, 121.4, 121.10 .....	4173
7 TAC §123.3 .....	4196
7 TAC §133.2 .....	4066
7 TAC §137.3 .....	4196
7 TAC §139.14 .....	4196
7 TAC §139.15 .....	4066
7 TAC §141.3 .....	4067, 4173
7 TAC §§143.1-143.8 .....	4069, 4173

**TITLE 10. Community Development**

<b>Part IV. Texas Department of Housing and Community Affairs</b>	
10 TAC §§49.1-49.14 .....	3859

<b>Part V. Texas Department of Commerce</b>	
10 TAC §176.5 .....	3871
10 TAC §§187.140-187.154 .....	3614
10 TAC §§187.170-187.196 .....	3616
10 TAC §§187.240-187.249 .....	3993
10 TAC §§187.260-187.269 .....	3996
10 TAC §§187.280-187.298 .....	3998
10 TAC §190.3, §190.8 .....	3917

**TITLE 13. CULTURAL RESOURCES**

<b>Part IV. Texas Antiquities Committee</b>	
13 TAC §41.20 .....	3819

**TITLE 16. ECONOMIC REGULATIONS**

<b>Part I. Railroad Commission of Texas</b>	
16 TAC §5.152 .....	3575
16 TAC §5.460 .....	4002

16 TAC §5.809 .....	4003
16 TAC §5.902 .....	3326
16 TAC §§9.183-9.185, 9.187, 9.188 .....	3465

<b>Part II. Public Utility Commission of Texas</b>	
16 TAC §23.12 .....	3459
16 TAC §23.21 .....	3404
16 TAC §23.23 .....	3405
16 TAC §23.25 .....	3408
16 TAC §23.29 .....	3408
16 TAC §23.53 .....	3408
16 TAC §23.61 .....	3409
16 TAC §23.92 .....	3410
16 TAC §60.25 .....	3412

<b>Part III. Texas Alcoholic Beverage Commission</b>	
16 TAC §31.5 .....	4004
16 TAC §33.23 .....	3872
16 TAC §35.11 .....	3873
16 TAC §35.41 .....	3873
16 TAC §41.20 .....	3874
16 TAC §45.4 .....	3874
16 TAC §45.21 .....	3878
16 TAC §45.49 .....	3878
16 TAC §45.73 .....	3879
16 TAC §45.79 .....	3879
16 TAC §45.80 .....	3880
16 TAC §45.82 .....	3880
16 TAC §45.90 .....	3881
16 TAC §45.101 .....	3881
16 TAC §45.103 .....	3881
16 TAC §45.106 .....	3882
16 TAC §45.107 .....	3883
16 TAC §45.108 .....	3883
16 TAC §45.109 .....	3883
16 TAC §45.110 .....	3884
16 TAC §45.111 .....	3885
16 TAC §45.112 .....	3885
16 TAC §45.113 .....	3886
16 TAC §45.117 .....	3886
16 TAC §45.118 .....	3887
16 TAC §45.119 .....	3887
16 TAC §45.120 .....	3888
16 TAC §45.141 .....	3888
16 TAC §§50.2-50.21 .....	3888
16 TAC §50.2 .....	3889
16 TAC §50.3 .....	3889
16 TAC §50.4 .....	3892

16 TAC §50.5.....	3893
16 TAC §50.6.....	3893
16 TAC §50.7.....	3894
16 TAC §50.8.....	3894
16 TAC §50.9.....	3895

**Part IV. Texas Department of Licensing and Regulation**

16 TAC §§60.61-60.70, 60.75, 60.78, 60.79, 60.80.....	3412
16 TAC §60.80, §60.81.....	3413
16 TAC §§61.10, 61.26, 61.62, 61.63, 61.70, 61.78, 61.100, 61.101, 61.104, 61.106, 61.107, 61.115.....	4243
16 TAC §§68.1, 68.10, 68.20, 68.21, 68.30-68.33, 68.60-68.66, 68.770-68.72, 68.80, 68.90-68.93.....	3485
16 TAC §§68.1, 68.10, 68.62, 68.80, 68.101-68.103, 68.105-68.112.....	3485
16 TAC §69.123.....	3364
16 TAC §78.75.....	3364

**Part VI. Texas Motor Vehicle Commission**

16 TAC §103.13.....	3895
---------------------	------

**TITLE 22. EXAMINING BOARDS**

**Part I. Texas Board of Architectural Examiners**

22 TAC §1.45.....	4005
22 TAC §1.84.....	4005
22 TAC §1.88.....	4006
22 TAC §5.55.....	4006
22 TAC §5.95.....	4006
22 TAC §5.99.....	4007

**Part VI. State Board of Registration for Professional Engineers**

22 TAC §131.54.....	3365, 3620
22 TAC §131.81.....	3621
22 TAC §131.91.....	3414
22 TAC §131.92.....	3365
22 TAC §131.93.....	3621
22 TAC §131.101.....	3365
22 TAC §131.103.....	3621
22 TAC §131.106.....	3365
22 TAC §131.112.....	3622
22 TAC §131.138.....	3538
22 TAC §131.156.....	3414
22 TAC §131.171.....	3538

**Part VIII. Texas Appraiser Licensing and Certification Board**

22 TAC §§153.1, 153.20, 153.21, 153.35, 153.37.....	3622
22 TAC §§157.1-157.5.....	3623

**Part IX. Texas State Board of Medical Examiners**

22 TAC §161.1.....	3326, 3361
22 TAC §§163.6, 163.7.....	3366
22 TAC §175.1.....	3366
22 TAC §§183.1-183.4, 183.6-183.12.....	3366
22 TAC §§183.1-183.16.....	3366
22 TAC §183.17.....	3361
22 TAC §183.17, §183.18.....	3305
22 TAC §187.19, §187.24.....	3367
22 TAC §187.38.....	3367
22 TAC §187.39.....	3367
22 TAC §187.40.....	3327
22 TAC §188.1.....	3328
22 TAC §§196.1-196.5.....	3328
22 TAC §198.1.....	3368
22 TAC §§199.1-199.3.....	3368

**Part X. Texas Funeral Service Commission**

22 TAC §201.16.....	3624
22 TAC §203.1.....	3624
22 TAC §203.7.....	3625
22 TAC §203.8.....	3625
22 TAC §203.9.....	3626
22 TAC §203.11.....	3628
22 TAC §203.17.....	3630
22 TAC §203.18.....	3631

**Part XI. Board of Nurse Examiners**

22 TAC §§217.3-217.6.....	4196
22 TAC §217.19.....	4197
22 TAC §223.1.....	3576

**Part XII. Board of Vocational Nurse Examiners**

22 TAC §231.1.....	3917
22 TAC §233.21.....	3917
22 TAC §233.89.....	3918
22 TAC §§235.4, 235.9, 235.12.....	3918
22 TAC §§235.7, 235.11, 235.13, 235.15, 235.16, 235.17, 235.18.....	3918
22 TAC §§235.9, 235.10, 235.12.....	3918
22 TAC §235.47, §235.48.....	3918
22 TAC §§235.47-235.49.....	3919
22 TAC §237.15.....	3919

**Part XIV. Texas Optometry Board**

22 TAC §281.74.....	3919
22 TAC §283.2, §283.4.....	3920
22 TAC §§291.31-291.36.....	3921
22 TAC §§291.111-291.115.....	3925
22 TAC §309.3, §309.5.....	3929

**Part XVI. Texas State Board of Physical Therapy Examiners**

22 TAC §323.4 ..... 3539  
22 TAC §329.3, §329.5 ..... 3539  
22 TAC §342.1 ..... 3540  
22 TAC §343.23, §343.24 ..... 3541  
22 TAC §343.24 ..... 3541

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

22 TAC §361.1 ..... 4079  
22 TAC §361.9 ..... 3930  
22 TAC §363.1 ..... 4079  
22 TAC §363.6 ..... 4080  
22 TAC §363.11 ..... 3930, 4080  
22 TAC §365.1 ..... 4081  
22 TAC §365.2 ..... 4081  
22 TAC §365.3 ..... 4082  
22 TAC §365.11 ..... 4082  
22 TAC §365.12 ..... 4083  
22 TAC §365.14 ..... 3931  
22 TAC §367.1 ..... 4083  
22 TAC §367.2 ..... 3931  
22 TAC §367.3 ..... 3932

**Part XVIII. Texas State Board of Podiatry Examiners**

22 TAC §371.2 ..... 3306, 3329  
22 TAC §373.2 ..... 3329  
22 TAC §378.2, §378.4 ..... 3330  
22 TAC §379.1 ..... 3330

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

22 429.2 ..... 3685  
22 TAC §§436.1-436.6 ..... 3685

**Part XXII. Texas State Board of Public Accountancy**

22 TAC §501.4 ..... 4197  
22 TAC §501.43 ..... 4197  
22 TAC §505.10 ..... 4198  
22 TAC §511.164 ..... 4198  
22 TAC §511.168 ..... 4198  
22 TAC §513.24 ..... 4198  
22 TAC §513.47 ..... 4198  
22 TAC §515.2 ..... 4199  
22 TAC §515.3 ..... 4199  
22 TAC §515.4 ..... 4199  
22 TAC §515.5 ..... 4199  
22 TAC §515.8 ..... 4199  
22 TAC §523.2 ..... 4200  
22 TAC §523.62 ..... 4200

**Part XXIII. Texas Real Estate Commission**

22 TAC §§537.11, 537.21, 537.22, 537.24, 537.26, 537.27, 537.37-537.39 ..... 3576  
22 TAC §537.25 ..... 3577

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

22 TAC §573.6 ..... 3415  
22 TAC §573.12 ..... 3415  
22 TAC §573.29 ..... 3416  
22 TAC §573.64 ..... 3416  
22 TAC §573.65 ..... 4173  
22 TAC §573.70 ..... 3417

**Part XXXIV. Texas State Board of Social Worker Examiners**

22 TAC §§67.101-67.106 ..... 4023  
22 TAC §§67.201-67.208 ..... 4023  
22 TAC §§67.301-67.305 ..... 4023  
22 TAC §§67.401-67.410 ..... 4023

**Part XXXV. Texas State Board of Examiners of Marriage and Family Therapists**

22 TAC §§801.291-801.298 ..... 2390  
22 TAC §801.331, §801.332 ..... 2390  
22 TAC §801.351 ..... 2391  
22 TAC §§801.361-801.369 ..... 2392

**TITLE 25. HEALTH SERVICES**

**Part I. Texas Department of Health**

25 TAC §1.91 ..... 3331  
25 TAC §1.201 ..... 3368  
25 TAC §§1.221-1.228 ..... 3332  
25 TAC §3.21 ..... 3369  
25 TAC §29.1112 ..... 3487  
25 TAC §33.140 ..... 3487  
25 TAC §§37.52, 37.53, 37.56-37.59, 37.61-37.64, 37.66, 37.67 ..... 3369  
25 TAC §37.68 ..... 3370  
25 TAC §§97.171-97.180, 97.190 ..... 3370  
25 TAC §111.1 ..... 3371  
25 TAC §§129.3, 129.5, 129.8, 129.9, 129.11, 129.13 ..... 3417  
25 TAC §181.27 ..... 3334  
25 TAC §§229.370-229.374 ..... 3488  
25 TAC §289.121 ..... 3336  
25 TAC §§295.31-295.56, 295.58-295.62, 295.64, 295.65, 295.67-295.71 ..... 3336

**Part II. Texas Department of Mental Health and Mental Retardation**

25 TAC §401.25 ..... 3857, 3896  
25 TAC §401.57 ..... 3932



25 TAC §§401.551-401.565	3933
25 TAC §§401.683, 401.685, 401.690, 401.692	3542
25 TAC §§405.51-405.62	4083
25 TAC §§405.803, §405.808	3936
25 TAC §§409.101, 409.103, 409.119	3896
25 TAC §409.154, §409.159	3897
25 TAC §409.356	3938

**TITLE 28. INSURANCE**

*Part I. Texas Department of Insurance*

28 TAC §§1.201-1.208	4246
28 TAC §§1.301-1.306	3371
28 TAC §§1.1301-1.1317	3357
28 TAC §§3.3501, §3.3502	3938
28 TAC §§3.3501-3.3511	3938
28 TAC §5.11000	4251
28 TAC §7.611	3898
28 TAC §§7.1901-7.1915	3686
28 TAC §9.1	3695
28 TAC §§19.1001-19.1011	3696
28 TAC §§19.1001-19.1013	3697

*Part II. Texas Workers' Compensation Commission*

28 TAC §134.1000	4087
28 TAC §134.1000, §134.1001	4007
28 TAC §134.1001	4111

**TITLE 30. ENVIRONMENTAL QUALITY**

*Part I. Texas Natural Resource Conservation Commission*

30 TAC §101.1	3701
30 TAC §114.1	4007
30 TAC §114.25	3492
30 TAC §§115.121, 115.122, 115.126, 115.27, 115.129	3734
30 TAC §115.132, §115.139	3736
30 TAC §§115.140, 115.142-115.149	3737
30 TAC §§115.152, 115.153, 115.155-115.157, 115.159	3740
30 TAC §§115.211-115.217, 115.219	3741
30 TAC §§115.252, 115.253, 115.255, 115.257, 115.259	3746
30 TAC §§115.352-115.357, 115.359	3746
30 TAC §§115.412, 115.415-115.417, 115.419	3746
30 TAC §§115.421, 115.422, 115.429	3747
30 TAC §115.432	3748
30 TAC §§115.442, 115.443, 115.445, 115.446, 115.449	3748

30 TAC §115.532	3748
30 TAC §§115.541-115.547, 115.549	3749
30 TAC §§115.552, 115.553, 115.555-115.557, 115.559	3749
30 TAC §§115.600, 115.610, 115.612-115.617, 115.619	3751
30 TAC §§115.612-115.615, 115.617, 115.619	3764
30 TAC §§291.128-291.138	3899
30 TAC §§291.131-291.136	3901
30 TAC §§312.1, 312.3, 312.4, 312.6, 312.8-312.10, 312.12, 312.13	3544
30 TAC §§312.41, 312.44, 312.46-312.48	3548
30 TAC §§312.62, 312.64, 312.68	3551
30 TAC §312.82	3552
30 TAC §§312.121-312.124	3552
30 TAC §§312.141-312.150	3558
30 TAC §§325.2, 325.3, 325.5, 325.6, 325.11, 325.15	3941
30 TAC §330.4	3561
30 TAC §330.59	3562
30 TAC §330.160	3563
30 TAC §§330.411-330.415, 330.431, 330.432, 330.441-330.449, 330.461-330.465, 330.481-330.484, 330.501-330.504, 330.511-330.514, 330.531-330.534	3564

**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

*Part I. General Land Office*

31 TAC §15.11	3631
---------------	------

*Part II. Texas Parks and Wildlife Department*

31 TAC §57.352	3817
31 TAC §57.500	3493
31 TAC §57.661, §57.662	3493
31 TAC §§65.190-65.194, 65.198	3942
31 TAC §§65.311, 65.312, 65.314, 65.316	4160

*Part X. Texas Water Development Board*

31 TAC §§353.80-353.93	3420
31 TAC §379.4	3633

*Part XVI. Coastal Coordination Council*

31 TAC §504.3	3564
---------------	------

*Part XVII. Texas Soil and Water Conservation Board*

31 TAC §523.6	3496
---------------	------

**TITLE 34. PUBLIC FINANCE**

*Part I. Comptroller of Public Accounts*

34 TAC §3.196	3565
34 TAC §3.681	3901

34 TAC §5.48 .....	4253
<b>Part III. Teacher Retirement System of Texas</b>	
34 TAC §25.30 .....	3565
34 TAC §27.6 .....	3567
34 TAC §51.5 .....	3567
34 TAC §51.9 .....	3568
<b>Part IV. Employees Retirement System of Texas</b>	
34 TAC §63.17 .....	3765
34 TAC §85.5 .....	3765
<b>Part VI. Texas Municipal Retirement System</b>	
34 TAC §129.12 .....	3568
<b>TITLE 37. PUBLIC SAFETY AND CORRECTIONS</b>	
<b>Part I. Texas Department of Public Safety</b>	
37 TAC §21.7 .....	3569
<b>Part III. Texas Youth Commission</b>	
37 TAC §91.73 .....	4057, 4162
37 TAC §81.31 .....	3633
37 TAC §91.55 .....	3765
<b>Part V. Texas Board of Pardons and Paroles</b>	
37 TAC §§141.1-141.10 .....	3422
37 TAC §141.1 .....	3422
37 TAC §141.2 .....	3422
37 TAC §141.3 .....	3423
37 TAC §141.4 .....	3423
37 TAC §141.5 .....	3423
37 TAC §§141.21-141.26, 141.29 .....	3500
37 TAC §§141.41-141.45 .....	3423
37 TAC §§141.51-141.57 .....	3424
37 TAC §141.51 .....	3424
37 TAC §141.52 .....	3424
37 TAC §141.57 .....	3425
37 TAC §§141.71-141.74 .....	3425
37 TAC §141.71 .....	3425
37 TAC §141.72 .....	3426
37 TAC §141.81, §141.82 .....	3426
37 TAC §141.81 .....	3426
37 TAC §141.82 .....	3427
37 TAC §§141.91-141.94 .....	3427
37 TAC §141.91 .....	3427
37 TAC §141.92 .....	3428
37 TAC §141.94 .....	3428
37 TAC §§145.4, 145.5, 145.7, 145.8 .....	3428
37 TAC §§145.9, 145.10, 145.12-145.16 .....	3429
37 TAC §145.9 .....	3429
37 TAC §145.12 .....	3429

37 TAC §145.16 .....	3430
37 TAC §§145.17-145.21 .....	3430
37 TAC §145.20 .....	3431
37 TAC §145.21 .....	3431
37 TAC §145.22 .....	3431
37 TAC §145.24 .....	3433
37 TAC §145.26 .....	3433
37 TAC §149.1 .....	3434
37 TAC §149.6 .....	3435
37 TAC §149.11 .....	3436
37 TAC §§149.12-149.14 .....	3436
37 TAC §149.16 .....	3436
37 TAC §§150.1-150.9 .....	3500
37 TAC §150.53, §150.57 .....	3500
37 TAC §150.56 .....	3437
<b>Part VI. Texas Department of Criminal Justice</b>	
37 TAC §§151.11-151.16 .....	3902
37 TAC §152.2 .....	3857
37 TAC §152.3 .....	4162
37 TAC §152.22 .....	4168
37 TAC §152.22 .....	4168
37 TAC §§157.1, 157.3, 157.11-157.13 .....	4247
37 TAC §§157.1, 157.3-157.5, 157.7, 157.29, 157.31, 157.53 .....	4248
37 TAC §163.45 .....	4250
<b>Part VII. Texas Commission on Law Enforcement Officer Standards and Education</b>	
37 TAC §211.65 .....	3765
37 TAC §211.66, §211.67 .....	3634
37 TAC §211.70 .....	3634
37 TAC §211.75 .....	3635
37 TAC §211.100 .....	3635
37 TAC §215.66 .....	3635
37 TAC §215.67 .....	3636
37 TAC §219.70 .....	3637
37 TAC §221.100 .....	3638
<b>Part IX. Texas Commission on Jail Standards</b>	
37 TAC §259.60 .....	3570
37 TAC §259.156 .....	3570
37 TAC §259.243 .....	3571
37 TAC §259.349 .....	3571
37 TAC §260.63 .....	3571
37 TAC §261.49 .....	3572
37 TAC §261.145 .....	3573
37 TAC §261.232 .....	3573

**TITLE 40. SOCIAL SERVICES  
AND ASSISTANCE**

*Part I. Texas Department of Human Services*

40 TAC §§10.1001, 10.1003, 10.1005, 10.1006,  
10.1009-10.1013 ..... 3438

40 TAC §§10.3401, 10.3409, 10.3411, 10.3412,  
10.3431, 10.3434, 10.3438-10.3440, 10.3442, 10.3449,  
10.3450, 10.3460..... 3438

40 TAC §§10.3405, 10.3407, 10.3409, 10.3411,  
10.3412, 10.3413, 10.3431, 10.3434, 10.3438, 10.3439,  
10.3442, 10.3449, 10.3450, 10.3451, 10.3458, 10.3460,  
10.3461, 10.3467-10.3478 ..... 3439

40 TAC §15.315..... 4266

40 TAC §15.502, §15.503 ..... 3639

40 TAC §§18.1-18.5. .... 3955

40 TAC §19.218..... 3955

40 TAC §19.219..... 3955

40 TAC §19.601, §19.602 ..... 3641

40 TAC §19.604 ..... 3768

40 TAC §19.802. .... 3642

40 TAC §19.1001, §19.1005..... 3642

40 TAC §19.1104. .... 3821

40 TAC §19.1201 ..... 3642

40 TAC §19.1308. .... 3642

40 TAC §19.1501 ..... 3642

40 TAC §19.1601, §19.1612..... 3769

40 TAC §§19.1602, 19.1603, 19.1605, 19.1606,  
19.1611, 19.1613..... 3769

40 TAC §19.1807..... 3821, 3905

40 TAC §§19.1922, 19.1928, 19.1929. .... 3643

40 TAC §27.203..... 4170

40 TAC §§27.503, 27.505, 27.207, 27.509, 27.511,  
27.513, 27.515..... 3643

40 TAC §27.721. .... 3825

40 TAC §48.2904, §48.2924..... 4200

40 TAC §48.2924..... 3444

40 TAC §§48.6003, 48.6009,  
48.6030-48.6034..... 3956

40 TAC §90.11, §90.18. .... 3906

40 TAC §90.41. .... 3957

40 TAC §90.42..... 3907

40 TAC §90.92..... 3822

40 TAC §90.191..... 3908

40 TAC §90.212, §90.215..... 3909

40 TAC §90.232, §90.233..... 3909

40 TAC §92.41..... 3909

40 TAC §92.102, §92.105..... 3910

40 TAC §92.152, §92.153..... 3911

40 TAC §96.7..... 3911

40 TAC §98.102, §98.103..... 3912

40 TAC §§781.101-781.106..... 4023

40 TAC §§781.201-781.208..... 4023

40 TAC §§781.301-781.305..... 4023

40 TAC §§781.401-781.410..... 4023

*Part IV. Texas Commission for the Blind*

40 TAC §163.30..... 3912

*Part XVIII. Texas Department of Protective and Regula-  
tory Services*

40 TAC §§715.401-715.432..... 3445

40 TAC §§715.401-715.429..... 3445

**TITLE 43. TRANSPORTATION**

*Part I. Texas Department of Transportation*

43 TAC §2.25..... 4266

43 TAC §§17.20-17.23, 17.26..... 4267

43 TAC §17.71..... 4200

43 TAC §§17.56-17.58..... 4267

43 TAC §25.7..... 3645

43 TAC §§25.60-25.67..... 3646

43 TAC §25.81..... 3647

43 TAC §§25.90-25.98..... 3647

43 TAC §§25.200-25.207..... 3648

43 TAC §28.1, §28.2..... 3649

43 TAC §§28.10-28.16..... 3651

43 TAC §28.30..... 3668

43 TAC §§28.40-28.47..... 3669

43 TAC §§28.60-28.66..... 3677

43 TAC §§28.80-28.82..... 3683

## 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