

TEXAS REGISTER

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How to Use the Texas Register

Information Available: The 10 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 19 TexReg 3"

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the official compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*. West Publishing Company, the official publisher of the *TAC*, releases cumulative supplements to each printed volume of the *TAC* twice each year.

The *TAC* volumes are arranged into Titles (using

Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The *Official TAC* also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the *TAC* or to inquire about WESTLAW access to the *TAC* call West: 1-800-328-9352.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter)

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

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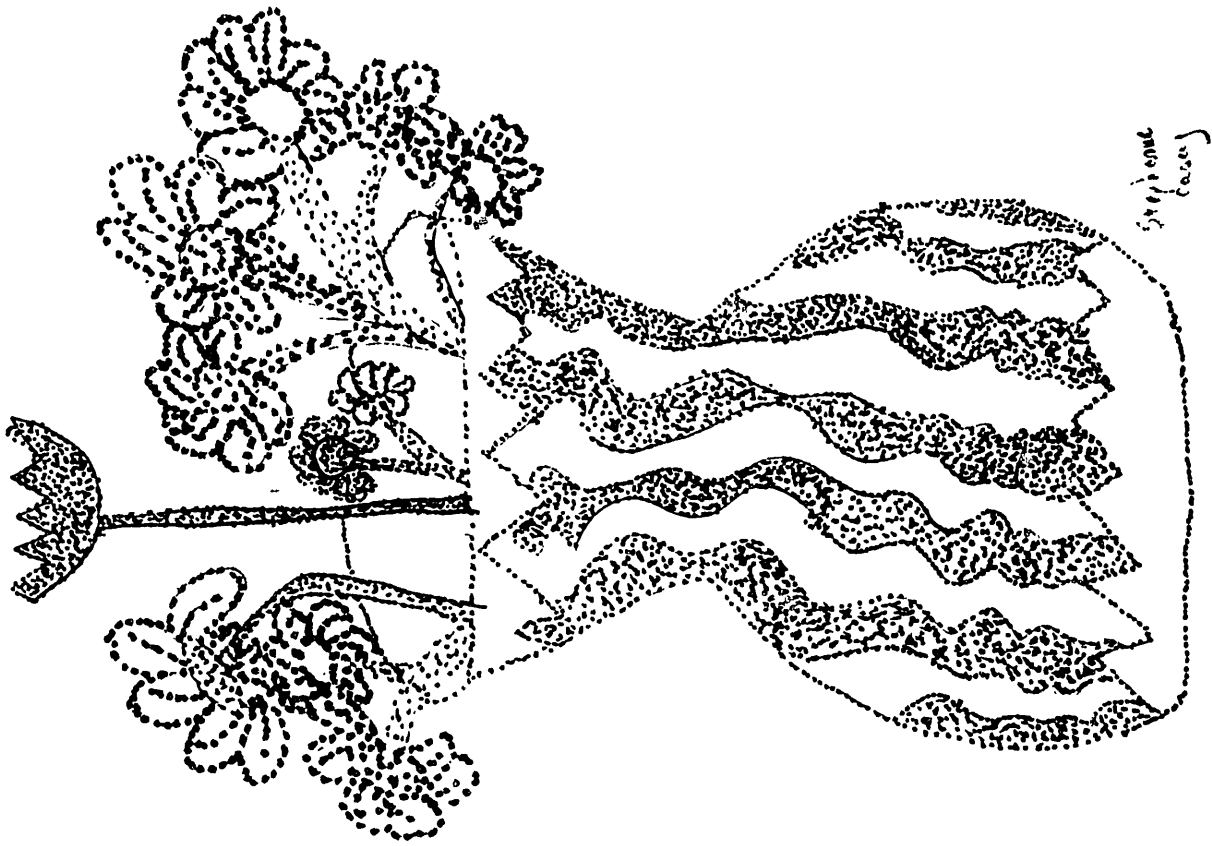
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Board of Regents**

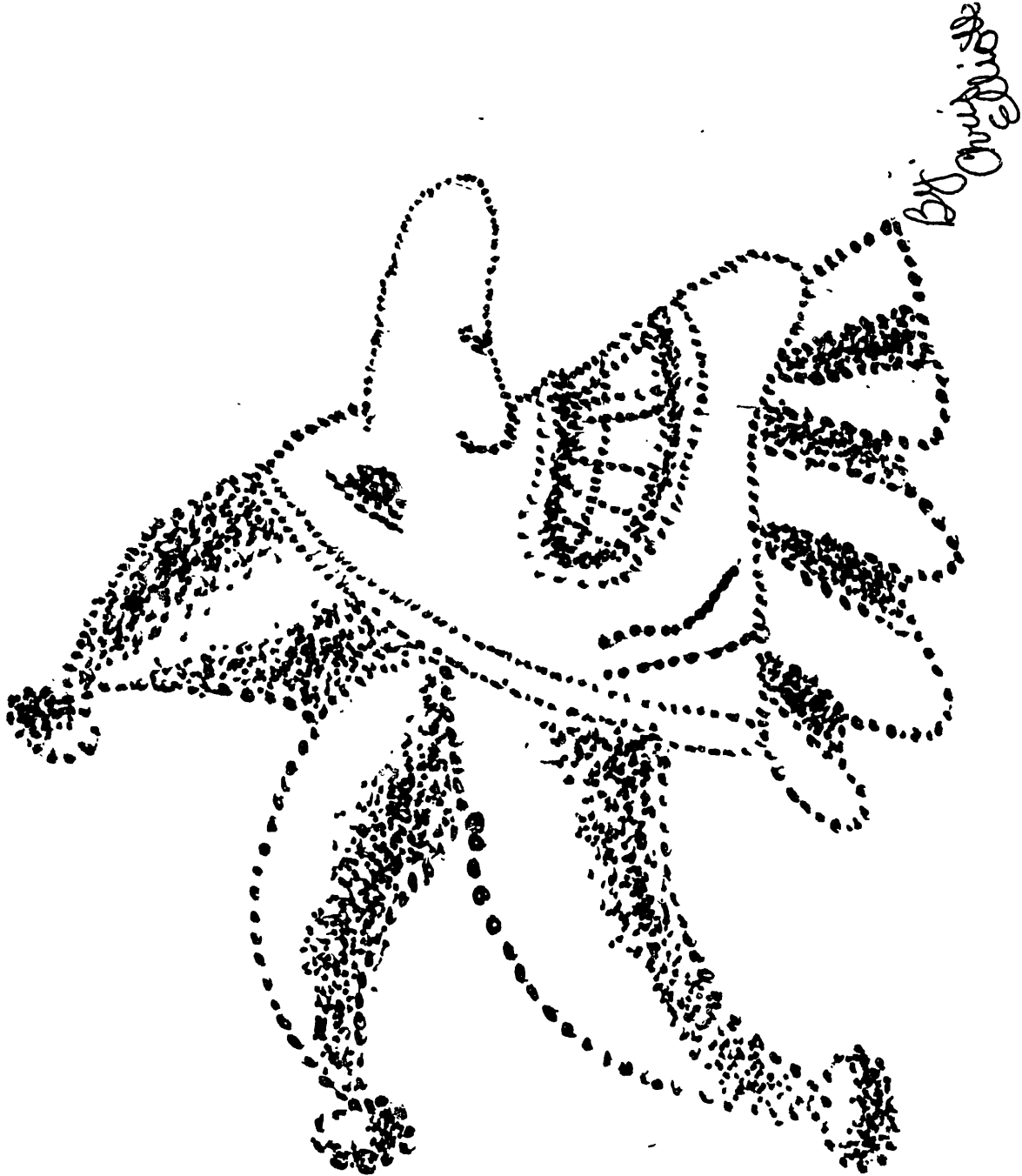
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By Vanessa Rempick

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Texas Ethics Commission Opinions

EAO-213. Scope of the Government Code, §572.055.

Summary of Opinion. The term "individual" in the Government Code, §572.055, means a natural person and does not include artificial persons.

The restriction in §572.055 that applies to an individual "directly or indirectly connected to" a business entity applies to owners and employees of a business entity and to creditors whose right to payment depends on the profits of the business. The restriction does not apply to customers of a business entity.

EAO-214. Whether a group of district judges may accept an offer to participate without charge in an on-line computer service.

Summary of Opinion. The laws subject interpretation by the Texas Ethics Commission apply to gifts to individuals, not gifts to governmental bodies.

EAO-215. Whether a joint venture whose marriage venturer and part-owner is a corporation may make political contributions.

Summary of Opinion. A partnership including one or more corporate partners is subject to the same restrictions on political activity that apply to corporations.

EAO-216. Whether an incorporated trade association may pay a late fine assessed

against the treasurer of its affiliated general-purpose political committee from corporate funds.

Summary of Opinion. A corporation may pay an administrative fine assessed under Title 15 of the Election Code against the treasurer of a general-purpose committee that the corporation sponsors.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

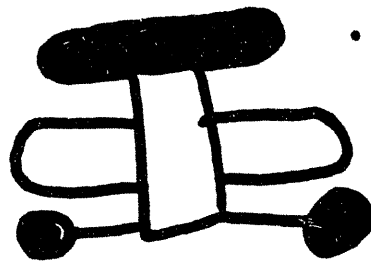
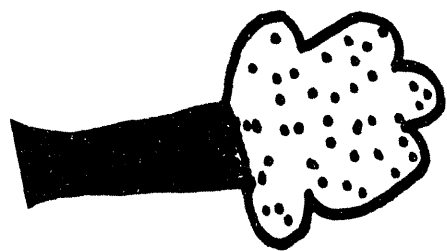
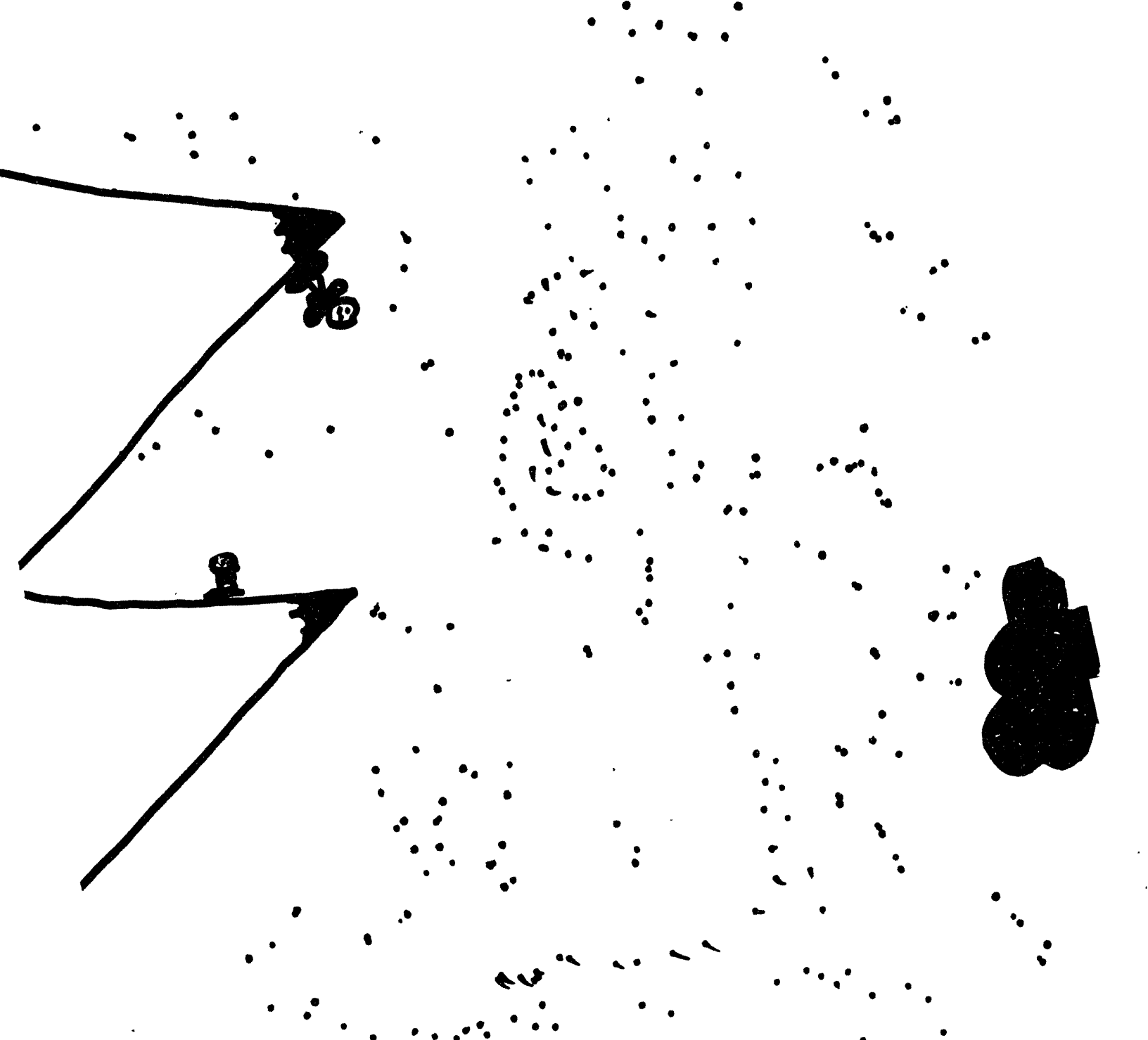
Issued in Austin, Texas, on June 14, 1994.

TRD-9442452

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: June 15, 1994





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 7. BANKING AND SECURITIES

Part IV. Texas Savings and Loan Department

Chapter 65. Loans and Investments

• 7 TAC §65.17

The Texas Savings and Loan Department proposes and amendment to 7 TAC §65.17, concerning loan documentation. The rule would be amended to more closely track the lending and loan documentation requirements applicable to federal savings associations. The proposed amendment would delete the specific definition of a "current" financial statement; delete the provision requiring the board of directors of a savings association to separately approve a specific list of acceptable appraisers; and increase the threshold for which appraisals are required for real estate loans to \$250,000. Recent federal interagency regulations were adopted to establish the requirement for appraisals at \$250,000.

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

Mr. Pledger also has determined that for each year of the first five years there will be public benefit from the adoption of this amendment due to the ability of state-chartered savings associations to make loans similar to federally chartered savings associations.

There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the proposed sections is none.

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

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

The following statute is affected by this rule. Texas Civil Statutes, Article 852a

James L. Pledger, Commissioner, has determined that the proposed rule will have no local employment impact.

§65.17. Loan Documentation.

(a) Prior to funding any type of secured loan (other than a loan fully secured by an account at the association and loans made pursuant to §65.13 of this title (relating to Manufactured Home Loans), and §65.14 of this title (relating to Home Improvement Loans) made or purchased under this chapter, an association shall insure that the following documents and records are in the possession of the association or an escrow agent designated by the association before funding, together with a signed certification by an officer or employee that the loan documentation was complete before funding and such documents and records shall be placed in one permanent loan file immediately upon receipt by the association.

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

(3) Current financial statements signed by the borrower and all guarantors and current documented credit reports disclosing the financial ability of the borrower and guarantors [(a current financial statement is as of a date within 180 days before the application is filed) together with written certification by the borrower and guarantors that no material adverse changes in financial condition have occurred since the financial statement was prepared];

(4)-(10) (No change)

(11) For real estate loans, or oil and gas or mineral loans in which the transaction value exceeds \$250,000, a professional appraisal report by an appraiser or committee of appraisers, who may be employees of the association [who are on a list of appraisers approved by the board of directors] is required. An oil and gas or mineral appraisal may be performed by a professional engineer certified as to the mineral in question. Reappraisals may be

required by the commissioner on real estate or other property or interests therein securing loans, at the expense of the association, when the commissioner has reason to believe the value of the security is overstated for any reason. The appraisal report shall be in writing and in a form approved by the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or in the case of an appraisal of oil and gas or other minerals, the applicable society of engineers certified as to the mineral in question, and shall be signed by the appraiser or committee of appraisers. In case of renewal of a loan where additional funds are advanced by the association, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this subsection;

(12)-(14) (No change.)

(b)-(k) (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 June 20, 1994.

TRD-9442726

James L. Pledger
Commissioner
Texas Savings and Loan
Department

Earliest possible date of adoption: July 25, 1994

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



TITLE 10. COMMUNITY DEVELOPMENT
Part V. Texas Department of Commerce
Chapter 187. Job Training Partnership Act Rules
Subchapter A. General Provisions and Definitions
• 10 TAC §§187.101-187.105

The Texas Department of Commerce proposes new §§187.101-187.105, concerning rules to implement the Job Training Partnership Act, pursuant to the Texas Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. The proposed sections provide the short title and purpose of these rules; define terms commonly used in the federal and state Job Training Partnership Acts (29 United States Code, §1501 et seq.; Texas Labor Code, §301.001 et seq.; Texas Civil Statutes, Article 4413(52), as amended); and establish the authority and designate the entities for state administration of Job Training Partnership Act programs. These rules shall define and facilitate the establishment of a statewide program delivery system for the Job Training Partnership Act.

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

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

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

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

The proposed rules affect the Texas Labor Code, §301.001, and Texas Civil Statutes, Article 4413(52) §5A.

§187.101. Short Title and Purpose. These rules may be cited as the Texas Job Training Partnership Act Rules. The purpose of these rules is to implement and interpret the provisions of the federal and state Job Training Partnership Acts, (29 United States Code, §1501 et seq., as amended; Texas Labor Code, §301.001 et seq.; Texas Civil Statutes, Article 4413(52), as amended).

§187.102. General Definitions. For purposes of implementing the state and federal Job Training Partnership Acts, the definitions found in the State Act, Texas Labor Code §301.005; the Federal Act, 29 United States Code, §1503; and the Code of Federal Regulations (CFR), 29 CFR §626.5, are adopted herein. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Contractor—The organization, entity, or individual that is awarded a contract under a JTPA-funded program or project. Sometimes used to refer to a service delivery area (SDA), substate area (SSA), their administrative entity or contractors

Department—The Texas Department of Commerce.

DOL—The United States Department of Labor.

EDWAA—The Economic Dislocation and Worker Adjustment Assistance Act, (29 United States Code, §1651), hereinafter cited with references to Public Law 100-418, Title VI, August 23, 1988, 102 Statutes 1524.

Executive Director—The executive director of the department, or his or her designee.

Federal Act—The federal Job Training Partnership Act (29 United States Code, §1501 et seq.), hereinafter cited with references to Public Law 97-300, October 13, 1982, 96 Sta. 1322, as amended.

Federal Regulations—The Interim Final Rules of the United States Department of Labor, Job Training Partnership Act (20 Code of Federal Regulations, Parts 626-631 and 637).

Governor—The governor of the State of Texas.

JTPA—The federal and state Job Training Partnership Acts and the various programs established under such laws to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other job services.

Private industry council—A local council whose members reasonably represent the industrial and demographic composition of the private and business communities, and whose responsibility is to

provide guidance and oversight with respect to JTPA activities within their respective service delivery area. The private industry council is sometimes referred to herein as a PIC.

Program year—The 12-month period beginning on July 1 in the fiscal year for which appropriations are made for programs and activities under the state or federal Job Training Partnership Act.

Secretary—The Secretary of the United States Department of Labor or the Secretary's designated representative(s).

Service delivery area—A geographic area designated as a service delivery area under the Texas Labor Code, §301.041, also referred to as an SDA.

State Act—The Texas Job Training Partnership Act (Texas Labor Code, §301.001 et seq.).

State Council—The Texas Council on Workforce and Economic Competitiveness (Acts 1993, 73rd Legislature, Chapter 668, effective September 1, 1993).

Substate area—A single service delivery area, or a consortium of contiguous service delivery areas, designated to provide delivery of JTPA Title III program services pursuant to Federal Act §312 and Federal Regulations 20 CFR, §631.34 and §631.35. Also referred to as an SSA.

§187.103. General Duties of Governor's Office. The governor is responsible for the planning, monitoring, implementing, and evaluating of job training, employment and related programs under the authority of the Texas Labor Code §301.021, and the provisions of the Federal Act and Federal Regulations, including, without limitation, the specific duties and procedures described in these rules. The governor may develop policies the governor deems necessary to implement the provisions of the State and Federal Acts, independent of these rules.

§187.104. General Duties of the Texas Department of Commerce.

(a) Pursuant to the Texas Labor Code, §301.022, the Texas Department of Commerce has the primary responsibility for implementing and managing the Job Training Partnership Act (JTPA), and performing other functions relating to the JTPA as assigned by the governor.

(b) The policy board of the department adopts rules necessary to implement and manage the JTPA, as provided in Acts 1993, 73rd Legislature, Chapter 986, §29.

(c) In administering the general duties of the department concerning the Job Training Partnership Act, the executive director or the executive director's designee may waive any provision of Chapter 187 of this title (relating to Job Training Partnership Act Rules) in order to effectuate the

purposes of the federal and state Job Training Partnership Acts, and the federal regulations, where such provision is not necessary for the protection of the public interest.

(d) A proceeding of the department involving the JTPA is not subject to the contested case provisions of the Administrative Procedure Act and its subsequent amendments.

§§187.105. The Texas Council on Workforce and Economic Competitiveness.

(a) Pursuant to the provisions of Senate Bill 642, Acts 1993, 73rd Legislature, the members of the Texas Council on Workforce and Economic Competitiveness (State Council) are appointed by the governor.

(b) Pursuant to §2.11, Senate Bill 642, Acts 1993, 73rd Legislature, and as authorized by Federal Act, §122, and Texas Labor Code, §301.024, the duties of the former State Job Training Coordinating Council are assumed by the State Council.

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 10, 1994

TRD-9442434

Deborah C. Kastrin
Executive Director
Texas Department of
Commerce

Proposed date of adoption: September 1, 1994

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

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• 10 TAC §187.155

The Texas Department of Commerce proposes new §187.155, concerning the general provisions for developing, approving and amending local job training plans under the federal and state Job Training Partnership Acts, (29 United States Code, §1501 et seq.; Texas Labor Code, §301.001 et seq.). The proposed section prescribes the criteria for approval of a waiver request from the 50% retraining cost limitation for basic readjustment services. The rule shall permit substate grantees to develop job training plans which are responsive to conditions in their substate area and consistent with the principle of preparing dislocated workers for occupations with long-term potential.

Fabian S. Gomez, staff attorney, Texas Department of Commerce, 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. Gomez also has determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the sections will be to facilitate the development and implementa-

tion of effective state and local systems for managing job training, employment and related programs in this state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

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

Texas Labor Code, §301.046, and §301.047, will be affected by the proposed rule.

§187.155. Waiver of Expenditures for Retraining Services. Substate grantees that request a waiver of the 50% retraining cost limitation for basic readjustment services, pursuant to Federal Act, §315(a) (2), must submit the following information to the department as an attachment to their proposed job training plan:

(1) a statement of the percentage reduction required, which shall not be less than 35% of the funds allocated for retraining services; and

(2) a narrative description documenting either of the following criteria:

(A) that the substate grantee's program design encourages participants to enter Job Club/Job Search activities, provides professional career counseling, and examines occupational choices in demand occupations with long-term potential; or

(B) that the substate grantee will spend a maximum of 25% of its funds on needs-related payments and supportive services for participants in retraining programs.

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 10, 1994.

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

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Subchapter D. Performance Standards

• 10 TAC §§187.160-187.165

The Texas Department of Commerce proposes new §§187.160-187.165, concerning rules to implement the Job Training Partnership Act, pursuant to the Texas Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. Section 187.160 provides definitions applicable to performance standards. Section 187.161 describes the state variations to Department of Labor performance standards. Section 187.162 prescribes state performance standards. Section 187.163 sets the criteria for awarding incentive grants for Title IIA and IIC JTPA programs exceeding Department of Labor standards. Section 187.164 sets the criteria for awarding bonus incentive grants for Title IIA and IIC JTPA programs exceeding state standards. Section 187.165 describes additional incentive grant funds. The sections are proposed to define and prescribe the performance measures by which JTPA programs shall be evaluated by the department.

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

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

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

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

The proposed rules affect the Texas Labor Code, §301.051 and §301.052.

§187.160. Definitions. For purposes of implementing this subchapter, in addition to the definitions and references in §187.102 of this title (relating to General Definitions), the following words and terms, when used in this subchapter shall have the indicated meanings, unless the context clearly indicates otherwise.

Adjusted standard—The national departure point for a performance standard adjusted by the net effects of local service delivery area factors on predicted performance.

Departure point—A national performance standard prior to adjustments for local factors.

Extreme values—Extremely low or extremely high local factors affecting performance measures.

Lower confidence interval—The adjusted standard minus the greater of the tolerance range or expanded tolerance range for the standards on which a service delivery area has extreme values.

Performance measure—An expected performance outcome or result.

Performance standard—A numerical value setting the minimum acceptable expected performance outcome or result for a performance measure.

Tolerance range—A numerical value providing a high and low range of adjustment for extreme values. An "expanded tolerance range" is an optional wider range of high and low adjustment values for service delivery areas with extreme values on two or more local factors.

§187.161. Variations to DOL Performance Standards.

(a) Pursuant to Federal Act, §106(d)(1), the state prescribes for program years 1993-1994 the following variations in the performance standards established by the Department of Labor (DOL) for Title IIA, IIC, and III JTPA programs. Each service delivery area (SDA) and substate area (SSA) must meet the performance standards established by DOL, with the state variations prescribed by the governor, for Title IIA, IIC and III JTPA programs. DOL performance standards and the state variations shall be published in the *Texas Register*.

(b) A reorganization plan may be imposed on any SDA/SSA which fails to meet the same DOL performance standard for two consecutive years, pursuant to the technical assistance and reorganization procedures set forth in §§187.183-187.187 of Subchapter E of this title (relating to State Monitoring and Sanctions Policies)

§187.162. State Performance Standards. Pursuant to Federal Act, §106(e), SDAs and SSAs must meet the state performance standards for the Title IIA, IIC, and III JTPA programs, which shall be published in the *Texas Register*.

§187.163. Incentive Grants for Exceeding DOL Performance Standards

(a) An SDA will be eligible for an incentive award for exceeding DOL established standards for Title IIA and IIC programs if the SDA meets all of the following criteria:

(1) meets at least four, and exceeds at least one, of the following DOL standards:

(A) adult follow-up employment rate;

(B) adult follow-up weekly earnings;

(C) adult welfare follow-up employment rate;

(D) adult welfare follow-up weekly earnings;

(E) youth entered employment rate; and

(F) youth employability enhancement rate.

(2) meets or exceeds all standards which the SDA failed to meet in the previous program year.

(b) Each SDA's share of the incentive funds budgeted for awards will be calculated by the department in proportion to the SDA's share, for the current program year, of the state's Title IIA and IIC allocation.

(c) Each SDA's available incentive award funds will be allocated among the federally required performance standards in the percentages established by the governor, and published by the department in the *Texas Register*, at the end of a program year based on the SDA's reported performance. An SDA will be awarded an incentive grant based on the degree to which each performance standard was exceeded

§187.164. Bonus Incentive Grants for Exceeding State Standards. Subject to the availability of funds, SDA's eligible for an incentive award under §187.162 of this title (relating to Incentive Grants for Exceeding DOL Performance Standards) will be

awarded bonus incentive grants for Title IIA and IIC state performance standards, subject to the following provisions.

(1) For each percentage point by which an SDA's performance exceeds a state standard, an SDA will receive a one percent bonus of the incentive award earned for exceeding DOL performance standards.

(2) The incentive grant for each of the state performance standards shall not exceed 20% of the award amount for which the SDA is eligible under §187.162 of this title (relating to Incentive Grants for Exceeding DOL Performance Standards).

(3) The total incentive grants distributed pursuant to this section shall not exceed 25% of the total funds distributed as incentive grants and as bonus incentive grants.

§187.165. Distribution of any Remaining Incentive Funds. If the total of incentive grants and bonus incentive grants is less than the total amount allocated for incentive awards, the balance will be prorated by award share and shall be provided as additional incentive grant funds to those SDAs eligible for an incentive award.

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 10, 1994.

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Deborah C. Kastrin
Executive Director
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For further information, please call: (512) 320-1806

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Subchapter F. Financial Management Rules

• **10 TAC §§187.200-187.237**

The Texas Department of Commerce proposes new §§187.200-187.237, concerning rules to implement the Job Training Partnership Act, pursuant to the Texas Government Code, §481.0044, which authorizes the policy board of the Texas Department of Commerce to adopt rules to administer department programs. Section 187.200 sets the purpose and authority of these rules. Sections 187.201-187.204 establish cash management procedures. Section 187.205 prescribes JTPA program insurance requirements. Section 187.206 sets procedures for refunds to the department. Section 187.207 outlines allowable and unallowable program costs. Sections 187.208-187.211 set rules for deobligation and reallocation of funds for JTPA Titles IIA and IIC. Section 187.212 prescribes a JTPA contractor Code of Conduct. Section 187.213 sets requirements for

JTPA procurement records and files. Section 187.214 and §187.215 establish methods of procurement. Sections 187.216-187.218 set procedures for issuing requests for proposals. Sections 187.219-187.221 set procedures for selection and awarding of contracts. Sections 187.222-187.226 establish JTPA contract policy and contract elements. Sections 187.227-187.231 set property management rules. Section 187.232 and §187.233 prescribe specific JTPA reporting requirements. Sections 187.234-187.236 set rules for resolution of questioned costs. Section 187.237 exempts federally funded Title I-III programs from the Texas Uniform Grant and Contract Management Standards (UGCMS). The sections are proposed to establish uniform accounting and financial management rules for the administration of all JTPA programs funded through the Texas Department of Commerce.

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

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

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

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

Texas Labor Code, §301.052, is affected by the proposed rules

§187.200. Purpose and Authority. This subchapter establishes uniform accounting and financial management rules for the administration of all JTPA programs funded through the Texas Department of Commerce. The rules apply to the procurement of all goods and services to be purchased with JTPA funds, establish property management standards for subrecipients and their subcontractors, and supplement the

procedures established by Federal Act, §164 and §165 and 20 CFR, Part 627, Subpart D (relating to Administrative Standards).

§187.201. General Cash Management. Governmental units may deposit JTPA funds in their treasury. All other entities shall deposit JTPA funds in a bank insured with the Federal Deposit Insurance Corporation (FDIC). Any JTPA fund balance exceeding FDIC coverage must be collaterally secured by the bank, with a copy of the collateral agreement and the collateral deposit receipt maintained by the subrecipient for monitoring and audit reviews.

§187.202. Subrecipient Bonding. Before being authorized for funding, subrecipients shall provide the department with a fidelity bond covering every officer, director or employee authorized to represent the subrecipient for the purpose of receiving or depositing JTPA funds, or issuing financial documents, checks or other instruments of payment. The subrecipient shall be the insured and the department shall be the beneficiary. The bond coverage amount shall be the combined highest aggregate sum of daily advances for all programs. The subrecipient shall immediately notify the department if a bond is canceled or reduced and no further disbursements shall be made to the subrecipient until adequate coverage has been obtained.

§187.203. Repayment Plan for Disallowed Costs. Before being authorized for funding, subrecipients must provide the department with a feasible plan for repayment of disallowed costs. An approved repayment plan does not limit the local liability for disallowed costs to the terms of such plan. The department shall apply the obligations and liabilities for JTPA funds prescribed by Federal Regulations, §627.702(e)

§187.204. Historically Underutilized Businesses (HUBs). Contractors must retain records to document that they have made a good faith effort to place at least 30% of the total value of all subcontracts and supplier contracts with historically underutilized businesses (HUBs), as defined by the Texas Government Code, §481.101. Contractors shall ensure that HUBs are given every opportunity to compete with other businesses and shall make special efforts, such as

- (1) selecting a HUB in the case of tie bids,
- (2) establishing and maintaining solicitation mailing lists including HUBs,
- (3) notifying HUBs of certain opportunities whenever they are potential sources for acquisitions,

(4) when economically feasible, dividing total requirements into smaller units to permit maximum participation by HUBs;

(5) utilizing the services and assistance of the Small Business Administration and the Texas Department of Commerce;

(6) requiring JTPA subcontractors to take similar actions to utilize HUBs as sources of goods and services.

§187.205 Insurance Requirements.

(a) Participant Insurance. Pursuant to Federal Act, §143(a)(3), subrecipients should ensure that any JTPA participants who do not qualify as "employees" are covered by on-site medical and accident insurance. Subrecipients should also contractually ensure that employers accept the liability for injuries while JTPA participants are at a work site.

(b) General Liability Insurance. Each subrecipient location shall be covered by general liability insurance for personal injury and bodily injury and property damage to a third party, in the amount of \$500,000 for each occurrence or one million dollars aggregate. The department may waive such insurance requirement based upon demonstrated cost/benefit impracticality. No deductible is allowed unless a waiver is obtained from the department.

(c) Automobile Insurance

(1) Subrecipients must provide general liability insurance on vehicles purchased or leased with JTPA funds and non-JTPA owned vehicles used by the subrecipient or its agents in performance of JTPA activities. Such automobile insurance must provide \$250,000 liability per occurrence, \$500,000 aggregate liability and \$100,000 property damage, with a maximum \$500 deductible allowed per vehicle. Any vehicle transporting JTPA participants or staff also must be covered by Personal Injury Protection and Uninsured Motorist Protection, unless the participants and staff, or their parent or guardian, sign a legally enforceable waiver of liability.

(2) Subrecipient staff members not insuring their own vehicles used for JTPA activities must sign a waiver that liability is limited to benefits available through the workers' compensation insurance

(3) Subrecipients shall maintain all certificates or policies of insurance and shall be responsible for payment of premiums or assessments on such policies. If a subrecipient that possesses 25 or more JTPA owned vehicles is eligible for and arranges for self-insurance, a copy of the certificate provided by the Texas Depart-

ment of Public Safety must be submitted to the department.

(d) **Casualty Insurance.** All tangible JTPA property must be covered by a Texas Standard Multi-Peril Policy protecting such property against theft, fire and other hazards. Electronic equipment less than three years old must be covered under an Electronic Equipment Protection Policy. Deductibles must not be in excess of \$1,000.

§187.206. Refund Policy

(a) Amounts paid back to the department due to a reduction in expenses or a legitimate accrual that did not materialize must be fully documented and are subject to verification by monitors. Deliberate unreasonable misstatement of obligations to meet expenditure requirements or cost category compliance shall subject the subrecipient to possible sanctions

(b) The subrecipient should adjust total expenditures by the amount of a refund before the closeout information required in §187.233 of this title (relating to The Closeout Process) is submitted to the department. If closeout information has already been submitted, but the recipient receives a refund before the final closeout deadline, a revised final closeout statement shall be mailed to Texas Department of Commerce, Accounting Section, P.O. Box 12728, Austin, Texas 78711-2728. The refund check, showing the contract number, shall be mailed to Texas Department of Commerce, Administration Division/Cashier, P.O. Box 12964, Austin, Texas 78711-2964.

(c) If closeout information has already been submitted, and the recipient receives a refund after the final closeout deadline, the refund check shall be mailed to the department's Administration Division's cashier and appropriate documentation should be mailed to the Texas Department of Commerce, Work Force Development Division, Fiscal Management Services, P.O. Box 12728, Austin, Texas 78711-2728

(d) If a subrecipient has a consistent policy of showing as expenses any actual payments to or on behalf of employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment. Unclaimed wages, payments to trainees and participant support payments that remain unpaid after the program closeout shall be refunded to the department

§187.207. *Allowable and Unallowable Costs.* Pursuant to 29 CFR, §627.435(i), the following guidelines shall be used for calculating a subrecipient's allowable and unallowable costs among the listed cost items.

(1) Compensation for personal services. Any costs currently paid or accrued for services rendered during a grant period including, without limitation, wages, salaries, supplementary compensation and fringe benefits are allowable if they meet these requirements:

(A) the compensation is reasonable for the services rendered or consistent with pay for comparable work in the subrecipient's area or the labor market in which the employing subrecipient competes for similar employees;

(B) the compensation follows an appointment made according to subrecipient policy, state and local laws, or other applicable requirements,

(C) the compensation is determined and supported by individual time and attendance records accounting for the total activity being compensated. If an employee is chargeable to more than one cost objective, cost distribution records shall reflect an after-the-fact determination of the actual employee activity, and shall be signed by a supervisor having direct knowledge of the validity of the data, and

(D) employee compensation used in meeting cost sharing and matching requirements on awards shall be supported by individual time and attendance records in the same manner as salary and wage claims for reimbursement from granting agencies.

(2) Costs of the Council Reasonable costs incurred by the TCWEC, PICs and other advisory councils or committees are allowable costs.

(3) Advertising. Costs for advertising are allowable to the extent that they are reasonable, necessary, and directly benefit the program

(4) Depreciation or use allowances. Payments for use of non-JTPA owned property may be through depreciation or use allowances. Any method used shall charge the JTPA program the lesser of the fair rental value, depreciation on a straight line method with a reasonable useful life, or a use allowance. Depreciation or use allowance amounts shall be based on the percentage of JTPA use of the asset, not including the cost of any part of the asset not directly benefiting the JTPA program.

(A) If the use allowance method is used, the amount for buildings and capital improvements will be at an annual rate not exceeding 2.0% of acquisition cost, and the allowance for equipment will be at an annual rate not exceeding 6.66% of acquisition costs

(B) In the determination of useful life, the allowance computation must consider the type of construction, nature of equipment used, technological developments in a particular program area, Internal Revenue Service regulations, and the renewal and replacement policies followed for the individual items or classes of assets involved. Straight line depreciation shall be the only allowable method.

(5) Printing and reproduction costs. Costs for printing and reproduction services necessary for grant administration are allowable including, without limitation, forms, reports, manuals, informational literature, and reports relating to grant program accomplishments or results.

(6) Interest expense. A cost allowance for interest expense on competitively procured equipment leases may be allowed contingent upon the accuracy and validity of the procurement process. Interest expense is not allowable on equipment leases procured through a sole source.

(7) Expenditures for travel and transportation. Costs for transportation, lodging, subsistence, and related items incurred by employees on official business travel are allowable subject to the following

(A) The subrecipient's travel policy shall be based on existing federal, state or local government travel policy. Any deviation from the existing governmental travel policy must be approved by the department.

(B) Travel expenses may be charged as actual costs incurred or on a reasonable per diem or mileage basis, or a combination of the two methods, provided the charges are consistent with those normally allowed by the subrecipient in its regular operation.

(C) Direct charges are not allowed for foreign travel outside of the United States, its territories and possessions, and Canada.

(8) Payments for on-the-job training (OJT). Costs for on-the-job training activities are allowable

(9) Fees or profits. Subcontractor fees and profits are allowable to the extent that they are not excessive, according to the complexity of the work performed, the risk borne by the contractor, and market conditions in the surrounding geographical area, and that they are permitted under the Federal Act, §164(a)(3)(D) and (I). Under no circumstances shall subcontractor fees, profits, or program income exceed 10% of the contract amount.

(10) Insurance costs. Insurance costs are allowable, including insurance coverage for injuries suffered by participants who are not covered by existing workers' compensation, and personal liability insurance for PIC members. Costs are not allowable for insurance policies offering protection against debts established by the federal or state government.

(11) Participant supportive services. Costs for participant supportive services are allowable.

(12) Acquisitions of capital assets. Costs for acquisitions of capital assets are allowable.

(13) Building space costs. Costs for building space, including rent, repairs and alterations are allowable to the extent they are properly procured, reasonable, and necessary for the administration of the program.

(14) Pre-agreement costs. Pre-agreement costs are generally not allowable. In limited circumstances, the department may allow such expenses when the situation requires that costs be incurred before the award of a contract. Pre-agreement costs may only be authorized in Title IIB, Rapid Response and Defense Conversion Adjustment (DCA) contracts. The substate area (SSA) or sub-state grantees (SSG) must request such authorization in writing before incurring any costs. Authorization to incur expenses is not a guarantee of reimbursement by the state. The state may disallow such costs because of Department of Labor limitations, violation of a statute or regulation by the SSA or SSG, or for other cause considered sufficient by the department.

(15) Fund raising activities. Costs of fund raising activities are not allowable.

(16) Professional services. Costs of professional services are allowable to the extent they are ordinary and necessary, and the selection and award of such contracts was based on the demonstrated competence and qualifications for the professional services to be performed. Such contracts may be procured through to the use of a Request for Information (RFI) or a Request for Quotations (RFQ).

(17) Taxes. Taxes are allowable costs to the extent they are incurred in the operation of the JTPA program, and are attributable to JTPA operations, assets, or resources.

§187.208. Reallocation of Funds.

(a) Pursuant to Federal Act, §109, all Title IIA and IIC program funds that remain unobligated at the end of a program year become available funds for reallocation to eligible SDAs. The amount available for

reallocation is the amount by which the statewide unobligated funds exceed 15% of the total statewide allocation for the prior program year.

(b) For purposes of this section, an SDA eligible to receive reallocated funds is one that has obligated at least 85% of its Title IIA or IIC allocation for the prior program year. Funds eligible for reallocation shall be deobligated from SDAs that do not have at least 85% of their allocation obligated by the end of the funded program year.

§187.209. Definition of an Obligation.

(a) An SDA obligation is a debt established by legal contract, letter of agreement, subgrant award, or purchase order which has been executed prior to the end of a program year, and which will be performed within 90 days of its execution. Any obligation periods extending beyond 90 days shall be prorated using the straight line method. Other proration methods may be used but must be supported by worksheets and a documented rationale.

(b) SDAs shall provide the following information on all obligations being reported to justify expenditures for a given program year:

- (1) the number of the contract, purchase order or document;
- (2) the contract amount;
- (3) the contractor's name;
- (4) the amount of the contract included as an obligation;
- (5) the contract or agreement period; and
- (6) the basis used for calculating the amounts included as obligations.

(c) The following agreements or encumbrances are deemed not to be obligations:

- (1) procurements in any stage prior to the execution of the contract;
 - (2) a lease agreement extending beyond a program year end, even though the agreement may have been signed within the last month of a program year;
 - (3) remaining balances within the SDA internal budget;
 - (4) letters of intent; and
 - (5) encumbrances used in budgeting to set aside funds.
- (d) Any reported obligations and worksheets generated by a proration of an obligation shall be subject to review by the department.

§187.210. Preliminary and Final Reporting.

(a) SDAs shall report their expenditures, accruals and current obligations pursuant to the monthly reporting requirement in §187.232(a) of this title (relating to Reporting Requirements). In such reports, SDAs shall include accruals as expense items. However, unlike accruals, obligations should not be included as expenses, but should only be reported as obligations.

(b) SDAs shall provide a final listing of obligations in their final fiscal report for a program year, reflecting the cumulative expenses for that program year. Such listing shall be the basis for determining the 85% obligated amount.

§187.211. Voluntary Deobligation. SDAs which determine they cannot meet the 85% obligation level may voluntarily deobligate funds. An SDAs request for voluntary deobligation must be received by the department no later than 45 days prior to the end of the applicable program year. All voluntary deobligations as well as involuntary deobligations shall be deobligated equally among the statutory cost categories.

§187.212. Contractor Code of Conduct.

(a) Officers, employees, and agents of JTPA contractors involved in the procurement process are prohibited from accepting gifts, favors or anything of monetary value from subcontractors or potential subcontractors or other parties to a contract. Each contractor shall maintain a written code of conduct governing the performance of its officers, employees or agents engaged in the award and administration of contracts.

(b) To prevent the occurrence of a real or apparent conflict of interest, each code of conduct must include the conflict of interest provisions prescribed in §187.133 of this title (relating to Private Industry Council Conflict of Interest), and make such provisions applicable to all contractor officers, employees or agents.

§187.213. JTPA Records and Files. Each JTPA contractor must maintain, in a central location, a historical file for each procurement providing full documentation that accurately tracks the actions leading to the procurement of the product or services. All procurement historical files are subject to audit and shall be reviewed during on-site monitoring visits by the department, the Department of Labor, the Comptroller General of the United States, or any of their authorized representatives.

§187.214. Methods of Procurement.

(a) Small purchase method.

(1) Contractors shall use the small purchase procurement method for relatively simple informal purchases costing in the aggregate not more than \$25,000. Price or rate quotations shall be obtained, and documented in the procurement files, from a minimum of three responsive providers to ensure reasonable competition. Before issuing subsequent awards, prior vendor performance must be evaluated by the contractor.

(2) Contractors shall develop written procedures to outline any smaller limits adopted for small purchases, establish procedures for emergency purchases in the event of potential financial loss or operational damage if purchasing is delayed, and identify the person in the organization authorized to approve emergency purchases.

(3) Contractors shall not split any purchase exceeding \$25,000 to fall within the small purchase limit and avoid competitive bidding requirements. Split purchases used to circumvent competitive bidding shall be considered unauthorized and may be disallowed.

(b) On-the-job training contracts.

(1) On-the-job training (OJT) contracts with employers may be purchased without quotations from competing sources and are presumed to be reasonably priced if the cost does not exceed one-half of the trainee's wages for a maximum of six months or 499 hours of training time. This subsection does not apply to OJT brokered contracts.

(2) If OJT is combined with other types of training, the related training time is not included in the six month wage limitation unless the participant receives wages for such time and the employer is reimbursed a portion of such wages for OJT. Such reimbursement shall not exceed the greater of six months or 499 hours, including time spent in related classroom training during which wages were paid. For participants with special needs, the reimbursement period may be longer than six months provided the total training is less than 500 hours.

(3) Payments for OJT shall not exceed the average of 50% of total wages paid to each participant during the period of training. OJT employers may also be reimbursed for the actual documented costs incurred in providing classroom training and related services to JTPA participants, including the cost of participant wages for time spent in such activities during working hours. Such additional reimbursements shall only be for training and support beyond that provided to regular employees

(4) OJT contracts shall not be awarded to employers who have had two or more previous OJT contracts and exhibited a pattern of failing to provide OJT participants continued long-term employment as regular employees with wages and working conditions at the same level as similarly situated employees, unless extenuating circumstances can be proven.

(c) Formal advertising (sealed bid) method.

(1) Contractors shall use the formal advertising or sealed bid procurement method if the following minimum conditions are met:

(A) a complete and realistic specification or purchase description is available;

(B) two or more responsible suppliers are willing and able to compete effectively for the award; and

(C) the procurement lends itself to a firm fixed-price contract and the subcontractor selection, based primarily on price, is appropriate

(2) In formally advertised procurements contractors shall:

(A) issue an "invitation for bids" (IFB) to known suppliers and shall publicly advertise the invitation, allowing sufficient time to permit adequate responses;

(B) clearly define the needed items or services, including specifications, to enable bidders to properly respond;

(C) open all bids publicly at the time and place stated in the IFB; and

(D) award a firm fixed-price contract by written notice to the lowest bidder conforming to the IFB. (Payment discounts may be used to determine the low bid only if prior contractor experience indicates that such discounts are generally acceptable.)

§187.215 Competitive Negotiation Method. Contractors using the competitive negotiation Request for Proposal (RFP) method of procurement, shall follow these procedures

(1) solicit offers by distributing RFPs to an adequate number of qualified sources to ensure competition;

(2) ensure that the RFP identifies all significant evaluation factors

including cost or price, and the relative importance of each factor;

(3) identify if the contract to be awarded will be a cost reimbursement, fixed price, or fixed unit price performance based contract;

(4) provide mechanisms for making technical evaluations of proposals and determinations of responsible offerers to allow written or oral discussions; for conducting negotiations with offerers deemed to be in the competitive range; and for selecting the subcontractor;

(5) award the contract to the responsible offerer whose proposal will be most advantageous to the contractor, and notify all offerers of the award.

§187.216. Request for Proposal (RFP) Process.

(a) All requests for offers for the provisions of goods must be in writing. At minimum, an RFP process shall include the following elements:

(1) the RFP shall require a line item budget;

(2) the RFP process shall require that proposals are separately rated by staff and the PIC using a rating method that sets criteria for valuing and judging price reasonableness, and accounts for past performance in a quantifiable and criteria-referenced manner. Rating sheets, dated and signed by designated reviewers, shall be maintained and shall include minimum qualification thresholds.

(3) the RFP process shall provide that individual scores are aggregated;

(4) final awards shall be consistent in dollar value and category with the RFP's stated intentions and with numerical ratings. Any inconsistencies shall be documented. Awards for training shall be in PIC approved demand occupations;

(5) awarded contracts shall be consistent in cost, scope and deliverables approved by the PIC and any inconsistencies shall be documented

(b) An RFP shall not indicate acceptable prices.

§187.217. Elements of a Request for Proposal. An RFP document shall be comprehensive and require sufficient detail to secure responsive proposals. Any elements not included in an RFP cannot be a consideration during the rating process. At a minimum, the RFP shall be based on the provisions of Federal Act, §107 and 20 CFR, §627.422 regarding the selection of service providers, 20 CFR, §627.420 regarding procurement, 20 CFR, §627.435 regarding costs principles and allowable

costs, 29 CFR, §93 requiring a lobbying certification, and 29 CFR, §98 requiring a suspension/debarment certification. Contractors incorporating the suggested elements of an RFP provided in the department's Financial Management Manual, shall be deemed to have complied with the comprehensive and sufficient detail requirements of this section.

§187.218. Statement of Work. The RFP must include a Statement of Work describing the proposed program in sufficient detail to provide an understanding of the work to be performed, the needs of the participants, and the desired results. A sufficient statement of work consists of a service plan or program design that summarizes the key features of the proposed program in terms of mandatory, optional, and supplemental components, and program results. The statement of work must describe each component of the proposed program.

§187.219. Noncompetitive Negotiation (Sole Source) Method. A procurement through noncompetitive negotiation, which is solicitation of a proposal from only one source or the funding of an unsolicited proposal, may only be awarded under circumstances described in Federal Regulations, §627.420(d)(4), and the following.

(1) If the entity is a public educational institution and at least one of the following conditions is present:

(A) the institution is the only one in the SDA;

(B) the institution is the only one that can properly serve the particular participants targeted for the training, such as those residing in a specific geographical area;

(C) the institution is the only one, among multiple institutions in the area, that has the particular training program required for the participants and it can be documented that the other institutions either do not have the capability or do not wish to provide the needed services;

(D) multiple contracts are awarded on a pro rata basis to all institutions having the necessary capability and demonstrated performance that wish to participate in the particular program.

(2) If there is a cooperative alliance between the contractor and one or more entities to provide services to JTPA participants and each entity is providing its fair share of funds or in-kind contribution towards the mutual endeavor.

§187.220. Processing of Noncompetitive Procurements.

(a) The contractor shall obtain prior written approval from the department for any noncompetitive procurement expected to exceed \$25,000 in the aggregate, except for procurements made in cases of public exigency or emergency, where competition has been deemed inadequate following the solicitation process, when cooperative alliances exist, or if the award is to a public institution. In the excepted cases, the contractor shall document the circumstances under which the procurement was made and shall notify the department not later than 30 days after the award.

(b) Noncompetitive procurements require cost negotiation. The contractor's files must document a cost reimbursement contract and evidence that the values which would have been achieved through competition have been maintained.

(c) Contractors intending to use noncompetitive procurement shall provide written notice describing the circumstances causing them to use noncompetitive procurement, affirming that they have followed the procurement guidelines prescribed in §§187.212-187.226, Subchapter F of this title (relating to Financial Management Rules), and certifying that adequate documentation justifying the purchase is available and will be retained in the contractor's files, including information:

(1) on the reasons why the purchase was not feasible under small purchase, competitive bidding or competitive negotiation;

(2) on the circumstances which allow for the noncompetitive negotiation;

(3) on the source or vendor from whom the goods or services are being purchased;

(4) on cost/price comparisons;

(5) providing evidence of cost negotiation; and

(6) to verify and confirm that the service provider or vendor is the only supplier of the property or service being procured, if applicable.

(d) If the justification for a non-competitive procurement is that the item or service was only available from a sole source, the contractor shall retain and make available the following additional information:

(1) a description of the goods or services required;

(2) justification specifying why the sole source is necessary;

(3) a description of actions taken to get more than one quote or offer, if applicable; and

(4) explanation of any other extenuating circumstances.

(e) Contractors providing the department with a Noncompetitive Procurement Certification form shall be deemed to have complied with the written notice requirement of this paragraph.

§187.221. Cost/Price Analysis.

(a) The contractor shall make a price or cost analysis with every procurement action, including contract modifications. A price analysis may be performed by making a comparison among the submitted price quotations or by comparing price quotations submitted with current market prices. A cost analysis may be performed by reviewing and evaluating each element of cost submitted to determine if costs are reasonable, necessary and allowable under applicable federal cost principles. At minimum, the contractor shall make independent estimates before receiving bids or proposals.

(b) The department shall allow costs or prices based on estimated costs only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with items of the contract and applicable federal cost principles. The contractor shall not use a cost-plus-a-percentage-of-cost or a percentage-of-construction cost contract.

§187.222. Contract Policy.

(a) A contractor's written procurement procedures shall contain a contract policy describing the type of contract agreements used in awards, and the method by which any allowed cash advances will be handled.

(b) All OJT contracts, including brokered OJT contracts, shall be cost-reimbursement agreements.

§187.223. Contract Elements.

(a) In addition to the standard contract elements required by common law, the subrecipient's contract must meet the requirements of 20 CFR, §627.420(h).

(b) Contracts must prohibit assignment, pursuant to 20 CFR, §627.420(h)(2)(xi). Contracts must also define any circumstances in which a subcontractor may subcontract program activities, services, or responsibilities to another party, including prior written approval from the contractor.

§187.224. Contract Narrative.

(a) Each contract must contain an adequate narrative description of the quan-

tity and quality of work to be performed on the contract and major job skills to be learned by the participants, incorporating applicable elements from §187.217 of this title (relating to Elements of a Request for Proposal) and §187.218 of this title (relating to Statement of Work).

(b) The contract narrative portion must also outline the method of payment to the subcontractor based on satisfactory program implementation. These provisions must include, at a minimum, a payment schedule, the maximum amount payable, the dollar amount ceiling for the contract, the types of payment and invoicing procedures, the method of advancement of funds, and provisions for liquidation and recovery of advances in the event of nonperformance by the subcontractor.

§187.225. Cost Reimbursement Contracts. Cost reimbursement contracts must state the number of participants to be served under the agreement, must provide a budget summary showing planned costs by cost category, and include a detailed breakout of direct and indirect costs.

§187.226. Fixed-unit Price Contracts. Fixed-unit price contracts must include the following elements.

(1) Reasonable costs. The contract must indicate that existing skill levels of participant target groups were considered in establishing reasonable and necessary costs and length and intensity of training. The reasonable cost standards set in the contract must be in terms of other contracts let, the local market, and contract specifications. If the training price is not based on documented standard tuition fees, the contract must include a line item budget for a pre-award analysis and determination of the cost reasonableness of the entire project.

(2) Achievement measures. The contract shall require that prior to payment the contractor must be provided with documentation of training delivery and measurable participant achievements verified by a party in an official capacity with the subcontractor.

(3) Program income. The contract shall provide that the subcontractor must identify all payments received in excess of costs, and must return or segregate such excess revenues and assure that any retained revenues are properly spent on the JTPA program. The contract shall require the subcontractor to retain records of all program cost records and to allow federal, state and local government representatives access to such records.

(4) Payment benchmark points. The contract must contain standard benchmark point payment terms taking into con-

sideration the total program length and the subcontractor's projected costs to reach the benchmark points. The contract shall define payment benchmark points by requirements for demonstrated participant achievement and by standard time requirements to achieve participant performance levels. Payment points shall not be based only on participant time in the program without regard to achievement of training objectives. The contract must also provide that the subcontractor may be required to repay to the contractor any benchmark payments received for participants who do not achieve the stated training objectives.

§187.227. Nonexpendable Personal Property Management.

(a) Nonexpendable personal property purchased with JTPA funds having a unit cost of \$500 or more and a life expectancy of one year, including lease/purchase equipment on which multi-year payments are being made, is considered JTPA accountable property and is subject to the property management provisions established in this section. Such property must be procured according to the applicable provisions of §187.215 of this title (relating to Competitive Negotiation Method), and §187.221 of this title (relating to Cost/Price Analysis). Title to such property remains vested in the subrecipient but the department reserves the right to transfer title or issue disposition instructions for property with a unit acquisition cost of \$5,000 or more.

(b) Such property shall be considered JTPA accountable property subject to the following provisions.

(1) Subrecipients wishing to purchase equipment with a unit acquisition cost of \$5,000 or more, including a lease/purchase agreement, must receive prior approval from the department prior to purchase. Prior review and approval from the department is not required for property that is only leased.

(2) If subrecipients acquire replacement equipment they may use the equipment to be replaced as a trade-in, or sell the property at fair market value and use the proceeds to offset the cost of the replacement property, subject to approval by the department

(3) Title to real and personal property, other than supplies, acquired or produced after July 1, 1993, under a JTPA subgrant to a commercial organization shall vest in the awarding subrecipient, if such subrecipient is not a commercial organization or is a governmental entity. Such property shall be considered as acquired or produced by the awarding subrecipient and the policies of this subchapter (relating to Financial Management Rules) shall apply to the property. If the awarding organization is

also a commercial organization, title shall vest in the higher level noncommercial organization that made the subaward to the commercial subrecipient. A commercial subrecipient shall not acquire property subject to this paragraph without the prior approval of the awarding subrecipient.

(4) Subrecipients shall report to the department all acquisitions of property with a unit acquisition cost of \$1,000 or more, within 30 days after acquisition to the address listed in §187.131 of this title (relating to Address for all Submissions, Notices, and Requests for Information or Forms).

§187.228. Subrecipient Property Inventory.

(a) Each subrecipient's property officer shall maintain a current record of all JTPA property in its custody and shall promptly notify the department of the possession or acquisition of any JTPA nonexpendable personal property with a unit acquisition cost of \$1,000 or more not previously reported.

(b) Subrecipients shall conduct an annual physical inventory of JTPA property and reconcile the results with their property records. Annual inventory documentation shall be subject to review during on-site monitoring by the department.

§187.229. Property Maintenance and Security.

(a) Nonexpendable personal property purchased in whole or in part with JTPA funds, or transferred from the Comprehensive Employment and Training Act (CETA), shall be tagged to indicate the item was acquired with JTPA funds.

(b) Subrecipients shall maintain documentation on any JTPA property destroyed, including a property description, the date and cause of the destruction. Information on destroyed property with a unit acquisition cost of \$1,000 or more shall be submitted to the department.

(c) Subrecipients shall contact the appropriate police department to report any missing or stolen JTPA property and must maintain a copy of the police report in the subrecipient's property records. On missing or lost property with a unit acquisition cost of \$1,000 or more, subrecipients shall submit to the department documentation of the insurance proceeds on the loss, a copy of the police report, and the disposition information required in §187.231(3) of this title (relating to Disposition of Excess Nonexpendable JTPA Property).

§187.230. Shared Use of JTPA Property.

(a) JTPA funded activities, accountable property, equipment, or personnel may be made available for non-JTPA use

provided such use will not interfere with the JTPA purpose for which such items were funded or acquired, and provided that records are maintained showing the actual JTPA and non-JTPA shared use on a monthly basis.

(b) Subrecipients must document the shared use of JTPA activities, property or personnel by entering into a shared use agreement with the non-JTPA entity. Such agreements shall be subject to periodic review by the department, and must:

- (1) describe the basis, or benefits received, for the prorated share;
- (2) describe the non-JTPA use and the percentage of such usage;
- (3) describe the method used to verify the usage percentages, which must be determined at minimum on a quarterly basis;
- (4) describe the basis for determining that any user fees are reasonable and represent the property's fair market rental value or actual cost of activities and personnel;
- (5) assure that any shared use will not interfere with the JTPA use of such property, activity or personnel and that priority will be given to JTPA participants,
- (6) assure that an amended shared use plan will be retained on file to document any change in the shared usage; and
- (7) provide a list of JTPA property and a description of both the JTPA and non-JTPA activities.

(c) Subrecipients must be reimbursed by the non-JTPA entities whenever JTPA property, activities or personnel are used for non-JTPA funded programs or activities. Such reimbursement, or user fee, may be in cash or in kind and shall be equal to the property's fair rental value or the actual cost of the activities or personnel for the period of non-JTPA use. Fair rental value shall be considered to be 20% of the unit acquisition cost per year. The user fee must be in proportion to the contribution by JTPA to a specific project. However, if the usage of the property, activities or personnel by JTPA participants falls below 50%, the pre-determined user fee must be paid in cash to the JTPA program.

(d) Matching contributions from non-JTPA entities for shared use may be in-kind contributions, such as buildings, utilities, staff time, equipment, property or other tangible items, or may be matching funds in cash. Such contributions by a non-JTPA entity may be accepted in exchange for access to JTPA activities, property or personnel. Shared use agreements may provide for shared classroom training activities, facilities, or other appropriate training related

activities. Such contributions, whether in-kind or as matching funds, must be properly valued, must be used to further JTPA objectives, and must be fully documented and recorded.

(e) Subrecipients submitting a Shared Use Schedule form shall be deemed to have complied with the reporting requirements of this section

§187.231. Disposition of Excess Nonexpendable JTPA Property. JTPA accountable property no longer needed for JTPA program uses or for other federally assisted activities shall be disposed of as follows

(1) Excess property with a unit acquisition cost under \$5,000 may be retained by the subrecipient and used for other activities provided that the JTPA program is compensated based on the existing fair market value at the time the usage of the property is changed. Subrecipients may also sell such property based on fair market value with any proceeds from such sale being considered JTPA program income and credited to the JTPA program

(2) Prior to disposing of excess property with a unit acquisition cost of over \$5,000, subrecipients must provide the department with a written description of the property, including its unit acquisition cost and a brief description of the property's condition. The department may then authorize the subrecipient to sell the property for fair market value and credit any proceeds to the JTPA program, or may determine an alternative use for such property. Subrecipient's submitting a property description on the Notification of Excess Property form shall be deemed to have complied with the information requirements of this paragraph.

(3) Within 30 days of any disposition of JTPA property with a unit acquisition cost of at least \$1,000, subrecipients shall provide the department with a written report of the property disposition procedures, including a description of the property, the unit acquisition cost, the disposition date, the item's serial number and the funding source. Subrecipients submitting a report on the Notification of Property Disposition form shall be deemed to have complied with the disposition reporting requirement of this paragraph.

§187.232. Reporting Requirements

(a) Subrecipients must submit to the department, no later than the 20th calendar day of each month, monthly reports for each contract with the department to provide financial information for budgeting and program management oversight, including the following information

(1) The contractor's name, address and telephone number, the name of the contractor's representative who approves fiscal information, and the name of the person preparing the report.

(2) The assigned contract number, the contract time period by month and year, and the most current contract amount, which should agree with the total budgeted amounts.

(3) The specific month being reported and whether the information is a monthly expenditure report, final expenditure report or a budget report

(4) The appropriate title or program funding source for the contract.

(5) A listing by cost category, as defined in 20 CFR, §627 440, of the following items

(A) program expenditures for the current month and a cumulative total (cash and accrual),

(B) the budgeted amounts according to the contractor's JTPA plan, which should agree with the current contract amount,

(C) the current balance, calculated by subtracting the cumulative expenses from the budget amounts,

(D) any recorded expenses which have not been paid (reported as monthly accruals);

(E) a listing of the obligations;

(F) program income, earned and expended, for the current month and a cumulative total; and

(G) program costs paid from non-federal sources for the month and cumulatively.

(b) Subrecipients submitting such reports on the JTPA Financial Report form shall be deemed to have complied with the reporting requirements of this paragraph. Monthly reports are required although the contract information may remain unchanged

(c) Subrecipients may obtain cash required to cover immediate needs resulting from expenditures under a contract by submitting to the department a request for advance or reimbursement including the following information:

(1) the contractor's name, address and telephone number, the name of

the contractor's representative who approves fiscal information, and the name of the person preparing the report;

(2) the assigned contract number, the contract time period by month and year, and the sequential request number;

(3) the time period during which the expenditures generating the need for cash were incurred, or will be incurred;

(4) the following information on the status of funds:

(A) the authorized contract amount as of the latest Letter of Notification;

(B) cumulative cash received as of the last request;

(C) cash previously requested but not received;

(D) the total cash received and requested;

(E) cumulative expenses to date;

(F) projected expenses for this request;

(G) the total of cumulative and projected expenses;

(H) the amount of funds presently requested; and

(I) the funds remaining in the contract.

(d) Subrecipients that submit a Request for Advance or Reimbursement form shall be deemed to have complied with the requirements of subsection (c) of this section.

(e) In addition to the requirements of subsection (c) of this section, subrecipients requesting advance funds must submit the following information:

(1) the total payroll costs;

(2) the total rent and utilities costs;

(3) the total subcontractor payments;

(4) the total projected costs for support services, needs based/related payments, postage, and workers' compensation costs;

(5) the total projected variable expenses, such as office supplies, printing

costs, repairs and maintenance, and capital expenditures;

(6) the total cash on hand; and

(7) the sum of the total expenditures less cash on hand. Subrecipients that submit a Cash Request Support Form shall be deemed to have complied with the requirements of this paragraph.

(e) Subrecipients shall submit to the department a state purchase voucher and a signed statement indicating the contract number and the names and signatures of each individual authorized to sign a request for advance or reimbursement. Subrecipients submitting an Authorized Signature Designation form shall be deemed to have complied with the requirements of this paragraph.

§187.233. The Closeout Process.

(a) Subrecipients must establish a system to closeout contracts when they are fully completed and final invoices are paid, and must refer their subcontractors to the requirements of this section for actions to be taken and documents which must be submitted.

(b) Upon termination or closeout of a contract, subrecipients must submit to the department a written contract release agreement on a form provided by the department, and other applicable information described in this section. The contract release agreement shall not be binding or effective until signed by the Executive Director of the department. Subrecipients utilizing the Contract Release Agreement form shall be deemed to have complied with the requirements of this paragraph.

(c) If a contract period covers two years, subrecipients may submit a closeout package whenever the contract is fully expended but not later than 60 days after the contract ending date. If a contract period covers less than two years subrecipients shall, 30 days after the contract ends, report total preliminary contract expenditures, and shall submit a complete closeout package 60 days after the contract ends.

(d) When a contract terminates, the total cash received from the department should equal the total cash disbursed and reported as expenditures. Any outstanding claims must be reported and included in the expenditure reports. Any JTPA cash on hand for claims exceeding reported expenditures or not immediately due and payable shall be returned to the department by the subrecipient to the Texas Department of Commerce, Administration Division-Cashier, P.O. Box 12964, Austin, Texas 78711-2964. Such refunds to the department shall be made according to this section and the process described in §187.206 of this title (relating to Refund Policy).

Subrecipients submitting either the Unclaimed Wages form or the Other Claims Outstanding form shall be deemed to have complied with the additional information requirements of this paragraph.

(e) Subrecipients shall also include the following reports on non-expendable property purchased with JTPA funds if such reports have not been previously provided to the department during the program year.

(1) A statement identifying the contractor and certifying that the property management standards prescribed in §187.227 through §187.231 of this title (relating to Financial Management Rules) have been adhered to and that a physical inventory of all non-expendable property has been conducted. The statement must identify the contract by number and program title, and must specify the last inventory date.

(2) An inventory report on JTPA funded property, providing the following information (Subrecipients submitting an inventory on the JTPA Funded Property Inventory form shall be deemed to have complied with the reporting requirement of this paragraph.):

(A) The contractor's name and address, and the name of the contractor's representative making the inventory report.

(B) The specific contract number.

(C) The location of the property and a statement of whether the property is nonexpendable, residual or scrap property.

(D) The date of the inventory and whether it is an annual, final or closing inventory. If it is a closing inventory and the property is to be transferred, a new grant number must be provided.

(E) A description of the property, including the purchase order or acquisition document number, and the following property data:

(i) manufacturer's name and serial number;

(ii) the property type and model;

(iii) the cost if purchased; and

(iv) the date received.

(3) A statement identifying the contractor, providing the contract number and the JTPA program title, and certifying

that all nonexpendable personal property with a unit acquisition cost of \$500 or more purchased with JTPA funds is being used and will be used solely for JTPA purposes. The certification must state that if any non-expendable personal property is to be used for purposes other than JTPA, a shared-use plan has been or will be developed meeting the requirements of §187.230 of this title (relating to Shared Use of JTPA Property). The certification must also state that if such property has been disposed of either through sale or has been retained for use in non-JTPA activities, the JTPA program has been credited for the fair market value of that property.

§187.234. Resolution of Questioned Costs.

(a) Problem findings arising from an annual monitoring review of a subrecipient by the department shall be investigated and resolved according to the procedures established by Subchapter E of this title (relating to State Monitoring and Sanctions Policies).

(b) Subrecipients proposing to use stand-in costs as a substitute for otherwise unallowable costs shall include the proposal in the information provided to the department during the informal resolution period and, if accepted by the department, shall be subject to final DOL review and approval.

§187.235. Subrecipient Time Limitations. If problem findings of questioned costs are investigated by DOL or the Office of the Inspector General of the United States Department of Labor (OIG), pursuant to Federal Regulations, §627.481, a subrecipient shall submit its audit resolution report to the department within 90 days from the date of the subrecipient's receipt of the DOL audit report.

§187.236. Questioned Costs Appeals Process. Subrecipients wishing to appeal a final determination by the department on any resolution of questioned costs shall follow the procedures set by §§187.297-187.299 of Subchapter I of this title (relating to JTPA Grievance Procedures).

§187.237. Variance from Uniform Grant and Contract Management Standards. Pursuant to 29 CFR, §97.4(a)(2) and 1 TAC §5.147, all federally funded JTPA Titles I, II and III programs and activities are exempt from the uniform assurances and standard financial management conditions prescribed by the Texas Government Code, §§783.005-783.007, as Uniform Grant and Contract Management Standards (UGCMS). The UGCMS provisions shall apply only to all JTPA Title IV-C programs and activities.

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 10, 1994.

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Deborah C. Kastrin
Executive Director
Texas Department of
Commerce

Proposed date of adoption: September 1, 1994

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

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

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

Subchapter K. Treatment
Guidelines

• **28 TAC §134.1000**

The Texas Workers' Compensation Commission proposes new §134.1000, concerning mental health treatment guidelines. The commission has simultaneously filed a withdrawal of proposed new §134.1000 published in May 27, 1994, issue of the *Texas Register* (19 TexReg 4087). This is being done in order to correct an administrative error in the May 27 proposal, in which text was omitted in the submission. Subsection (c) (regarding mental health evaluations) of this re-proposal contains the text omitted in the previous proposal. The text previously omitted is found in subsections (a)(2); (b)(1); and (c)(1)-(4). At the request of the Texas Register staff, this proposed guideline has been filed with the Register and will be published in its entirety in the *Texas Register* in rule format. The Mental Health Treatment Guideline is also available in standard guideline format from the Publications Department of the Texas Workers' Compensation Commission, 4000 South IH35, Southfield Building, Austin, Texas 78704-7491. The difference in format is one of designation only (e.g., "Section III" in the standard guideline format is referred to as "subsection (d)" in the rule format) and not of substance. This guideline is proposed in order to ensure the quality of health care to the injured workers of Texas and identify clinically acceptable courses of treatment for specific mental disorders. It will provide a mechanism to monitor the reasonableness of the treatments administered and establish treatment parameters. The guideline also clarifies those services that are reasonable and necessary for mental health care for the injured workers of Texas.

The Medical Review Division, in conjunction with the Medical Advisory Committee (MAC) and a broad representation from the medical community have worked together to develop

the proposed Mental Health Treatment Guideline. The decision as to which treatments would go into the guideline was based on the input of the participants regarding treatments that are commonly used and medically accepted. This guideline is to be used by health care providers as a tool for clinical office practice to establish the required elements for all providers to initiate treatment. The insurance carrier should use this guideline to compare treatment prospectively, concurrently, and retrospectively with the predetermined elements contained in this guideline. The commission's primary mission in initiating and development of this task is to ensure appropriate guidelines relating to necessary treatments for compensable injuries; to provide a tool for monitoring of the necessity of treatments administered; and to provide a tool to review typical healthcare treatment.

The rule provides for a mental health evaluation of up to three hours that does not have to be pre-authorized by the insurance carrier. The rule also sets out the documentation required for treatment continued beyond the initial three-hour mental health evaluation.

The guideline is not to be viewed as being prescriptive in nature, or to be used as the sole basis for denial of services. It reflects typical courses of intervention. Treatment falling outside these parameters will be subject to more careful scrutiny and require additional documentation of the special circumstances to justify the need for treatment.

The guideline has been designed to achieve the following goals:

- (1) to ensure quality health care to the injured workers of Texas;
- (2) to assist all parties with regard to the appropriate treatment and management of mental disorders in workers' compensation healthcare;
- (3) to identify clinically acceptable courses of treatment for specific mental disorders;
- (4) to establish documentation standards which support the appropriateness of the level of service for assessment/evaluation and on-going treatment;
- (5) to establish treatment parameters based on a diagnostic grading system which allows for categorization of the manifestation of distress during the current phase of injury;
- (6) to establish parameters for eligibility and termination of treatment; and
- (7) to provide a mechanism for a progressive, concurrent, retrospective review of efficient and effective utilization of healthcare services.

Janel Charness, Chief of Budget, has determined that for the first five-year period the rule is in effect there will be minimal fiscal implications as a result of enforcing or administering the rule.

For the first five years this rule is in effect state and local governments are expected to have no additional or reduced costs and no loss or increase in revenue.

Ms. Chamness also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule will be greater efficiency in the provision of mental health care to the injured worker.

There is no anticipated economic cost to persons who are required to comply with the rule as proposed. But, it is possible that insurance carriers that now do not routinely approve initial mental health evaluations may incur some extra cost resulting from compliance with the proposed rule. The costs for compliance will be the same for small and large businesses.

Comments on the proposal may be submitted, for at least 30 days following publication, to Elaine Crease, Office of the General Counsel, Mail Stop #4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491. All written comments on the Mental Health Treatment Guideline submitted to this date, and written comments submitted and verbal comments made at the public hearing on June 8, 1994 will be considered to apply to this proposal. New or supplemental comments may also be filed.

The new rule is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act, the Texas Labor Code, §413.011, which authorizes the commission to establish by rule medical policies and guidelines relating to necessary treatments for injuries, and §413.013, which authorizes the commission to establish by rule a program for prospective, concurrent, and retrospective review and resolution of a dispute regarding health care treatments and services; and to establish by rule a program for the systematic monitoring of the necessity of treatments administered and fees charged and paid for medical treatments or services, including the authorization of prospective, concurrent, or retrospective review under the medical policies of the commission to ensure that the medical policies or guidelines are not exceeded.

This rule affects the Texas Labor Code, §§402.061, 413.011, and 413.013.

§134.1000. Mental Health Treatment Guideline

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(10) Appendices.

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(E) Appendix E: Elements of a Mental Status Examination-subsection (o).

(11) Bibliography-subsection (p)

(b) Introduction

(1) This guideline shall be effective for mental health services rendered on or after the effective date of this rule. The purpose of this guideline is to clarify those services that are reasonable and necessary for mental health care for the injured workers of Texas. This guideline is not to be viewed as prescriptive or to be used as the sole basis for denial of services. The guideline reflects typical courses of intervention. Treatment falling outside these parameters will be subject to more careful scrutiny and require additional documentation of the special circumstances to justify the need for treatment.

(2) The primary goals of this document are to.

(A) ensure quality of health care to the injured workers of Texas.

(B) assist all parties with regard to the appropriate treatment and management of mental disorders in workers compensation healthcare,

(C) identify clinically acceptable courses of treatment for specific mental disorders;

(D) establish documentation standards which supports the appropriateness of the level of service for assessment/evaluation and on-going treatment,

(E) establish treatment parameters based on a diagnostic grading system which allows for categorization of the manifestation of distress during the current phase of injury,

(F) establish parameters for eligibility and termination of treatment; and

(G) provide a mechanism of progressive, concurrent, retrospective review of efficient and effective utilization of healthcare services.

(3) A major obstacle in devising such a set of guidelines is the relative absence of research regarding treatment of choice for various mental disorders, in particular the absence of clear indicators regarding frequency and duration of treatment. In the treatment of injured workers, the Qualified Mental Health Professional (QMHP) is confronted with a variety of mental and physical problems, including traumatic brain injury and permanent loss of functioning due to physical trauma, which can require many months of rehabilitation efforts. Even in common psychological reactions such as adjustment disorders and depression, the exact treatment plan will vary based on the needs of the individual. The nature of the physical injury, the amount and duration of lifestyle disruption, the person's general psychological well-being, ability to handle stress, and other constitutional factors such as biological predisposition to mental illness all affect the course of treatment.

(4) These guidelines are designed to apply primarily to outpatient evaluation and treatment. These guidelines do not apply to treatment involving cognitive rehabilitation of traumatic brain injury. General criteria for referral to more intensive full or partial psychiatric inpatient settings and rehabilitation/pain clinics are included in this guideline. Also, these guidelines apply to the delivery of services to inpatients on medical-surgical wards, but not to inpatient psychiatric hospitals, psychiatric/multidisciplinary outpatient programs and pain management programs.

(5) The diagnostic codes (ICD-9 codes) relating to mental disorders in this guideline were chosen based on the frequency with which they occur among injured workers and/or due to their importance in treatment planning for specific medical conditions.

(6) Other diagnoses not specifically included on the list are eligible for intervention and mental health services provided documentation substantiates the causal link of the treatment to the compensable injury.

(c) Initial Mental Health Evaluation; Preauthorization.

(1) An employee may receive a mental health evaluation for a compensable mental health disorder that has allegedly resulted from or was exacerbated by a compensable injury or was traceable to a definite time, place, and cause on the job. The employee is entitled to this evaluation without referral from a treating doctor if the evaluation constitutes emergency treatment, or if the employee has not made an initial choice of treating doctor.

(2) A mental health evaluation is limited to a maximum of three hours total for an interview, any necessary mental health testing, and preparation of a report. The report shall include the causal link of present mental health status to the compensable injury, and if there is need for further care. This brief evaluation does not require preauthorization as described in §134.600 of this title (relating to Procedure for Requesting Pre-Authorization of Specific Treatments and Services).

(3) More than three hours of mental health treatment or evaluation must be submitted for preauthorization. The insurance carrier may either approve the request or submit the case to a Qualified Mental Health Professional for a peer review, as defined in subsection (e)(2)(C)(IV) of this rule.

(4) Except for the mental health evaluation covered in paragraph (1) of this subsection, the submission of any medical bill for mental health care must be accompanied by a mental health diagnosis and treatment plan including information sufficient to establish the mental health condition is compensable.

(d) Texas Labor Code. The following sections of the Code and specific Commission rules address key areas pertaining to mental health services.

(1) Review of Texas Labor Code

(A) Chapter 408, Subchapter B, §408.021, Entitlement to Medical Benefits.

(i) An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:

(I) cures or relieves the effects naturally resulting from the compensable injury,

(II) promotes recovery, or

(III) enhances the ability of the employee to return to or retain employment.

(ii) Medical benefits are payable from the date of compensable injury.

(iii) Except in an emergency, all health care must be approved or recommended by the employee's treating doctor.

(iv) An insurance carrier's liability for medical benefits may not be limited or terminated by agreement or settlement.

(B) Chapter 401, Subchapter B, §401.011, General Definitions.

(i) A "compensable injury" is defined as an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle.

(ii) "Health Care" is defined as all reasonable and necessary medical aid, medical examinations, medical treatments, medical diagnoses, medical evaluations, and medical services. The term does not include vocational rehabilitation. The term includes:

(I) medical, surgical, chiropractic, podiatric, optometric, dental, nursing, and physical therapy services provided by or at the direction of a doctor;

(II) physical rehabilitation services performed by a licensed occupational therapist provided by or at the direction of a doctor;

(III) psychological services if prescribed by a doctor;

(IV) the services of a hospital or other health care facility;

(V) prescription drugs, medicines, or other remedy; and

(VI) a medical or surgical supply, appliance, brace, artificial member or prosthesis, including training in the use of the appliance, brace, member or prosthesis.

(iii) "Doctor" is defined as a doctor of medicine, a doctor of osteopathic medicine, a doctor of optometry, a doctor of dentistry, or a doctor of podiatry, a doctor of chiropractic who is licensed and authorized to practice.

(iv) "Treating doctor" is defined as the doctor who is primarily responsible for the employee's health care for an injury.

(C) Chapter 408, Subchapter A, §408.006, Mental Trauma Injuries.

(i) It is the express intent of the legislature that nothing in this Act shall be construed to limit or expand recovery in cases of mental trauma injuries.

(ii) The mental or emotional injury that arises principally from a legitimate personnel action, including a transfer, promotion, demotion, or termination is not a compensable injury for the purposes of this subtitle.

(2) Review of Texas Workers' Compensation Commission Rules.

(A) 28 TAC, Chapter 134, Subchapter G, §134.600 of this title, Procedure for Requesting Preauthorization of Specific Treatments and Services.

(i) All health care providers of mental health treatment must follow the preauthorization rule.

(ii) The health care treatments and services requiring preauthorization are:

(I) all non-emergency hospitalizations, ambulatory surgical center care, and transfers between facilities;

(II) psychiatric or psychological therapy or testing;

(III) biofeedback except as part of work hardening;

(IV) nursing home, convalescent, residential, and all home health care services and treatments; and

(V) pain clinics, chemical dependency clinics, or weight loss clinics.

(B) 28 TAC, Chapter 134, Subchapter E, §134.4 of this title (relating to Definition of Consulting Doctor). The consulting doctor, for purposes of this title, is a licensed doctor who examines an injured employee, or the employee's medical record because of a request from the treating doctor as described in the Act, §4.64(1). The purpose of the consulting doctor's examination is to evaluate the accuracy of the diagnosis and appropriateness of the treatment of the injured worker. When the consulting doctor delivers health care to the

injured worker pertaining to the compensable injury or illness at the request of the treating doctor, the consulting doctor becomes a referred doctor. Except as provided in §133.3(b) of this title (relating to Responsibilities of Treating doctor) the consulting doctor shall not make referrals without the approval of the treating doctor.

(e) Confidentiality.

(1) Introduction.

(A) It is generally accepted that communication between a patient and health care professional, including any resulting records, are confidential. (These are enumerated in the Texas Health and Safety Code, Title 7, Chapter 611, Texas Civil Statutes, §§611.001-611.005). Two exceptions are:

(i) requests by insurance carriers and their designated representatives (§611.004 (a)(6)(2)); and

(ii) requests from the Commission (§611.004 (a)(1)).

(B) Throughout this document an effort has been made to balance the injured workers' right to confidential mental health care with the need of the commission and carrier to have access to information to determine various issues including the following:

(i) compensability of the injury;

(ii) reasonableness and necessity of treatment.

(iii) audit of the medical bills;

(iv) progression toward treatment goals; and

(v) compliance.

(C) The only mental disorders eligible for coverage under the Act are those which are causally linked to a work injury. This requirement places a higher demand for specific information on the patient and provider than is usually required in private health insurance coverage.

(D) In order to address the needs of all parties, required documentation components, timetables for submission, and guidelines on release of information have been included.

(2) Requests for, and Submission of, Confidential Information.

(A) The required documentation format, content, and timetables specified for assessment/evaluation and ongoing

treatment, as found in subsections (h)(4) and (i)(6) of this section, are deemed to be sufficient as documentation for utilization review purposes in the vast majority of cases.

(B) Insurance carriers and their designated representatives are not to routinely request copies of individual session notes. Only that information which is reasonable and necessary to answer a specific question and is pertinent to the issues in dispute should be requested (e.g. medical necessity).

(C) Individual session notes are only to be requested as part of:

(i) the informal dispute resolution process;

(ii) an administrative hearing by the commission,

(iii) a peer review initiated by the commission (the peer review must be conducted by a licensed qualified mental health professional whose scope of practice covers the services under review), or

(iv) a peer review by the carrier (the peer review must be conducted by a licensed qualified mental health professional whose scope of practice covers the services under review).

(D) Other than under subpoena or other appropriate legal action, such as a TWCC order to produce documentation, "raw" (not interpreted) psychological test data and/or test forms are to be requested and released only when the peer reviewer is a licensed psychologist, consistent with the rules of the Texas State Board of Examiners of Psychologists which incorporates the Ethical Principles of the American Psychological Association. Providers who are unable to obtain the name of the reviewer, but who have inquired and been told the reviewer is a licensed psychologist are considered to have satisfied their obligation regarding appropriate disclosure.

(E) Insurance carriers and their designated representatives, or employees may not disclose, disseminate, or publish any individual treatment records or any other confidential information obtained, except to the extent it is consistent with the authorized purposes for which it was first obtained (Texas Civil Statutes, §611.004(d)).

(F) In addition to the legal remedies specified in Texas Civil Statutes, §611.005, (relating to Legal Remedies for Improper Disclosure), an entity or individ-

ual who is guilty of improper disclosure under these guidelines has committed a Class A administrative violation, punishable by fines up to \$10,000 per occurrence.

(3) Informed Consent.

(A) Prior to initiating any mental health assessment/evaluation or treatment, it is strongly recommended that the health care provider obtain appropriate informed consent and authorization to release confidential information from the injured employee

(B) In addition, providers should be aware that without the required documentation (as referenced in subsections (h)(4) and (i)(6) of this section) submitted to the insurance carrier or the TWCC, payment for treatment and services may be denied.

(f) Concepts and Governing Principles for Involved Parties.

(1) Qualified Mental Health Professional (QMHP). The guideline is a tool for clinical office practice to establish the required elements for all providers to initiate and continue treatment. The guideline identifies typical mental health interventions. If, for example, a provider's treatment deviates from the guideline, this would require documentation of a clearly delineated rationale for medical necessity to substantiate the selected treatment

(A) A Qualified Mental Health Professional (QMHP) is defined as someone who is independently licensed to provide mental health services, within the scope of practice defined by their applicable practice Act.

(B) This guideline should be used as a tool which identifies the recommended treatment parameters for treatment of injured workers within the workers' compensation system.

(C) It is expected that a subset of patients will be found to be outside the parameters of these guidelines.

(D) This guideline identifies the need to provide documentation which clearly explains the reason for treatment and relatedness to the workers' compensation injury.

(2) Insurance Carriers. The insurance carrier and their designated representatives should use this document to compare treatment prospectively, retrospectively, and concurrently with the predetermined elements contained in the guideline

(A) This document and threshold levels or parameters is only a guideline and are not to be used as the reason for denial of treatments and services.

(B) This guideline is not to be used to direct care toward a specific healthcare discipline or to a specific type of treatment.

(C) It is the responsibility of the insurance carrier and their designated representatives to provide their specific documentation and rationale for reasons of denial of treatment based on mental health treatment guideline.

(D) It is expected that a subset of patients will be found to be outside the parameters of these guidelines.

(2) Medical Review Division. The Medical Review Division will use the guideline as a tool for the basis of their administrative review of prospective, concurrent, and retrospective treatment.

(A) The guideline will provide the basis for adjudication of a disputed issue when minimal or no supporting documentation is available.

(B) The peer review advisor contracted with the Texas Workers' Compensation Commission Medical Review Division should use this guideline whenever the need arises for an unbiased medical opinion.

(C) Medical services consistent with this guideline are presumed reasonable.

(D) It will also be used as a tool in conducting on-site audits of both health care providers and insurance carriers.

(g) Ground Rules

(1) Requirement for Intervention in Mental Disorders.

(A) An employee may receive a mental health evaluation for a compensable mental disorder that has allegedly resulted from or was exacerbated by a compensable injury or was traceable to a definite time, place, and cause on the job. The employee is entitled this evaluation without referral from a treating doctor if the evaluation constitutes emergency treatment, or if the employee has not made an initial choice of treating doctor.

(B) If the reason for the referral does not clearly state the indications

for assessment/evaluation as described in subsection (h)(2) of this section or ongoing treatment as described in subsection (i)(2) of this section, the healthcare provider must contact the referral source to clarify the reason for the mental health intervention.

(C) The assessment and/or reasonable treatment must be consistent with the Texas Labor Code as cited in subsection (d)(1) of this section.

(2) General Ground Rules.

(A) The guidelines are not to be used as fixed treatment protocols by either the health care provider or insurance carrier. The guidelines reflect typical courses of intervention. It is acknowledged in atypical cases, treatment falling outside these guidelines will occasionally be necessary. However, those cases that exceed the guidelines level of treatment will be subject to more careful scrutiny and review and will require documentation of the special circumstances that justify the treatment.

(B) These guidelines should not be seen as prescribing the type and frequency or length of intervention. Treatment must be based on patient need and professional judgment.

(C) Treatment parameters described in this guideline represent typical courses of intervention for a given group of diagnoses. Actual treatment plans will vary with the level of severity of symptomatology, level of stressors, and diagnoses.

(D) The patient must have a diagnosable mental disorder which must be identified by ICD-9-CM codes and descriptions

(E) When deciding level of service, two indicators, the Severity of Psychosocial Stressor Scale (PSS) and the Global Assessment of Functioning Scale (GAF) must be included in establishing rationale for level of service and treatment plan. The Severity of Psychosocial Stressor Scale (Appendix A) describes levels of acute and enduring stressors effecting current symptomatology. The Global Assessment of Functioning Scale (Appendix B) describes the patient's current ability to function in the presence of the illness. Both of these scales are derived from the Diagnostic and Statistical Manual III-R (DSM-III-R) of the American Psychiatric Association. DSM-III-R nomenclature may only be used for GAF and PSS. Diagnosis codes must follow ICD-9 format only.

(F) If the Global Assessment of Functioning score is 40 or less, this may be a strong indication for more intensive levels of treatment (i.e. partial or full hospitalization. (See subsection (j)(1) and (2) of this section).

(G) The level of service should be the same as the health care provider's usual and customary level of service regardless of the payor system.

(H) Mental health interventions should include assessment/evaluation and may include on-going treatment.

(I) All services must have sufficient documentation to justify the level of service provided and the relationship of the services to a compensable injury. This includes, but is not limited to, initial evaluations, treatment plans, and subsequent reports (see subsections (h)(4) and (i)(6) of this section for documentation requirements).

(J) Documentation must support the reason for concurrent conjoint and family psychotherapy

(3) Mental Disorders with Limited Eligibility for Intervention.

(A) Personality disorders are eligible for intervention only if the personality disorder interferes with the ability to cooperate with medical treatment regimens. Treatment for the interfering personality disorder will be discontinued when this barrier is removed and cooperation with medical treatment for the injury is obtained, and/or no further progression in removing the interference of the personality disorder is anticipated. Subsequent treatment of the personality disorder may require referral outside of workers compensation system. Examples of maladaptive behaviors associated with personality disorders might include the following:

- (i) noncompliance with treatment;
- (ii) missed appointments;
- (iii) controlling, manipulative, deceitful, entitled, and/or unstable interpersonal relationships;
- (iv) seclusive, suspicious, hostile, passive-aggressive, and/or dependent behaviors; and
- (v) unstable swings of mood or affect.

(B) Assessment/evaluation is appropriate for uncovering and identifying the following conditions (however, follow-

ing diagnosis and identification, these conditions are not eligible for on-going mental health treatment.):

- (i) malingering;
- (ii) actitious disorder;
- (iii) anti-social personality disorder; and
- (iv) non-compensable diagnoses.

(C) Post traumatic stress disorders, not accompanying a physical injury, are eligible for intervention provided that the disorder is traceable to a definite time, place, and cause on the job, which is sudden or unexpected and arises related to an on-the-job occurrence.

(4) Claimant's Clinical Condition/Direction of Treatment. The following requirements apply to the claimant's clinical condition and direction of treatment:

(A) the patient's condition must have the potential for restoration of function and/or improvement; and

(B) the treatment must be specific to the mental disorder arising from, or exacerbated by the injury, and:

- (i) provide for potential improvement of the patient's condition, and
- (ii) the development of compensatory or adaptive skills, and/or
- (iii) prevention of relapse/regression

(5) CPT Codes. The Texas Workers' Compensation Commission identifies the five digit numeric codes obtained from the *Physician's Current Procedural Terminology*, Fourth Edition, Copyright October 1992, for reporting medical services and procedures. For a complete listing of all appropriate Texas Workers' Compensation Commission/CPT codes for medical services, refer to the current Medical Fee Guideline. When a service or procedure is provided that is not specifically listed in the Medical Fee Guideline, the fee charge must be substantiated by documentation of procedure (DOP).

(A) The CPT codes for initial mental health services may include:

- (i) Office Visit series 99201-99205 (new patients) and 99211-99215 (established patients);
- (ii) Consultation codes 99241-99245, or 99271-99275;
- (iii) CPT code 90801 for initial office visit (psychiatric diagnostic interview examination including history), this

code will be reimbursed at hourly increments up to three hours. Interviews exceeding this three hour timeframe will require documentation to substantiate the length of service; and

(iv) CPT code 90825 for review of records.

(B) The CPT codes for psychological testing may include the following:

(i) All psychological testing will be billed as code 90830 (psychological testing by physician, with written report by the hour).

(ii) Neuropsychological assessment may be billed using codes 90830 (psychological testing) or 95880-95883 (assessment of higher cerebral function with medical interpretation, aphasia, developmental, cognitive testing, neuropsychological test battery).

(C) CPT codes for mental health treatment may include:

(i) Psychiatric Therapeutic Procedures 90835-90880, 90899; and

(ii) Biofeedback 90900-90915.

(D) CPT codes for management, ancillary, and administrative services may include:

(i) Other psychiatric services 90882-90899;

(ii) Team conferences 99361-99362;

(iii) Telephone calls 99371-99373;

(iv) After hours and emergency office services 99050-99058, and

(v) Miscellaneous services 99071-99082.

(6) Biofeedback

(A) All Psychophysiological Profile Assessment (PPA) biofeedback procedures must be provided by a licensed provider or their supervisee whose scope of practice includes the provision of biofeedback services.

(B) A single routine session of biofeedback should be limited to:

(i) at least one biofeedback modality 90900-90915 minimum duration of 30 minutes for each of the above range of modalities, maximum duration is one hour;

(ii) no more than two biofeedback modalities will be reimbursed per session (an exception to this reimbursement is the initial Psychophysiological Profile Assessment (PPA), which cannot exceed four modalities);

(iii) no more than one training session per day; and

(iv) treatment of more than one patient simultaneously; the group psychotherapy CPT codes 90853 and 90857 should be used to bill for treatment.

(C) The typical length of optimal biofeedback treatment is limited to three months of bi-weekly sessions with an additional three months of intermittent sessions not to exceed two per month. Two booster sessions at six month intervals for one year after termination of continuous or intermittent treatment may occur. If booster sessions show significant increase in readings and symptoms, only two to three sessions maximum to be approved to regain benefits. Supportive documentation will be required for more intensive treatment when patient has reached booster stages

(D) There are certain nonmental health related medical conditions which are appropriate for biofeedback treatment. These and other compensable disorders will be considered based on a clear causal link established through clinical rationale.

ICD-9 DESCRIPTION

333 Abnormal Movement Disorders
342 Hemiplegic Syndrome
344 Paralytic Syndromes
344.61 Neurogenic bladder
345 Epilepsy (EEG only)
346.9 Migraine Headaches
353 Nerve Root and Plexus Disorders
354 Mononeuritis of Upper Limb and Multiplex
355 Mononeuritis of Lower Limb
367 Spasms
388.3 Tinnitus
524.6 TMJ
715 Osteoarthritis and Related Disorders
719.4 Joint Pain
722 Intervertebral Disc Disorders
728 Disorders of Muscle Ligament and Fascia
738.4 Acquired Spondylolisthesis
780.5 Sleep Disturbances
781.2 Gait and Posture Disorders
786.0 Dyspnea and Respiratory Abnormalities
847 Sprains and Strains

(7) Termination of Treatment

(A) Since the reason for mental health treatment can vary widely, the criteria for terminating mental health treatment should be tied rationally to the

reason for initiating treatment. Termination criteria should be specified at the outset of treatment in the treatment plan (See subsections (h)(4)(Q) and (i)(2)(B)(C) and (D) of this section). The following criteria are general reasons to terminate treatment:

(i) treatment goals have been met;

(ii) treatment has returned the patient to a pre-injury level of mental functioning;

(iii) the mental disorder no longer interferes with the ability to:

(I) return to work,

(II) obtain employment;

(III) participate in other physical treatment,

(iv) no further improvement can be expected, unless it can be clearly documented that ongoing intervention is necessary to maintain current level of functioning or prevent relapse/regression;

(v) the patient no longer fulfills diagnostic criteria for any mental disorder; or

(vi) patient non-compliance to all treatment. It is essential the patient understand his or her role in the recovery and return to work process.

(8) Consideration of Injury Related/Non Injury Related Factors. Liability for payment of mental health care treatments and services are limited to mental disorders where the factors contributing to the mental disorders are related to the compensable injury. Any factor which does not arise from the compensable injury will not be considered as rationale for the reasonableness or necessity of care under the Act

(A) Factors are defined as:

(i) injury related (e.g. increase in pain level or increase in depression), or

(ii) non-injury related (e.g. death of significant others, other catastrophic event)

(B) Health care providers must identify these factors in their documentation

(C) In situations where a combination of injury related and non injury related factors exist, only the injury related factors are considered eligible within the workers compensation system, as outlined in this subsection

(h) **Assessment/Evaluation of Mental Disorders.**

(1) **Introduction.** Assessment/evaluations are for the purpose of determining:

(A) diagnosis;

(B) appropriate treatment; and

(C) factors that are injury related and non-injury related.

(2) **Indications for Assessment/Evaluation.**

(A) In order for assessment/evaluation of a mental disorder to be considered reasonable and necessary, the patient must already meet the criteria listed in subsection (g)(1) (Requirement for Intervention and Mental Disorders) and (3) (Mental Disorders with Limited Eligibility for Intervention) of this section. A mental health evaluation is limited to a maximum of three hours total for interview, any necessary mental health testing, and preparation of report. This brief evaluation does not require preauthorization as described in 134 600 of this title (relating to Procedure for Requesting Pre-Authorization of Specific Treatments and Services).

(B) In addition, two or more of the following general indications for assessment/evaluation must be suspected or present prior to performing the assessment/evaluation:

(i) clinical signs of significant mental stress included, but not limited to:

(I) anxiety;

(II) agitation;

(III) depression (including reports of neurovegetative symptoms of depression);

(IV) suicidal ideation;

(V) delusions;

(VI) hallucinations;

(VII) disrupted thought processes;

(VIII) psychophysiological correlates of affect and stress; and

(IX) sleep disturbances.

(ii) concern that the patient's mental status is having an adverse impact on his or her ability to participate in, or respond to, appropriate medical treatment. (this includes issues of medication compliance, lack of motivation and effort, and difficulty participating in appropriate rehabilitation efforts).

(iii) overuse or inappropriate use of narcotics, tranquilizers, or sedative-hypnotic medications;

(iv) the use of alcohol or any illegal drugs, particularly for pain relief or relief of stress symptoms;

(v) functional disability considered to be out of proportion to severity of injury/diagnosed damage;

(vi) inconsistency between objective medical findings and patient's symptom presentation, including, but not limited to, "nonorganic" or "nonphysiological" responses to physical examination, pain/sensory changes in non-dermatome patterns, unusual reports of pain and loss of functioning, and "conversion reactions";

(vii) suspicion of symptom exaggeration and/or malingering due to primary or secondary gain issues;

(viii) hostile or belligerent behavior by the patient projected onto others secondary to pain complaints;

(ix) reports of increased family discord secondary to injury-related stress;

(x) persistent, excessive use of the health care system or excessive, inappropriate seeking of diagnostic testing/surgical intervention;

(xi) desire on the part of the treating doctor for input regarding treatment planning, in particular whether referral for mental health treatment or referral to comprehensive rehabilitation/pain management program is appropriate;

(xii) concern about the effects of a closed head injury, toxic poisoning, or other neurological or neuropsychological injury, especially the cognitive, functional, or psychological aspects of the actual or suspected brain disorder;

(xiii) a patient with pain extending beyond the primary intervention phase (0-3 months) with continued significant impairment in daily functioning and failure to return to work and/or progress adequately in healthcare treatments.

(C) **Peri-Operative Mental Health Evaluation.** In addition to the indications noted in subparagraphs (A) and (B) of this paragraph, mental health assessment/evaluation is appropriate when a patient is a candidate for surgical intervention and there is a desire to determine the patient's psychological suitability for surgery and risk of outcome. The general rationale for such an assessment/evaluation is observation of a mental disorder and/or concerns about the patient's mental functioning, potential adverse effect on the patient's understanding of surgery, potential outcome, compliance, and post-surgical adjustment. Specific indications may include, but are not limited to the following:

(i) observed presence of a mental disorder and/or clinical signs of significant mental stress (subparagraph (B)(i) of this paragraph);

(ii) presence of, or evidence of, a somatoform disorder,

(iii) concern that impairment in cognitive functioning and/or intelligence will limit the patient's understanding of the surgery, post-surgical instructions, and compliance;

(iv) the presence of psychological, emotional, coping, or personality styles that may interfere with the patient's ability to comply with temporary or permanent restrictions on activity following surgery, which could lead to re-injury or the necessity of repeat surgery,

(v) concern about unrealistic expectations of surgical recovery, pain relief, recovery of functioning, or physical limitations resulting from the surgery,

(vi) presence of cigarette smoking or chemical dependency/abuse,

(vii) possible presence of familial, financial, or other secondary gain issues that may interfere with the patient's appropriate activation or rehabilitation following surgery;

(viii) presence of asymptomatic and/or symptomatic pre-injury factors and occupational factors as outlined in the Peri-Operative Algorithm found in subsection (i)(5)(K) of this section

(D) **Post-Operative Mental Health Evaluation.** Mental health evaluation may be requested by the surgeon in cases where post-operatively, the patient shows signs of depression, anxiety, or confusion which may interfere with post-operative progress

(i) Onset of symptoms, post-operatively, while hospitalized will be considered an emergency situation

(ii) The surgeon will need to document that an emergency evaluation is necessary based on observation clinical signs, such as dramatic pain complaints, bouts of crying, lack of cooperation with hospital staff, etc.

(3) Parameters for Assessment/Evaluation.

(A) Introduction. Due to the great variation in the reasons for assessment/evaluation, the type and extent of the assessment/evaluation needs to be individualized. Some factors to be considered in determining the appropriateness, duration, frequency, or degree of service rendered includes, but is not limited to:

(i) the length and complexity of the medical and/or mental history;

(ii) reason for referral;

(iii) sign and symptom presentation;

(iv) ability of the patient to give a coherent and accurate history;

(v) availability and cooperation of collateral history sources (spouse, family, etc.); and

(vi) amount and type of psychological testing.

(B) Components The following are typical components of a mental health assessment/evaluation, along with typical maximum frequencies and durations for adequate assessments. Services exceeding the parameters listed in items (i)-(v) of this subparagraph will not be reimbursed without documentation of need and are subject to further review.

(i) Patient Interviews. The assessment/evaluation interview with the patient may be up to, but not exceed, three hours. In the case of patients who are extremely mentally disorganized and/or have extremely long and complex medical histories, up to two additional hours may be allowed, providing the clinical rationale for additional interview time is documented.

(ii) Collateral Interviews. The assessment/evaluation interview with a spouse, significant other, and/or the family may be up to, but not exceed, two hours total.

(iii) Review of Records. The review of medical, psychological, educational, and/or vocational records may not exceed one hour. Review of records may exceed one hour in the case of complex cases with lengthy records, provided that the length of time is documented and a brief summary of the review is provided.

(iv) Psychological Testing. Once criteria for evaluation has been met, the amount and type of psychological testing should be based on a clinical rationale including the reasons for referral; sign and symptom presentation; and assisting in treatment planning decisions.

(I) Psychological Testing may be up to, but not exceed three hours. This service includes the following types of tests:

(-a-) personality testing (MMPI, MBHI, SCL; 90, Rorschach, TAT, etc.); and

(-b-) pain, disability, and function inventories (Sickness Impact Profile, Oswestry, McGill, Dallas Pain Drawing Grid, Million, etc.).

(II) Intelligence Testing may be up to, but not exceed 1.5 hours. Such testing should be conducted only if the patient's intellectual capacity has some clear and direct bearing on the development of his or her treatment plan.

(III) A full neuropsychological battery consists of:

(-a-) up to a total of three hours initial clinical interview with patient and or caretakers;

(-b-) ten hours of face-to-face test administration to include interpretation of test data and preparation of report,

(-c-) two hours of feedback to patient and family using code 90887 up to two units; refer to Ground Rules in subsection (g)(5)(D) of this section, and

(-d-) a full neuropsychological battery initial clinical interview, test administration and feedback to the patient and family, and interpretation of the report, not to exceed 15 hours.

(v) Consultation. Doctors coordinating verbal or telephone consultation with other providers involved in patient treatment up to, but not to exceed one 15-minute increment per provider every 30 days or when recommendations for changes in treatment can be documented, (for example, needed changes in medication or sudden withdrawal from medications).

(vi) Psychophysiological Profile Assessment (PPA).

(I) Assessment/evaluation is to determine if patient will likely benefit from biofeedback, or if barriers to biofeedback are present. Prior to a PPA, a comprehensive mental health assess-

ment/evaluation must occur (see paragraphs (2) and (3) of this subsection). The components of PPA include one or more of the following.

(-a-) resting baseline,

(-b-) physiological levels of muscle activity;

(-c-) skin temperature or peripheral blood flow;

(-d-) skin conductance;

(-e-) heart rate or blood pressure; and

(-f-) other physiological parameters.

(II) Clinical response to one or more stressors or challenge tasks and latency of return to baseline levels following challenge must be documented to support a dysregulation or abnormality. The purpose of PPA is to:

(-a-) establish baseline psychophysiological responses;

(-b-) establish the existence of psychophysiological dysregulation or abnormality;

(-c-) determine that the dysregulation or abnormality is consistent with the history of the individual's symptoms; and

(-d-) utilize the knowledge gained from assessment for the development of a treatment plan.

(III) The psychophysiological assessment (PPA) using biofeedback equipment may last from 1 to 1.5 hours. This assessment consists of several modalities (see Ground Rules for Biofeedback, subsection (g)(6) of this section) to assess chronic changes, such as muscular spasm function of sympathetic arousal and changes in blood flow. A report addressing PPA results and a treatment plan for biofeedback therapy must be submitted following the biofeedback assessment. In addition, a treatment plan specific for biofeedback therapy must be submitted consistent with documentation requirements see reference (paragraph (4)(P), (Q), (R), and (S) of this subsection).

(C) Frequency of assessment/evaluation.

(i) Reasons for repeating an assessment/evaluation. Assessment/evaluation may be repeated based on the following reasons:

(I) referral to a new QMHP or facility;

(II) document response to treatment;

(III) elapsed time since last administration exceeds frequency guidelines listed in this subparagraph; and

(IV) documented need for change in type or level of service

(ii) Interviews. Initial interviews and consultations at duration levels indicated in subparagraph (B)(iv) of this paragraph, with the patient, spouse, family, or significant others are appropriate whenever being evaluated by a new mental health provider or entering a new treatment setting.

(iii) Psychological testing

(I) Major personality tests (MMPI, MBHI, SCL 90, Rorschach, TAT, etc.) should be administered no more than once every three months, unless there are significant intervening life events or changes in mental status requiring re-evaluation. Brief symptoms inventories (Beck, Zung, Hamilton, etc.) may be repeated up to weekly to monitor symptom progress, especially during initial phases of psychopharmacology treatment

(II) Pain, disability, and function inventories should generally be administered no more than weekly.

(III) Intelligence testing should be administered no more frequently than once every six months

(IV) Comprehensive neuropsychological testing may be repeated annually. Testing of selected cognitive function (e.g. memory only) may be repeated on a more frequent basis if justified and documented.

(iv) Psychophysiological Profile Assessments (PPA) PPAs are typically performed at the onset of biofeedback treatment and at termination of biofeedback treatment.

(4) Documentation Requirements for Assessment/Evaluation. As part of the assessment/evaluation of the patient by the Qualified Mental Health Professional, a report must be prepared containing enough information to document the level of assessment provided. This report must include:

(A) reason for referral,

(B) history of present injury;

(C) past medical history and treatment.

(D) past assessment and treatment of pre-existing mental disorders;

(E) past and present substance abuse history, if any;

(F) current and past medication;

(G) history of head injury or other neuropsychological insult, past or present;

(H) social history including pertinent family, educational, vocational information, etc.,

(I) current factors and/or significant lifestyle changes contributing to symptomatology which are injury related (see subsection (f)(8) of this section);

(J) factors and/or significant lifestyle changes, contributing to symptomatology which are non-injury related (the period of time reviewed should include the six months preceding the injury and the two years prior to the date of the current evaluation),

(K) present mental/emotional symptoms, including clinically pertinent elements of a mental status exam (see appendix E in subsection (n) of this section),

(L) results of any psychological, cognitive, pain/disability, or neuropsychological testing administered.

(M) ICD-9-CM diagnosis,

(N) Global Assessment of Functioning/Psychosocial Stressor Scale Score,

(O) details of a causal link of present mental/emotional status to the compensable injury (a clear statement regarding whether or not the injury has caused or exacerbated a diagnosable mental disorder and how the mental diagnosis is injury related) (refer to subsection (g)(1) and (8) of this section),

(P) a problem list comprised of a behavioral description of the diagnosis and/or the problem(s) identified during the assessment/evaluation;

(Q) the rationale or justification for initiating, continuing, changing, modifying or discontinuing treatment based on:

(i) a statement on how treatment is likely to have a detectable positive effect on the patient's overall condition, course of recovery (see subsections (c)(1)(A)(i) and (f)(1) and (4) of this section and subparagraphs (O) and (P) of this paragraph);

(ii) ability to participate in and benefit from treatment; or

(iii) ability to return to/retain employment;

(R) goals/termination criteria of treatment (see Ground Rules, subsection (f) of this section), and

(S) a plan of treatment, including

(i) type of intervention/treatment modality,

(ii) frequency of treatment,

(iii) expected duration of treatment,

(iv) expected clinical response to treatment; and

(v) specification of a re-evaluation timeframe.

(i) Ongoing Treatment Requirements

(1) Introduction This section enumerates the number of sessions per week and duration of treatment for the majority of mental disorders arising in conjunction with compensable injuries. These guidelines also apply to the delivery of services to inpatients on medical-surgical wards, but not inpatient psychiatric hospital units, psychiatric/multidisciplinary day treatment programs, and multidisciplinary pain management programs.

(2) Indications for Ongoing Treatment

(A) In order for on-going treatment of a mental disorder to be considered reasonable and necessary, the patient must already meet the criteria listed in subsection (g)(1) (Requirement for Intervention and Mental Disorder) and (3) (Mental Disabilities with Limited Eligibility for Intervention) of this section.

(B) Prior to initiation of ongoing treatment, an assessment/evaluation which satisfies the documentation requirements of subsection (h)(4) of this section, must already have been performed within the last six months

(C) The patient must have a treatment plan either as part of a previous assessment/evaluation or if a new Qualified Mental Health Professional (QMHP) is employed. The new Qualified Mental Health Professional (QMHP) must develop a treatment plan and is subject to the criteria listed in subsection (h)(3)(C) of this rule for repeat assessment/evaluation.

(D) The treatment plan must include criteria in subsection (h)(4)(P)-(S) of this section.

(3) Parameters for On-Going Treatment

(A) The figures in this paragraph represent the estimated typical maximum number of sessions per week and duration of treatment. It is anticipated there will be injured workers who require less treatment, and other injured workers who will require more treatment. This document serves as a guideline and should not be used as a reason for denial of treatment services. It is acknowledged that in severe cases, treatment falling outside these guidelines will occasionally be necessary. However, these instances will be subject to more careful scrutiny, review, and require clear documentation of the special circumstances that justify the need for treatment which exceeds these guidelines.

(B) These guidelines should not be seen as prescribing the number of sessions per week or the duration of treatment. These must be based on patient need, professional judgement, and efforts toward cost containment.

(C) The general philosophy used in developing these guidelines is the number of sessions per week and duration of treatment should be based on the severity of the disorder. The severity is indicated by

- (i) the mental disorder diagnosis,
- (ii) delineation of specific symptoms,
- (iii) the Psychosocial Stressors Scale (See Appendix A in subsection (k) of this section); or
- (iv) the Global Assessment of Functioning Scale (See Appendix B in subsection (l) of this section).

(D) As specified in subsection (g)(2) (3) of this section, when deciding on level of service, severity of the Psychosocial Stressor Scale (PSS), and Global Assessment of Functioning Scale (GAF) must be included in establishing rationale for level of service and treatment plan. For the purposes of these guidelines, the following definitions apply (both acute events and enduring circumstance should be specified).

(i) Global Assessment of Functioning Scale.

(I) 90-61 = Mild;

(II) 60-41 = Moderate,

or

(III) 40-1 = Severe, Extreme, or Catastrophic; and

(ii) Psychosocial Stressor Scale

(I) 1-2 = Mild;

(II) 3 = Moderate, or

(III) 4-6 = Severe, Extreme, or Catastrophic

(E) Another factor affecting the treatment plan is the existence of more than one mental disorder (co-morbidity). Having more than one mental diagnosis, particularly if psychosis, substance abuse, personality disorder, or major affective disorders will increase the complexity of the case, and therefore, the complexity of the treatment plan.

(F) The following interventions are considered common and appropriate for mental health services for injured workers. The number of sessions per week listed in this paragraph apply only to these direct clinical services, and do not include management or administrative services listed in subparagraph (G) of this paragraph.

(i) 90835-Narcosynthesis,

(ii) 90841-Individual Psychotherapy, time unspecified,

(iii) 90843-Individual Psychotherapy 20-30 minutes,

(iv) 90844-Individual Psychotherapy 45-50 minutes,

(v) 90845-Medical Psychoanalysis,

(vi) 90846-Family Psychotherapy, without patient present;

(vii) 90847-Family Psychotherapy (conjoint psychotherapy);

(viii) 90849-Multiple Family Group Psychotherapy;

(ix) 90853-Group Medical Psychotherapy;

(x) 90855-Interactive Individual Psychotherapy;

(xi) 90857-Interactive Group Psychotherapy;

(xii) 90862-Pharmacologic Management;

(xiii) 90870-Electroconvulsive Therapy-Single Seizure;

(xiv) 90871-Electroconvulsive Therapy-Multiple Seizures per day;

(xv) 90880-Hypnotherapy;

(xvi) 90899-Unlisted Psychiatric Service;

(xvii) 90900-Biofeedback-EMG,

(xviii) 90902-Biofeedback-Conduction Disorder;

(xix) 90904-Biofeedback-Blood Pressure;

(xx) 90906-Biofeedback-Skin Temperature or Peripheral Blood Flow,

(xxi) 90908-Biofeedback-EEG,

(xxii) 90910-Biofeedback-Electrooculogram;

(xxiii) 90915-Biofeedback-Other;

(xxiv) 97540-Training in activities of daily living (self care skills and/or daily life management skills);

(xxv) 99050-Services requested after office hours services in addition to basic service;

(xxvi) 99052-Services, requested between 10:00 pm and 8:00 am in addition to basic service;

(xxvii) 99054-Services requested on Sundays and holidays in addition to basic service,

(xxviii) 99056-Services provided at request of patient in a location other than physician's office which are normally provided in the office, and

(xxix) 99058-Office services provided on an emergency basis.

(G) The following services involve management of a patient's care, but not direct treatment of the patient. Provision of these services is subject to the Ground Rules in the Medical Fee Guideline §134.201 of this title, (relating to Medical Fee Guideline). Units of these services are not included in the maximum number of sessions per week in this section.

(i) 90882-Environmental intervention with agencies, employers, or institutions;

(ii) 90887-Interpretation or explanation of results of examinations, procedure, or data to family or other responsible persons;

(iii) 90889-Preparation of report of patient's psychiatric status, history, or progress other than for legal or consultative purposes for other physicians, agencies, or insurance carriers;

(iv) 90899-Unlisted psychiatric service or procedure;

(v) 99071-Educational supplies such as books, tapes, and pamphlets, provided by the physician for the patient's education at cost to physician;

(vi) 99075-Medical testimony;

(vii) 99078-Physician educational services rendered to patient's in a group setting (eg prenatal, obesity, or diabetic instructions);

(viii) 99080-Special reports such as insurance forms or the review of medical data to clarify a patient's status more than the information conveyed in the usual medical communications or standard reporting form,

(ix) 99082-Unusual travel (eg, transportation and escort of patient);

(x) 99361-Medical conference with interdisciplinary team approximately 30 minutes;

(xi) 99362-Medical conference with interdisciplinary team approximately 60 minutes;

(xii) 99371-Telephone call, simple or brief;

(xiii) 99372-Telephone call, intermediate; and

(xiv) 99373-Telephone call, complex or lengthy.

(4) Weekly Treatment Tables.

(A) The number of sessions per week listed in this subsection apply only to clinical services rendered directly to patients (subsection (i)(3)(F) of this section). The provision of specific services to a patient depend on the patient's diagnostic status, symptom cluster, response to treatment, overall treatment plan, and coordination with other healthcare providers. The relative emphasis of various clinical services will vary with the specifics of the case, and should be clearly specified in the treatment plan and ongoing documentation.

(i) The number of sessions per week of treatment suggested in these tables would be used primarily when the patient first comes to the attention of the mental health professional. It is expected that the number of sessions per week will decrease over time as the patient's symptoms abate. Change in symptoms and accompanying change in treatment plan should be clearly documented in monthly and quarterly progress reports as specified in subsection (i)(6)(A) and (B) of this section.

(ii) If a patient is receiving intensive outpatient treatment consisting of several services, and there is a clinical need to exceed the maximum thresholds noted above, this situation is an indication to seriously consider referring the patient to a more intensive level of service than outpatient care. This could include psychiatric or multidisciplinary care programs in either a day treatment or inpatient setting. In deciding between intensive outpatient, day treatment, or inpatient care, consider criteria described in subsection (j) of this section. Issues of convenience, compliance, coordination of care, efficiency of delivery of services, and cost should be considered.

(iii) Number of sessions per week beyond the parameters in this section may be indicated in an acute crisis and/or due to individual patient needs. This should be documented in the daily notes (problem oriented documentation-POD), as well as, monthly and quarterly treatment summaries, (see paragraph (6) of this sub-

section). When frequency of treatment is increased beyond the parameters noted in this subsection, such documentation should specify:

(I) the nature of the crises (i.e. outpatient detoxification, significant change in emotional status, fear or unexpected change in medical treatment, etc.);

(II) reasons increased number of sessions per week will benefit the patient; and

(III) an estimate of expected treatment duration.

(B) The following steps are to be employed in determining maximum treatment thresholds.

(i) Determine the patient's ICD-9-CM mental disorder diagnosis from assessment/evaluation.

(ii) Find the diagnosis in paragraph (5) of this subsection (relating to treatment durations). Diagnoses are grouped by similarity of symptoms and duration of treatment.

(iii) Determine the number of sessions per week of treatment from Tables I and II in subparagraph (C) of this paragraph based on (all three indices must be taken into consideration):

(I) type of diagnosis,

(II) Global Assessment of Functioning Scale; and

(III) Psychosocial Stressors Scale.

(C) The following tables exclude biofeedback sessions, to determine maximum weekly session thresholds for biofeedback refer to subsection (g)(6) of this rule. (*Catastrophic level of severity is a strong indication for possible inpatient treatment.)

(i) Table I. Use with all mental disorder diagnoses except with diagnosis of personality disorder or psychosexual disorder.

Texas Workers' Compensation Commission 28TAC §134.1000((i)(4)(C)(i): Figure 1

	PSS and GAF = MILD	PSS or GAF = MODERATE -CATASTROPHIC*
MENTAL DIAGNOSES	3 SESSIONS/WEEK	4 SESSIONS/WEEK

(ii) Table II. Use only if mental disorder is either personality disorder or psychosexual disorder.

Texas Workers' Compensation Commission 28TAC §134.1000(i)(4)(C)(ii): Figure 2

	PSS and GAF = MILD	PSS or GAF = MODERATE -CATASTROPHIC*
PERSONALITY OR PSYCHOSEXUAL DISORDER	1 SESSIONS/WEEK	2 SESSIONS/WEEK

(iv) Ground Rules.

(5) Treatment Durations.

(A) Organic Brain Impairment Resulting From Drug Toxicities. Organic mental symptoms which are due to consumption of drugs and/or solvents. The drug should be identified, and a diagnosis of drug dependence should be recorded, if present.

(i) Diagnosis.

293.8 Transient Organic Mental Disorders

(ii) Level of Severity.

Global Assessment of Psychosocial Functioning Scale
 90-61 = Mild 1-2 = Mild
 60-41 = Moderate 3 = Moderate
 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration.

The duration of treatment may be up to 6 months.

(iv) Ground Rules.

(I) The treatment duration will vary in correlation with the level of severity of symptomatology and stressors.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service.

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment.

(B) Psychotic Disorders.

Mental disorders in which impairment of mental function has developed to a degree that interferes grossly with insight, ability to meet some ordinary demands of life or to maintain adequate contact with reality. It is not an exact or well defined term. Mental retardation is excluded.

(i) Diagnosis.

(I) 296.9 Other and Unspecified Affective Psychosis

(II) 298.0 Psychotic Reactive Depression

(III) 298.8 Other and Unspecified Reactive Psychosis

(ii) Level of Severity.

Global Assessment of Psychosocial Stressor

Functioning Scale Scale
 90-61 = Mild 1-2 = Mild
 60-41 = Moderate 3 = Moderate
 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Durations.

(I) 296.9, 298. 0-6 months.

(II) 298.8-14 days (If psychotic symptoms extend beyond two weeks, a change in diagnosis is warranted).

(I) The treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service.

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment.

(C) Affective Disorders. Mental disorders, mild or moderate, in which there is a disturbance of mood (mostly compounded with depression and anxiety, but may be manifested as elation and excitement) which may be accompanied by one or more of the following: Disturbance in sleep patterns, decreased appetite, decreased energy, inability to derive pleasure, low self esteem, impaired concentration, and hopelessness. There may be a strong tendency to suicide. The affective mood disorders may be so severe as to present disturbances with contact with reality as evidenced by disorder of perception and behavior; hallucinations; and delusions. All affective disorders must have documentation which provides a clinical rationale to establish a direct link to the on-the-job injury. Manic and bipolar disorders are treatable only if a clinical rationale clearly establishes a direct link to the on-the-job injury.

(i) Diagnosis.

(I) 296.0 Manic Disorder, Single Episode

(II) 296.2 Major Depressive Disorder, Single Episode

(III) 296.3 Major Expressive Disorder, Recurrent EPISODE

(IV) 296.7 Bipolar Affective Disorder, Unspecified

(V) 296.80 Manic Depressive Reaction, Unspecified

(VI) 300.4 Depression, Reactive

(VII) 311.0 Depressive Disorder, Not Elsewhere Classified

(ii) Level of Severity. Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration. The duration of treatment may be up to 15 months (treatment should be completed based on the fifth digit specificity).

(iv) Ground Rules

(I) Treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment.

(D) Anxiety Disorders Apprehension, tension, or uneasiness that stems from the anticipation of danger, the source of which may be largely unknown or unrecognized. The anxiety symptoms may be constant and persistent or may occur episodically as a reaction to a known object or situation, or they may occur without any apparent precipitant. The anxiety may occur in a sudden and overwhelming fashion with a number of physiological symptoms, e.g., shortness of breath, tightness in the chest,

increased heart rate, profuse sweating, light-headedness, accompanying feeling of impending death, increased muscle tension, restlessness, gastrointestinal symptoms, and trembling. The episodic anxiety disorder may be so frightening that the person may significantly alter/limit their lifestyle to avoid these anxiety provoking episodes.

(i) Diagnosis.

(I) 300.00 Anxiety State, Reaction

(II) 300.01 Panic Disorder

(III) 300.02 Generalized Anxiety Disorder

(IV) 300.20 Phobia Unspecified

(V) 300.21 Agoraphobia w/Panic Attacks

(VI) 300.29 Isolated or Simple Phobias Specific to Work Related Situations Or Places

(ii) Level of Severity Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration The duration of treatment may be up to six months

(iv) Ground Rules

(I) Treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment

(E) Somatoform Disorders A variety of physical symptoms or types of physiological disorders of physical and/or mental origin which may or may not involve tissue damage. Due to the diagnostic complexity of these disorders, they continue to be recalcitrant to medical care involving

a trend toward over-medication and overly frequent use of medical services, and the adoption of a disabled lifestyle. These may be non-organic disturbances of speech or limb. These conditions may give an unrealistic interpretation of physical signs, and the belief that one has a more serious injury than medical data warrants. The following diagnoses present a complex mixture of physical and mental challenges which can readily give rise to over utilization of medical services.

(i) Diagnosis.

(I) 300.11 Conversion Disorder

(II) 307.80 Psychogenic Pain, Site Unspecified

(III) 307.81 Tension Headache

(IV) 307.89 Psychalgia, Other

(V) 316.0 Psychic Factor Associate W/Diseases Classified Elsewhere

(VI) 306.0 Physiological Malfunctions Arising From Mental Factors

(ii) Level of Severity. Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration. The duration of treatment may be up to 45 days to complete initial evaluation and treatment. If symptoms continue, re-evaluation will be necessary for possible continuation of treatment up to three months

(iv) Ground Rules.

(I) Treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service.

(III) A GAF score of 40 or less is a strong indication for possible inpatient therapy

(IV) Due to the complex nature of these disorders, re-evaluation may include a longer duration of treatment. Documentation must substantiate any increase in level of care and duration of treatment.

(F) Personality Disorders. Deeply ingrained maladaptive patterns of behavior generally recognizable by the time of adolescence or earlier and continuing throughout most of adult life, although often becoming less obvious in middle or old age. The personality is abnormal either in the balance of its components, their quality and expression, or in its total aspect. Because of this deviation or psychopathology, the patient suffers or others have to suffer, and there is an adverse effect upon the individual or on society. It includes what is sometimes called psychopathic personality, but if this is determined primarily by malfunctioning of the brain, it should be classified as one of the non-psychotic organic brain syndromes. When the patient exhibits an anomaly of personality directly related to his neurosis or psychosis, e.g., schizoid personality and schizophrenia, the relevant neurosis or psychosis which is in evidence should be diagnosed in addition. Documentation must demonstrate this diagnosis interferes with the ability to cooperate with treatment, e.g. noncompliance with medications, inability to keep appointments. Examples of pathological maladaptive behavior include noncompliance with treatment; missed appointments, controlling, manipulative, deceitful, entitled, unstable interpersonal relationships; seclusive, suspicious, hostile, passive-aggressive, and/or dependent behaviors; and unstable swings of mood or affect.

(i) Diagnosis

(I) 301.0 Paranoid Personality Disorder

(II) 301.2 Schizoid Personality Disorder

(III) 301.4 Compulsive Personality Disorder

(IV) 301.5 Histrionic Disorder

(V) 301.6 Dependent Personality Disorders

(VI) 301.7 Antisocial Personality Disorder *

(VII) 301.8 Other Personality Disorders

(VIII) 301.8 Borderline Personality

(ii) Level of Severity

Global Assessment of Psychosocial Functioning Scale Stressor Scale
 90-61 = Mild 1-2 = Mild
 60-41 = Moderate 3 = Moderate
 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration

The duration of treatment may be up to 12 months

(iv) Ground Rules

(I) Treatment duration

will vary in correlation with the level of severity of symptomatology, stressors and diagnosis

(II) Both indicators

(GAF & PSS) must be considered, and documentation must support the levels of service

(III) A GAF score of

40 or less is a strong indication for possible inpatient treatment

(IV) To be used as a

secondary diagnosis in conjunction with a primary ICD-9

(V) * Flag these for

prospective review or concurrent review. - flags alert review for potential abuse of situation. Psychotherapy not indicated, appropriate for evaluation only

(VI) Emphasis is to

remove barriers to treatment posed by the Personality Disorder rather than treat the Personality Disorder. Treatment should be discontinued when Personality Disorder no longer interferes with medical treatment and/or no further progression is noted

(G) Psychosexual Dysfunction

A group of disorders in which there is recurrent and persistent dysfunction encountered during sexual activity. The dysfunction must be acquired as a causal result of the compensable injury or arise secondary to a compensable physical or mental complication. This dysfunction will usually be a secondary diagnosis and documentation must demonstrate a causal relationship with the compensable injury. A routine medical screening must occur prior to psychological or psychiatric therapy to rule out a medical diagnosis.

(i) Diagnosis.

302.70-Pychosexual Dysfunction, Unspecified

(ii) Level of Severity.

Global Assessment of Psychosocial Functioning Scale Stressor Scale
 90-61 = Mild 1-2 = Mild
 60-41 = Moderate 3 = Moderate
 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration.

The duration of treatment may be up to 12 weeks

(iv) Ground Rules.

(I) Treatment duration

will vary in correlation with the level of severity of symptomatology and stressors, diagnosis

(II) Both indicators

(GAF & PSS) must be considered, and documentation must support the levels of service.

(H) Substance Dependence

Disorders and Substance Abuse Disorders

(i) Substance Dependence Disorders.

A substance dependence disorder is defined as a state, psychic and sometimes also physical, resulting from taking a drug, characterized by behavioral and other responses that always include a compulsion to take a drug on a continuous or periodic basis in order to experience its psychic effects, and sometimes to avoid the discomfort of its absence. Tolerance may or may not be present. A person may be dependent on more than one drug. Documentation must demonstrate that these conditions interfere with the treatment regimen, e.g., non-compliance in treatment, failure to keep appointments, over sedation, inability to participate in treatment due to intoxication

(ii) Substance Abuse Disorders

A substance abuse disorder includes cases where an individual, for whom no other diagnosis is possible; has come under mental health care because of the maladaptive effect of a drug on which he/she is not dependent (see substance dependence) and that he/she has taken on his/her own initiative to the detriment of his/her health or social functioning. When drug abuse is secondary to mental disorder, record the disorder as an additional diagnosis. Documentation must demonstrate that these diagnosis interfere with the treatment regimen, e.g., non-compliance in treatment, failure to keep appointments, over sedation, inability to participate in treatment due to intoxication.

(iii) Diagnosis.

(I) 303. Alcohol Dependence Syndrome

(II) 303.0 Alcohol Dependence Syndrome, Acute

(III) 303.9 Alcohol Dependence Syndrome, Chronic

(IV) 304.0 Opioid Type Dependence

(V) 304.1 Barbiturate/Sedative/Hypnotic Dependence

(VI) 304.7 Combinations of Opioid Drug W/Other

(VII) 304.8 Combinations of Drug Dependence Excluding Opioid (VIII) 304.9 Unspecified Drug Dependence

(IX) 305.0 Alcohol Abuse

(X) 305.1 Tobacco Use Disorder (Pre-Spinal Fusion Surgery) *

(XI) 305.9 Other Mixed or Unspecified Drug Abuse

(iv) Level of Severity. Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(v) Treatment Duration. The duration of treatment may be up to 6 months.

(vi) Ground Rules.

(I) Treatment duration would vary in correlation with the level of severity of symptomatology, stressors, and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment.

(IV) * Treatment appropriate for spinal fusion only.

(I) Acute Reaction. Acute transient disorders of any severity and nature of emotions, consciousness, and psychomotor states (single or in combination) which occur in individuals, without any apparent pre-existing mental disorder, in response to exceptional physical or mental stress, such as natural catastrophe or battle, and which usually subside within hours or days.

(i) Diagnosis.

(I) 308.0 Predominant Disturbance of Emotions

(II) 308.3 Other Acute Reactions to Stress

(III) 308.4 Mixed Disorders as Reaction to Stress

(IV) 308.9 Unspecified Acute Reaction to Stress

(ii) Level of Severity. Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration

(I) 308.0, 308.4, 308.9-14 days.

(II) 308.3-6 months (Brief or acute post traumatic stress disorder)

(iv) Ground Rules.

(I) Treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service.

(III) A GAF score 40 or less is a strong indication for possible inpatient treatment.

(J) Adjustment Reaction. Mild or transient disorders lasting longer than acute stress reactions which occur in individuals of any age with any apparent pre-existing mental disorder. Such disorders are often relatively circumscribed or situation-specific, are generally reversible,

and usually last only a few months. They are usually closely related in time and content to stresses such as bereavement, migration, or other experiences. Reactions to major stress that last longer than a few days are also included.

(i) Diagnosis.

(I) 309.0 Brief Depressive Reaction

(II) 309.1 Prolonged Depressive Reaction

(III) 309.24 Adjustment Reaction W/Anxious Mood

(IV) 309.28 Adjustment Reaction W/Mixed Emotional Features

(V) 309.81 Prolonged Post-Traumatic Stress Disorder

(VI) 309.82 Adjustment Reaction W/Physical Symptoms

(VII) 309.83 Adjustment Reaction W/Withdrawal (VIII) 309.89 Other Adjustment Reaction

(IX) 309.9 Unspecified Adjustment Reaction

(ii) Level of Severity. Global Assessment of Psychosocial Functioning Scale Stressor Scale 90-61 = Mild 1-2 = Mild 60-41 = Moderate 3 = Moderate 40 < = Severe, Extreme, or Catastrophic 4-6 = Severe, Extreme, or Catastrophic

(iii) Treatment Duration. The duration of treatment may be up to 6 months. For prolonged post-traumatic stress disorder (code 309.81), the duration of treatment may be up to 12 months.

(iv) Ground Rules.

(I) Treatment duration will vary in correlation with the level of severity of symptomatology, stressors and diagnosis.

(II) Both indicators (GAF & PSS) must be considered, and documentation must support the levels of service

(III) A GAF score of 40 or less is a strong indication for possible inpatient treatment

(K) Peri-Operative Algorithm.

(i) A pre-surgical mental health evaluation may be obtained. An MMPI is strongly recommended.

(ii) If the patient is deemed a good surgical candidate based on results of an evaluation (he or she has no major mental disorders), a realistic understanding of the outcome, no concerns about his or her ability to comply with rehabilitation, and no concerns about smoking and/or chemical dependency/abuse), the health care provider may proceed with surgery as indicated by a surgical diagnostic work-up and appropriate surgical algorithms.

(iii) If the patient is deemed a poor surgical candidate and surgery is medically indicated, pre-surgical mental health interventions (smoking cessation program for spinal fusion only). The

length of time for pre-surgical mental health interventions will vary with the severity and type of mental disorder, the patient's response to intervention, and the urgency of surgical intervention. Except in cases of severe mental disorders, generally six to eight weeks of one to two times per week of psychotherapy/behavioral intervention should be sufficient to prepare the patient for surgery. If surgery cannot be delayed due to the emergent nature of the patient's medical status, an appropriate mental health intervention should be initiated as quickly as possible following surgery. This may begin while the patient is still hospitalized with subsequent intensive follow-up post-surgery.

(iv) If surgery is deemed unnecessary, the health care provider may proceed to an appropriate rehabilitation such as specific physical reconditioning, work hardening, a pain management program, outpatient medical and/or mental health treatment and/or referral to vocational rehabilitation

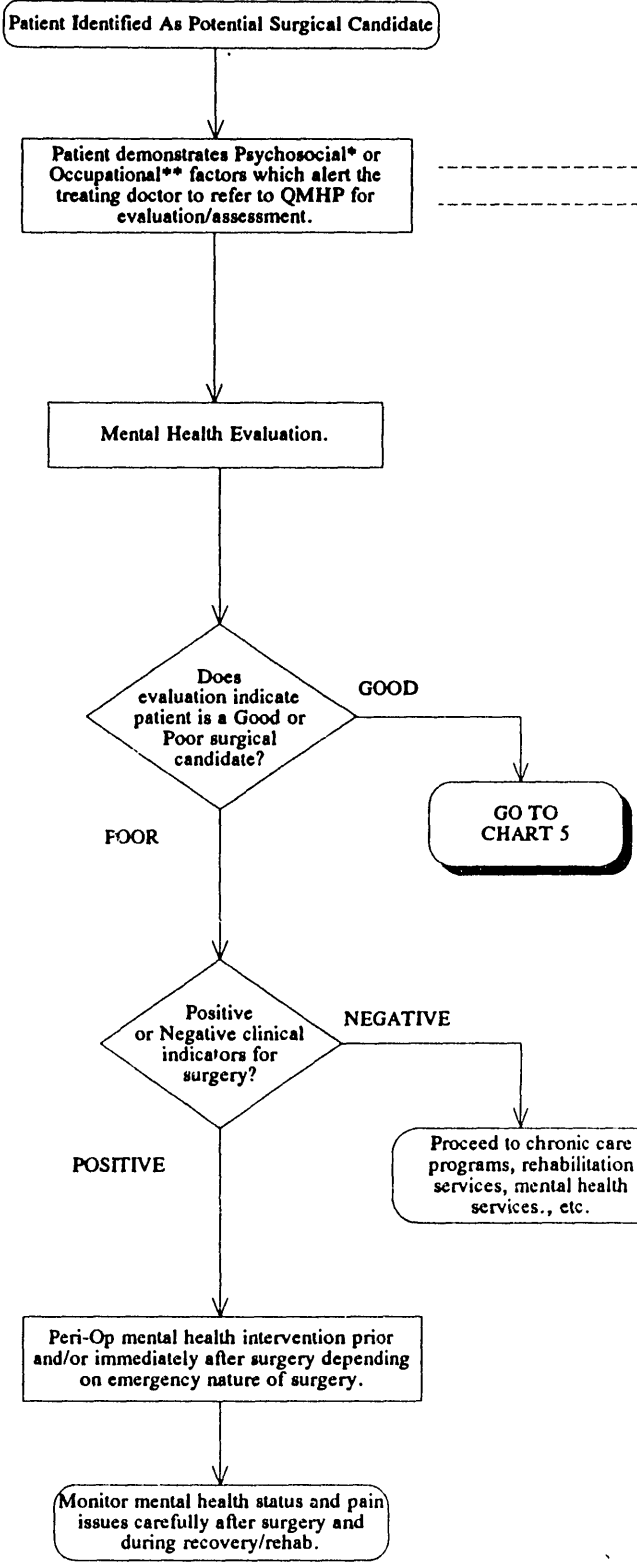
(v) A medical-surgical hospitalization follow-up may be indicated in cases where surgery is scheduled and psychosocial factors remain, such as anxiety, fear of catastrophic surgical outcome, difficulty focusing on instructions, etc. Peri-operative treatment may include, but is not limited to the following:

(I) one individual psychotherapy session per day,

(II) psychotherapy sessions, which may consist of one hour or 30 minute sessions based on professional judgement and patient need; and

(III) instructions or interventions with family members, as indicated.

(vi) Peri-Operative Algorithm



*** PSYCHOSOCIAL FACTORS**
 (Risk factors for extending disability)

Pre-Injury Factors

- > Asymptomatic Pre-existing Conditions
 - . 1) Obesity, Substance Abuse
 - . 2) Affective Disorders
 - . 3) Personality Disorders
 - . 4) Other Psychiatric Disorders
 - . 5) Learning Disability/MR
 - . 6) History of Smoking (cigarette)
- > Symptomatic Pre-existing Conditions
 - . 1) Prior Unrehabilitated Musculoskeletal Injury
 - . 2) Affective Disorders
 - . 3) Substance Disorders
 - . 4) Personality Disorders
 - . 5) Somatization Disorders
 - . 6) Other Psychiatric Disorders

Post-Injury Factors

- > Injury-Related Factors
 - . 1) Inactivity
 - . 2) Medication Dependence
 - . 3) Employer-Employee Relationship
 - . 4) Affective Disorders
 - . 5) Substance Disorders
 - . 6) Personality Disorders
 - . 7) Somatization Disorders
 - . 8) Other Psychiatric Disorders
 - . 9) Adjustment Disorder-with Mixed Emotional Features

**** OCCUPATIONAL FACTORS**
 (Risk factors)

Cumulative Trauma Disorders

- . - Repetive Trauma Syndrome
- . - Overuse Syndrome
- . - Vibration Syndrome

No Return To Work Available

Heavy Work Only RTW Option

Vocational Rehabilitation Referral

- . - Education
- . - Age
- . - Past Work Skills

PERI-OPERATIVE TREATMENT DURATION

1) Length of mental health treatment will depend on the specific diagnosis. See Section 6.5 in Mental Health Treatment Guidelines

2) If no diagnosed mental disorder but patient requires pre-op treatment for pain, somatization, unrealistic expectations etc., maximum length of mental health treatment is 3 months.

(6) Documentation Requirements for On-Going Treatment.

(A) Guidelines for On-Going Treatment Documentation.

(i) For patients receiving ongoing mental health services, a progress note meeting criteria in subparagraph (B) of this paragraph must be generated every session. The only report which must be submitted to the treating doctor is the 30-60-day clinical summary at least once every 60 days and no more than once every 30 days and upon termination of treatment (see subparagraph (B)(2) of this paragraph for 30-60 day clinical summary outline). However, progress notes per session must be maintained in the patient's clinical chart in the event that circumstances require the Qualified Mental Health Professional (QMHP) to produce documentation, see subsection (e)(2) of this rule.

(ii) For patients with ongoing treatment extending past 90 days, a more thorough reevaluation must be submitted. In addition to the monthly documentation requirements, this quarterly review should contain information justifying the need for continued treatment, how continued treatment is likely to have a positive effect on the overall course of recovery, eventual return to work, and any change in diagnosis.

(iii) When the patient completes/terminates treatment prematurely or is discharged, the fact that treatment has ceased and reasons for the cessation of treatment should be reflected in the final progress note. Any follow-up needs, including occasional re-checks and/or medication follow-up should also be noted

(B) Documentation Format and Content.

(i) Problem oriented documentation (POD). Problem oriented documentation (POD) is the prescribed format and content of the daily progress notes for all Qualified Mental Health Professionals (QMHP) to follow. This specified format provides for a standardized structure of daily progress notes satisfying documentation standards of all mental health treatment in workers' compensation. The structure of the documentation has three sections

(I) Section I-Problem List (see subsection (h)(4)(P) of this section). Section I is comprised of

- and (a-) diagnoses, and (b-) presenting symptomatology

(II) Section II-Treatment/Intervention. Section II is comprised of.

- (-a) treatment techniques used; (-b) actual dates of services; and (-c) treatment rendered from other provider sources, if known

(III) Section III-Clinical Status -Progress/changes/regression may include:

- (-a) current status of problems, (-b) behavioral observations/brief mental status exam, (-c) symptom reports; (-d) activities of daily living, and (-e) self-report and behavior inventory (see subsection (h)(3)(B)(i)(I) (-b-); and (C)(iii)(I) and (III) of this section for type and frequency)

(ii) 30-60-Day Clinical Summary. This report must include all of the elements found in clause (i) of this subparagraph, as well as, response to treatment, progress, and overall improvement of symptoms since the last 30-60 day clinical summary along with a rationale for continued treatment. Any failure to respond to treatment within the 30-60-day timeframe should be documented and followed by a change in the plan of treatment

(j) Criteria for Referral for Other Programs

(1) Criteria for Inpatient Psychiatric Treatment Referral/Inpatient Chronic Pain Management Referral. It is assumed that the vast majority of mental disorders arising from/out of compensable injuries will be treatable on an outpatient basis, particularly if recognized early in the patient's course of recovery. However, certain serious situations will require inpatient treatment, either because it is necessary for the patient's safety and well-being, or because intensive intervention provides the most effective treatment. Inpatient hospitalization may take place in a medical/surgical hospital, free-standing psychiatric unit, or rehabilitation hospital, depending on the patient's individual needs and the services available at the specific facility. Criteria for inpatient treatment includes a GAF of 40-1 and a PSS of 4-6. Any inconsistencies between the GAF/PSS score when inpatient treatment is recommended, must be sup-

ported by documentation. The following situations are considered appropriate for referral to inpatient psychiatric treatment environments once a causal relationship to the compensable injury is established:

(A) severe depression that is unresponsive to outpatient treatment, particularly if there is suicidal risk;

(B) marked to severe deterioration in mental/emotional functioning including hallucinations, delusions, illusions, as well as behavioral, verbal, cognitive, or thought disorganization including, but not limited to psychosis and/or mania;

(C) dangerousness to self and/or others including assaultive behavior, significant risk of potential danger to others, suicide attempt, suicidal ideation requiring suicide precautions, and other self-injurious/self-mutlative behavior;

(D) detoxification for alcohol, prescription medications, or street drugs, when the chemical abuse/dependency has arisen secondary to, or has been exacerbated by, a compensable injury;

(E) inpatient treatment of chemical abuse/dependency (may also be necessary when the abuse/dependency is chronic, intense, and unremitting, and the patient has failed to improve with outpatient treatment or there is a presence of a concomitant illness rendering outpatient detoxification medically dangerous),

(F) to stabilize a patient on psychoactive medication, when it is considered unsafe to attempt this on an outpatient basis due to the patient's other medical or emotional conditions, and

(G) any patient who meets the referral criteria under paragraph (3) of this subsection, but requires inpatient care due to a GAF of 40-1

(2) Because of the diversity of mental disorders and types of services found in inpatient psychiatric settings, there is no attempt made in this document to address treatment parameters for these settings. This guideline only focuses on appropriate criteria for referral to these facilities.

(3) Criteria for Referral to Chronic Pain Management Programs

(A) A subset of patients with chronic or complex medical conditions, such as chronic pain, will not respond to outpatient psychotherapy conducted in conjunction with primary and secondary phases

of treatment. These patients will require referral to a treatment program with multi-disciplinary, individualized and intensive treatment to deal with the complex mixture of medical and mental problems associated with chronic disability.

(B) The majority of patients requiring referral for chronic pain can be adequately treated as outpatients in some type of day or partial day treatment, with the patients returning to their homes or other lodging in the evening. The following criteria are considered appropriate for referral to outpatient treatment programs of this type:

(i) a Global Assessment of Functioning (GAF) rating of 40-90 with any psychosocial stressor (PSS) rating;

(ii) the patient has not responded to primary or secondary stages of outpatient physical therapy and/or mental health treatment in a reasonable period of time (e.g. within 4 to 6 months) and/or;

(iii) the patient exhibits pain behavior, functional limitations, and/or mental/emotional dysfunction, which are disruptive to their activities of daily living, and two or more of the following:

(I) the patient is facing significant, permanent loss of functioning

that requires major physical, vocational, and psychological readjustment;

(II) diagnostic findings are insufficient to explain the pain or further invasive medical treatment is not an option;

(III) pain has persisted beyond the expected tissue healing time,

(IV) the patient has chronic pain linked to adverse interpersonal relationships which interfere with rehabilitation;

(V) the patient has physical/mental impairment greater than expected on the basis of the diagnosed medical condition and treatment or differential diagnosis and treatment required in a more structured/supervised setting,

(VI) documented history of inappropriate and excessive use of healthcare services by the injured worker such as frequent emergency room visits;

(VII) documented history of inappropriate and excessive use of narcotic sedative/hypnotic medications, or alcohol,

(VIII) the patient continues to express unrealistic expectations regarding outcome of medical/psychiatric intervention in relief of their own symptomatology, and

(IX) referral to such programs is also appropriate earlier in treatment in order to prevent later development of an excessively disabled lifestyle role if the patient is judged to be at risk for developing such problems

(C) A small percentage of chronic pain patients will require referral to inpatient chronic pain management care. Referral to such treatment requires that the patient meet criteria for both paragraph (1) of this subsection (criteria for inpatient psychiatric treatment) and this paragraph. Because such treatment centers are multidisciplinary by definition, there is no attempt made in this document to address treatment parameters for these comprehensive treatment programs.

(k) Appendix A.

(1) Severity of Psychosocial Stressors Scale. Adults (American Psychiatric Association (1987) DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (3rd ed., revised). Washington, D.C., Author, pg 11, 19.)

Texas Workers' Compensation Commission 28TAC §134.1000(k)(1): Figure 4
(1) Severity of Psychosocial Stressors' Scale.

CODE	TERM	EXAMPLES OF STRESSORS	
		Acute Events	Enduring Circumstances
1	None	No acute events that may be relevant to the disorder	No enduring circumstances that may be relevant to the disorder
2	Mild	Broke up with boyfriend or girlfriend; started or graduated from school; child left home	Family arguments; job dissatisfaction; residence in high-crime neighborhood
3	Moderate	Marriage; marital separation; loss of job; retirement; miscarriage	Marital discord; serious financial problems; trouble with boss; being a single parent
4	Severe	Divorce; birth of first child	Unemployment; poverty
5	Extreme	Death of spouse; serious physical illness diagnosed; victim of rape	Serious chronic illness in self or child; ongoing physical or sexual abuse
6	Catastrophic	Death of child; suicide of spouse; devastating natural disaster	Captivity as hostage; concentration camp experience
0	Inadequate information, or no change in condition		

(2) Rating the severity of the stressor. The rating of the severity of the stressor should be based on the clinician's assessment of the stress an "average" person in similar circumstances and with similar socio-cultural values would experience from the particular psychosocial stressor(s). This judgement involves consideration of the following: the amount of change in the person's life caused by the stressor, the degree to which the event is desired and under the person's control, and the number of stressor. For example, a planned pregnancy is usually less stressful than an unwanted pregnancy. Even though a specific stressor may have greater impact on a person who is especially vulnerable or has certain internal conflicts, the rating should be based on the severity of the stress itself, not on the person's vulnerability to the particular stressor. The specific psychosocial stressor(s) should be noted and further specified as either:

(A) predominantly acute events (duration less than six months); or

(B) predominantly enduring circumstance (duration greater than six months).

(1) Appendix B.

(1) Global Assessment of Functioning Scale (GAF Scale) (American Psychiatric Association (1987). *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* (3rd ed., revised). Washington, D.C.; Author; pg 12.). Consider psychological, social, and occupational functioning on a hypothetical continuum of mental health-illness. Do not include impairment in functioning due to physical (or environmental) limitations (Use intermediate codes when appropriate, e.g., 45, 68, 72).

(2) Codes.

(A) 90-81 Absent or minimal symptoms (e.g., mild anxiety before an exam), good functioning in all areas, interested and involved in a wide range of activities, socially effective, generally satisfied with life, no more than everyday problems or concerns (e.g., an occasional argument with family members).

(B) 80-71 If symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in school work).

(C) 70-61 Some mild symptoms (e.g., depressed mood and mild insomnia) OR some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful interpersonal relationships.

(D) 60-51 Moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) OR moderate difficulty in social, occupational or school functioning (e.g., few friends, conflicts with co-workers).

(E) 50-41 Serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) OR any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job).

(F) 40-31 Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed man avoids friends, neglects family, and is unable to work; child frequently

beats up younger children, is defiant at home, and is failing in school).

(G) 30-21 Behavior is considerably influenced by delusions or hallucinations OR serious impairment in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) OR inability to function in almost all areas (e.g., stays in bed all day; no job, home, or friends)

(H) 20-11 Some danger of hurting self or others (e.g., suicide attempts without clear expectation of death, frequently violent, manic excitement) OR occasionally fails to maintain minimal personal hygiene (e.g., smears feces) OR gross impairment in communication (e.g., largely incoherent or mute).

(I) 10-1 Persistent danger of severely hurting self or others (e.g., recurrent violence) OR persistent inability to

maintain minimal personal hygiene OR serious suicidal act with clear expectation of death.

(J) 0 Inadequate information

(m) Appendix C.

(1) ICD-9/DSM III-R CODES
OVERVIEW

(A) ICD-9-CM Mental Disorders included in Mental Health Treatment Guideline The most frequently occurring disabling and costly ICD-9's were identified by the panel of experts and the Commission staff in addition to the TWCC billing database The vast majority of mental disorders treated under Workers' Compensation will most likely fall in the following general categories:

ICD-9 DESCRIPTION

293 Organic Brain Impairment due to Drug Toxicity

296/298 Psychotic Disorders
296/300/311 Affective Disorders
300 Anxiety Disorders
300/302/306/307/317 Somatoform Disorders
301 Personality Disorders
302 Psychosexual Dysfunction
303 Alcohol Dependence
303/304/305 Substance Dependence/Substance Abuse
308 Acute Reaction
309 Adjustment Reaction

(B) While these will be the most frequently diagnosed mental disorders, given the wide variety of individual reactions that may occur, all other ICD-9-CM mental disorders are included, with the exception of those specifically excluded. (See Ground Rules, subsection (g)(3) of this rule)

(n) Appendix D-ICD-9 CODES

ORGANIC MENTAL DISORDERS-DRUG TOXICITIES

293.8 OTHER SPECIFIED TRANSIENT ORGANIC MENTAL DISORDERS

PSYCHOTIC DISORDERS

296.9 OTHER AND UNSPECIFIED AFFECTIVE PSYCHOSES

298.0 PSYCHOTIC REACTIVE DEPRESSION

AFFECTIVE DISORDERS

296.0 MANIC DISORDER, SINGLE EPISODE

296.2 MAJOR DEPRESSIVE DISORDER, SINGLE EPISODE

296.3 MAJOR DEPRESSIVE DISORDER, RECURRENT EPISODE

296.7 BIPOLAR AFFECTIVE DISORDER, UNSPECIFIED

296.80 MANIC DEPRESSIVE REACTION, UNSPECIFIED

300.4 DEPRESSION, REACTIVE

311.0 DEPRESSIVE DISORDER, NOT ELSEWHERE CLASSIFIED

296.00 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, UNSPECIFIED

DEGREE

296.01 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, MILD DEGREE

296.02 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, MODERATE
DEGREE

296.03 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, SEVERE
MENTION OF PSYCHOTIC BEHAVIOR

DEGREE, WITHOUT

296.04 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, SEVERE
AS WITH PSYCHOTIC BEHAVIOR

DEGREE, SPECIFIED

296.05 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, IN PARTIAL OR
UNSPECIFIED REMISSION

296.06 MANIC AFFECTIVE DISORDER, SINGLE EPISODE, IN FULL
REMISSION

296.20 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE,
UNSPECIFIED DEGREE

296.21 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE,

MILD DEGREE

296.22 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE,
MODERATE DEGREE

296.23 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE,
SEVERE DEGREE, WITHOUT MENTION OF PSYCHOTIC BEHAVIOR

296.24 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE,
SEVERE DEGREE, SPECIFIED AS WITH PSYCHOTIC BEHAVIOR

296.25 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE, IN
PARTIAL OR UNSPECIFIED REMISSION

296.26 MAJOR DEPRESSIVE AFFECTIVE DISORDER, SINGLE EPISODE, IN
FULL REMISSION

296.30 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
UNSPECIFIED DEGREE

296.31 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
MILD DEGREE

296.32 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
MODERATE DEGREE

296.33 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
SEVERE DEGREE, WITHOUT MENTION OF PSYCHOTIC BEHAVIOR

- 296.34 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
SEVERE DEGREE, SPECIFIED AS WITH PSYCHOTIC BEHAVIOR
- 296.35 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
IN PARTIAL OR UNSPECIFIED REMISSION
- 296.36 MAJOR DEPRESSIVE AFFECTIVE DISORDER, RECURRENT EPISODE,
IN FULL REMISSION
- 296.80 MANIC-DEPRESSIVE PSYCHOSIS, UNSPECIFIED
- 296.81 ATYPICAL MANIC DISORDER
- 296.82 ATYPICAL DEPRESSIVE DISORDER
- 296.83 MANIC-DEPRESSIVE PSYCHOSIS, OTHER AND UNSPECIFIED, SEVERE WITHOUT MENTION
OF PSYCHOTIC BEHAVIOR
- 296.84 MANIC-DEPRESSIVE PSYCHOSIS, OTHER AND UNSPECIFIED, SEVERE, SPECIFIED AS WITH
PSYCHOTIC BEHAVIOR
- 296.85 MANIC-DEPRESSIVE PSYCHOSIS, OTHER AND UNSPECIFIED, IN PARTIAL OR UNSPECIFIED
REMISSION
- 296.86 MANIC-DEPRESSIVE PSYCHOSIS, OTHER AND UNSPECIFIED, IN FULL REMISSION

ANXIETY DISORDERS

- 300.00 ANXIETY STATE, REACTION
- 300.01 PANIC DISORDER
- 300.02 GENERALIZED ANXIETY DISORDER
- 300.20 PHOBIA UNSPECIFIED
- 300.21 AGORAPHOBIA W/PANIC ATTACKS
- 300.29 ISOLATED OR SIMPLE PHOBIAS OF SPECIFIC WORK RELATED
SITUATIONS OR PLACES

SOMATOFORM DISORDERS

- 300.11 CONVERSION DISORDER
- 307.80 PSYCHOGENIC PAIN, SITE UNSPECIFIED
- 307.81 TENSION HEADACHE
- 307.89 PSYCHALGIA, OTHER
- 316.0 PSYCHIC FACTORS ASSOCIATED W/ DISEASES CLASSIFIED ELSEWHERE
- 306.0 PHYSIOLOGICAL MALFUNCTIONS ARISING FROM MENTAL FACTORS

PERSONALITY DISORDERS

- 301.0 PARANOID PERSONALITY DISORDER
- 301.2 SCHIZOID PERSONALITY DISORDER
- 301.4 COMPULSIVE PERSONALITY DISORDER
- 301.5 HISTRIONIC DISORDER
- 301.6 DEPENDENT PERSONALITY DISORDERS
- 301.7 ANTISOCIAL PERSONALITY DISORDER
- 301.8 OTHER PERSONALITY DISORDERS
- 301.83 BORDERLINE PERSONALITY

PSYCHOSEXUAL DYSFUNCTION

- 302.70 PSYCHOSEXUAL DYSFUNCTION, UNSPECIFIED

SUBSTANCE DEPENDENCE DISORDERS AND SUBSTANCE ABUSE DISORDERS

- 303. ALCOHOL DEPENDENCE SYNDROME
- 303.0 ALCOHOL DEPENDENCE SYNDROME, ACUTE
- 303.9 ALCOHOL DEPENDENCE SYNDROME, CHRONIC
- 304.0 OPIOID TYPE DEPENDENCE
- 304.1 BARBITURATE/SEDATIVE/HYPNOTIC DEPENDENCE
- 304.7 COMBINATIONS OF OPIOID DRUG W/OTHER
- 304.8 COMBINATIONS OF DRUG DEPENDENCE EXCLUDING OPIOID
- 304.9 UNSPECIFIED DRUG DEPENDENCE
- 305.0 ALCOHOL ABUSE
- 305.1 TOBACCO USE DISORDER PRE-SPINAL FUSION SURGERY
- 305.9 OTHER MIXED OR UNSPECIFIED DRUG ABUSE

ACUTE REACTION

- 308.0 PREDOMINANT DISTURBANCE OF EMOTIONS
- 308.3 OTHER ACUTE REACTIONS TO STRESS
- 308.4 MIXED DISORDERS AS REACTION TO STRESS
- 308.9 UNSPECIFIED ACUTE REACTION TO STRESS

ADJUSTMENT REACTION

- 309.0 BRIEF DEPRESSIVE REACTION
- 309.1 PROLONGED DEPRESSIVE REACTION
- 309.24 ADJUSTMENT REACTION W/ANXIOUS MOOD
- 309.28 ADJUSTMENT REACTION W/MIXED EMOTIONAL FEATURES
- 309.81 PROLONGED POST-TRAUMATIC STRESS DISORDER
- 309.82 ADJUSTMENT REACTION W/PHYSICAL SYMPTOMS
- 309.83 ADJUSTMENT REACTION W/WITHDRAWAL
- 309.89 OTHER ADJUSTMENT REACTION
- 309.9 UNSPECIFIED ADJUSTMENT REACTION

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| <p>(o) Appendix E-Elements of a Mental Status Examination.</p> <p>(1) Presentation.</p> <p style="padding-left: 20px;">(A) Grooming and Appearance</p> <p style="padding-left: 20px;">(B) Personal Hygiene and Dress</p> <p>(2) Behavior.</p> <p style="padding-left: 20px;">(A) Psychomotor Activity</p> <p style="padding-left: 20px;">(B) Appropriate to Situation</p> <p>(3) Mood.</p> <p>(4) Affect.</p> | <p>(5) Sensorium.</p> <p style="padding-left: 20px;">(A) Alert</p> <p style="padding-left: 20px;">(B) Orientation-Time, Place, and Person</p> <p>(6) Memory.</p> <p style="padding-left: 20px;">(A) Recent</p> <p style="padding-left: 20px;">(B) Remote</p> <p>(7) Speech.</p> <p>(8) Thought Process</p> <p style="padding-left: 20px;">(A) Thought Process</p> | <p>(B) Thought Content</p> <p>(9) Hallucinations.</p> <p>(10) Delusions</p> <p>(11) Thoughts of Harm to Self or Others.</p> <p style="padding-left: 20px;">(A) Violence</p> <p style="padding-left: 20px;">(B) Incidence</p> <p>(12) Judgement.</p> <p>(13) Insight.</p> <p>(p) Bibliography. The following publications comprise a bibliography for this treatment guideline:</p> <p style="padding-left: 20px;">(1) American Psychiatric Association (1987). DIAGNOSTIC AND STA-</p> |
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This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt
Issued in Austin, Texas, on June 14, 1994

TRD-9442349

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: July 25, 1994

For further information, please call: (512) 440-3700

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part XV. Texas Low-Level Radioactive Waste Disposal Authority

Chapter 451. Disposal Site Management and Operation

Subchapter B. Waste Acceptance

• 31 TAC §§451.20-451.27

The Texas Low-Level Radioactive Waste Disposal Authority proposes new §§451.20-451.27 concerning the acceptance of waste at a Texas disposal facility and excluding certain types of waste that is incompatible with disposal operations

Tim Schaffner, Director of Finance, has determined that there will be fiscal implications as a result of enforcing or administering the section. There will be no estimated additional costs to state government until 1997; then the estimated additional costs will be \$146,485 in 1997; and \$146,445 in 1998. There will be no estimated increases in revenue to state government until 1997, then the estimated revenue to state government will be \$146,485 in 1997, and \$146,445 in 1998

There will be no estimated additional costs to local government between 1994 and 1998. There will be no estimated increases in revenue to local government between 1994 and 1998

Tim Schaffner, Director of Finance, has determined that for each year of the first five years the section as proposed is in effect that the public benefit anticipated as a result of enforcing the section as proposed will be that public safety will be enhanced by adopting strict packaging, shipping, and acceptance requirements for low-level radioactive waste.

There will be no cost for compliance with the section for 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 Lee H Mathews, Deputy General Manager and General Counsel, Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752.

The new section is proposed under the Health and Safety Code, §402.054 and §402.252 which provide the Texas Low-Level Radioactive Waste Disposal Authority with the authority to adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act

The following is the code that is affected by this rule Texas Health and Safety Code

§451.20. *Purpose.* The purpose of this subchapter is to establish criteria and procedures for:

- (1) accepting waste at a Texas disposal facility; and
- (2) excluding certain types of waste that is incompatible with disposal operations.

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

Waste-Low-level radioactive waste as that term is defined in Health and Safety Code, §402.003(6).

DOT-United States Department of Transportation.

EPA-United States Environmental Protection Agency.

NRC-United States Nuclear Regulatory Commission.

Mixed Waste-A combination or mixture of hazardous waste that is either a listed hazardous waste in Subpart D of 40 CFR Part 261 or a waste that exhibits any of the hazardous waste characteristics identified in Subpart C of 40 CFR Part 261, and low-level radioactive waste.

§451.22. *Waste Manifests.*

(a) Every shipment of waste to the disposal facility must be accompanied by a shipment manifest completed, signed, and dated by the waste generator or an authorized representative.

(b) The shipment manifest shall be a universal waste manifest approved by the Authority and recognized by the federal government.

(c) At a minimum, the waste manifest shall include the following information.

- (1) waste generator's name, address, and telephone number;
- (2) waste generator's certification that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation,
- (3) transporter's name, address, and telephone number or the name and EPA hazardous waste identification number of the driver;
- (4) a physical description of the waste;
- (5) the type of waste container used;
- (6) the total volume of waste in the container;
- (7) the outer dimensions of the container;

(8) identity and quantity of radionuclides contained in each container of the shipment;

(9) the total radioactivity content, in curies;

(10) the principal chemical form of the waste;

(11) if waste is of biological form, the type, number of specimens, and packing medium used;

(12) solidification media used, if applicable;

(13) the total weight of the container, including its contents;

(14) the highest radiation level for each waste container measured at the surface of the container;

(15) classification of the contained waste (Class A, B, or C);

(16) applicable DOT labels or markings; and

(17) a Texas state inspector's verification of the manifest information

§451.23. *Approval and Receipt of Shipments.*

(a) The waste shipper shall notify the disposal facility and the Texas Department of Health, Bureau of Radiation Control not less than 72 hours prior to the proposed shipment of his intent to ship waste. The notification must include, to the extent practicable, the manifest information required by §451.22 of this title (relating to Waste Manifests).

(b) No shipment shall be commenced without the disposal facility operator's prior approval

(c) Upon notification that the shipment is authorized by the disposal facility operator, the waste generator shall, prior to or at the time of actual shipment, forward a copy of the shipping manifest to the disposal facility operator. The shipping manifest must include any updates or changes to the notification information required by subsection (a) of this section

(d) The disposal facility operator shall:

- (1) acknowledge receipt of the waste from the generator within seven days of receipt by returning a signed copy of the manifest to the waste generator,
- (2) retain in its files a copy of the shipping manifest,
- (3) notify the waste shipper when any shipment or part of a shipment has not arrived at the disposal facility 48 hours after its expected arrival time.

(e) The waste generator shall retain a copy of the shipment manifest and documentation of receipt by the disposal facility operator as the record of transfer of waste

(f) Upon arrival at the disposal facility, the waste shipment manifest will be inspected by the resident inspector to determine compliance with this subchapter.

§451.24. *Waste Containers.*

(a) All labels and markings on waste containers received by the disposal facility shall be durable and clearly legible.

(b) Waste containers shall be labeled and classified according to DOT regulations. The classification of the contained waste (A, B, or C) shall be marked on the container.

(c) Only DOT 7A Type A or Type B containers, strong tight containers, or other containers which have been specifically approved by the Authority shall be accepted.

(d) The disposal facility operator shall not accept for disposal any waste containers unless the waste shipper has certified in writing that the shipment has been packaged, loaded, and transported in accordance with all applicable regulations of the DOT, NRC, EPA, the State of Texas, and other applicable laws and regulations.

(e) Waste containing more than 0.1% chelating agents by weight shall be identified by the shipper. If concentrations of chelating agents exceed eight percent by weight, the waste container shall not be accepted at the disposal facility

(f) Biological waste shall be packed in a double container with the capacity of the outer container being at least 40% greater than that of the inner container. The void between the outer and inner containers shall be filled with absorbent material.

(g) Waste containing radium shall not be accepted for disposal unless the waste is in the form of sealed sources and packaged in a 2R container, or its equivalent. If the 2R container is placed in another container, the 2R container must be immobilized in the center of the second container with concrete

(h) Void spaces within the waste and between the waste and its container shall be reduced to the extent practicable

(i) The following containers shall not be accepted as disposal containers at the disposal facility

- (1) cardboard or fiberboard boxes, corrugated paper drums, or wooden containers;
- (2) non-waterproof containers or containers improperly covered during transport.

(3) damaged or highly corroded boxes and drums; and

(4) containers whose external radiation levels exceed the levels specified on the manifest.

§451.25. Waste Form Requirements

(a) Class B and C waste must be delivered to the disposal site in a stable form. To be considered stabilized, the waste shall have been:

(1) placed in a high integrity container or other container approved by the Authority, or

(2) processed with an approved stabilization process.

(b) Solid waste containing liquid shall contain as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed one percent of the waste volume.

(c) Liquid waste shall be solidified or absorbed using twice the necessary absorbent material.

(d) Pyrophoric materials contained in waste shall be treated, prepared, and packaged to render it nonflammable.

(e) Waste delivered to the disposal facility

(1) shall not be readily capable of detonation or explosive decomposition or chemical reaction at normal pressures and temperatures, or of explosive reaction with water;

(2) shall not contain, or be capable of generating, quantities of gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste, except that radioactive gaseous waste properly packaged in accordance with paragraph (4) of this subsection is not subject to this prohibition;

(3) containing biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard posed by the non-radiological materials; and

(4) in a gaseous form shall be containerized at an absolute pressure that does not exceed 1.5 atmospheres at 20 Degrees Celsius and total activity does not exceed 100 curies (3.7 terabecquerels) per container.

(f) Biological tissue waste shall be layered with absorbent and lime to reduce gas generation at a ratio of 30 parts biological material to at least one part slaked lime and ten parts medium grade diatomaceous earth.

(g) Waste containing incidental or trace amounts of absorbed oil shall not ex-

ceed the one percent volume limit for the container.

(h) Waste containing disposal incinerator ash or other dispersible powders classified as Class A waste shall be treated or packaged in such a manner as to render it non-dispersible in air.

(i) Mixed waste shall not be accepted for disposal

§451.26. Waste Canisters.

(a) Waste delivered to the disposal facility for disposal must be sized for disposal in cylindrical concrete canisters having an internal height of 81 inches and an internal diameter of 80 inches.

(b) Waste containers that can be accommodated by the canisters include 55-gallon drums, 85-gallon overpacks, B-25 boxes, and 195/215 liners.

(c) Waste that does not readily fit into the canisters may be accepted if the waste can be safely re-configured or engineered to fit.

(d) If waste cannot be placed in the standard canister, a special, reinforced concrete containment system may be engineered on a case-by-case basis.

§451.27. Removal of Waste. Waste accepted for disposal at the facility shall not be removed from the facility unless the removal is specifically authorized by the site manager with concurrence of the resident inspector.

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 15, 1994.

TRD-9442468 Lee H Mathews
Deputy General Manager
and General Counsel
Texas Low-Level
Radioactive Waste
Disposal Authority

Earliest possible date of adoption: July 25, 1994

For further information, please call: (512) 451-5292



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission for the Deaf and Hearing Impaired

Chapter 181. General Rules of Practice and Procedures

Subchapter H. Memoranda of Understanding with State Agencies

• 40 TAC §§181.913, 181.915, 181.916

The Texas Commission for the Deaf and Hearing Impaired proposes amendments to §§181.913, 181.915, and 181.916, concerning the Commission's Memoranda of Understanding (MOUs) with the Texas School for the Deaf, the Texas Employment Commission, and the Texas Department of Mental Health and Mental Retardation, respectively. The proposed amendments will replace unclear language and provide more current information about the services offered by the respective agencies, the coordination between the Commission and the respective agencies, the identification of any duplication of service or gaps in service delivery, and the methods to address identified gaps in service delivery.

David W Myers, executive director, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rules

Mr. Myers also has determined that for each of the five years the amendments are in effect, the public benefits will be improved communication, cooperation, and coordination between the Commission and the agencies that are party to the respective memoranda in the provision of services to persons who are deaf or hard of hearing. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposed amendments may be submitted to Mike Broderick, Information Specialist, Texas Commission for the Deaf and Hearing Impaired, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756.

The amendments are proposed under Human Resources Code, §81.017, which directs the Texas Commission for the Deaf and Hearing Impaired to adopt by rule memoranda of understanding with specified state agencies and other state agencies that provide services to persons who are deaf. Section 81.017(c) requires that these memoranda be reviewed annually.

The proposed amendments affect Texas Administrative Code, Title 40, §§181.913, 181.915 and 181.916

§181.913. *The Texas School for the Deaf*

(a) **Terms** The memorandum [Memorandum] of understanding between the Texas Commission for the Deaf and Hearing Impaired and the Texas School for the Deaf includes the same terms, except the name of the designated agency, as stated in §181.912(a) and (b) of this title (relating to Introduction and Purpose and Description of Programs/Services, respectively) These terms will not be repeated in this publication for each agency involved in the memorandum of understanding The [However, the] Texas Commission for the Deaf and Hearing Impaired and the Texas School for the Deaf herein agree to the memorandum of understanding

(b) The Texas School for the Deaf, hereafter referred to as TSD, is a state agency which functions as an independent school district to provide educational services to deaf and multihandicapped students ranging in age from birth-21 years Students eligible for admittance must either be

(1) those for whom appropriate educational placements are not available through their local school and regional deaf centers, or

(2) under the authority of Senate Bill 809, passed by the 67th Legislature, those whose parents make direct application to TSD for placement of their children even though appropriate placement is available at the local level

(A) In accordance with state law, Education Code, §11.03, TSD is mandated to

(i) provide educational services on a day or residential basis to deaf students for whom adequate educational opportunities are unavailable in their local or regional programs,

(ii) provide short-term services to deaf students so that they may be better able to benefit from educational services available in local communities,

(iii) provide services to multihandicapped deaf students who can be effectively assisted through community programs but whose developmental capacities are such that they should not be admitted to residential institutions operated by the Texas Department of Mental Health and Mental Retardation,

(iv) be a primary resource to school districts for promoting excellence in educational services for hearing-impaired students,

(v) be a training and staff development resource for those at the community level who are involved in providing educational and related services to hearing-impaired students, and

(vi) be a research and demonstration facility to improve methods of providing educational services to meet the current and future needs of hearing-impaired students.

(B) TSD serves approximately 375 students. Currently, 14% reflects the Early Childhood Elementary Program, 17% Middle School, and 52% High School, and 14% the Multihandicapped Program The school's two campuses are located in Austin]

(B)(C) At enrollment, TSD schedules an admissions meeting involving a representative of the local school district, a parent, the educational diagnostician, teachers, and other school personnel Comprehensive re-evaluations of all students are conducted at least once every three years Specific educational programs provided by TSD are as follows

(i) Parent infant/preschool/kindergarten

(I) Staff provide education and counseling to parents of children who are deaf in the home as well as at school, as they jointly work with the children to begin language development, hearing aid management, communication (speech and sign), and audition (listening skills) Staff work with the extended family at the school, the school provide programs for deaf students and hearing siblings and peer. [some hearing siblings and peers are mainstreamed into the classroom setting at TSD on certain school days]

(II) The preschool children (age four) and kindergarten children (ages five-six) begin full-day classroom instruction in addition to the support services that are offered

(ii) Elementary, middle, and high schools Students continue full-time classes through elementary, middle, and high schools The elementary school begins formal classes in subject areas which are consistent with the statewide essential elements with some modifications There are two elementary curricula, academic and adapted The middle [Middle] school offers discovery classes for talented and gifted students and an honors program All students take life skill classes which use a hands-on approach to basic subject matter [matters] In high school, students are placed in programs that help them [which]

meet their individual potential; academic tracks and [as well as] vocational placements are offered Some students who concentrate in vocational areas can participate in the Junior and Senior Vocational Adjustment Programs where they work at jobs both in [within] and outside [without] the school. Students pursuing an academic track may be recommended for mainstreaming classes within the public schools.

(iii) Multihandicapped/deaf. Students in this program work in small groups or one-on-one with the teacher to develop independent living skills This program specializes in 24-hour programming which is coordinated between work training and instructional and residential staff.

(iv) Educational support services To facilitate the production of specialized educational materials, TSD has a resource media center which manages special media projects, assists teachers in developing specialized materials, and maintains a captioned tape library which is accessed by organizations across the state

(v) Support services Students receive psychological, medical, and dental services within the TSD community by contracted professionals or state employees These services are provided with the assistance of [two] full-time and [two] part-time staff interpreters These interpreters also provide their services for any other school-related situation as needed, such as parent-teacher conferences

(vi) Residential programs.

(I) Approximately three-quarter of the students reside on the campuses in cottages that provide supervised living; the remaining students are day student. [Most of the students at TSD are residential, cottages on the campuses provide supervised living.] The [These] cottages have special flashing light fire alarm systems for student safety and each cottage is equipped with a TDD and a television decoder A food service manager coordinates the provisions of meals through the two cafeterias

(II) Recreational programs are varied and include many sports, special events, and scout programs in which hearing children also participate [with hearing children also as participants].

(vii) Staff qualifications

(I) All teachers are appropriately certified by the Texas Education Agency [must be qualified by the Texas Education Agency certification requirements to work with deaf students] In addition, educational and residential staff

must meet specific criteria related to deafness and child care prior to consideration for a position.

(II) TSD requires all employees to have or attain sign language skills appropriate to their job responsibilities. Levels of staff abilities required include basic, intermediate, and advanced sign language skills. Sign language classes are offered at no charge to employees.

(viii) Administration.
TSD is accredited by the Conference of Educational Administrators Serving the Deaf and the Texas Education Agency

(ix) Community education. TSD maintains a community education program which coordinates classes in adult basic education and GED studies at local community colleges. Recently, it supported a pilot project to establish bilingual sign language classes in both English and Spanish in eight cities across the state.]

(c) Coordination of services

(1) The Texas Commission for the Deaf and Hearing Impaired's (TCDHI's) [The Texas Commission for the Deaf's (TCD's)] target population is all persons in Texas who are deaf or hard of hearing; TSD's target population is all children in Texas who are deaf or deaf and multihandicapped, ages birth-21 years. Along with the Texas Education Agency, TCDHI and TSD are the state agencies which are primarily responsible for serving persons who have hearing impairments. Both TCDHI and TSD are expert in the specialized needs of this population. [These are the two state agencies which are primarily responsible for serving persons who are deaf. Because of this, both agencies are experts in the specialized needs of this population.]

(2) Students at TSD may use the [telephone relay,] interpreter, and information and referral services available from the local service provider with which TCDHI contracts [TCD contracted council for the deaf]. When needed, TSD obtains additional interpreter services from the local service provider [council for the deaf]

(3) TCD's summer outdoor training program typically includes many students from the Texas School for the Deaf, as well as students who are deaf from the Regional Day School Programs for the Deaf coordinated by the Texas Education Agency]

(3)(4) TCDHI [TCD] and TSD participate in and/or monitor similar activities such as Deaf Awareness Week, the Annual Symposium on Deafness, the National Council on Agencies for the Deaf, etc

(4) [(5)] TSD's full and part-time interpreters are required to be certified

(d) Duplication of services In the process of developing this document, the two agencies identified no duplication in the provision of services

(e) Gaps in the delivery of services In the process of developing this document, the two agencies identified the following gaps in the delivery of services and have included methods for reducing or eliminating these gaps

(1) Case management services

(A) Because of the communication needs caused by deafness, many persons who are deaf are not informed about the health, human, transitional, and educational services that are required to be made accessible to them by federal law the American with Disabilities Act of 1990 and the Rehabilitation Act of 1973, §504. Persons who are deaf who do not seek necessary services often must suffer the consequences of not receiving them. By delaying needed services, they may eventually require more extensive services

(B) There is a special problem for children who attend TSD during the regular year and then return to their homes during the summer months. There is no one in the home towns to assist in coordinating continuing psychological, mental health, and educational [, etc .] services during this period. The result can be detrimental to the development of the children and the well-being of the families

(C) In order to refer persons who are deaf to appropriate agencies to receive necessary services, TCDHI [TCD] will request from the legislature monies for case managers/services/personnel for each of its local service providers [councils for the deaf]. The case managers will serve as liaisons between the clients who are deaf and the various agencies

(2) Sharing information There is no established mechanism for parents of students who are deaf to learn about the state programs for persons who are deaf. The methods for addressing this gap in service are as follows []

(A) TCDHI [TCD] will print a brochure which describes the services it provides and identifies its local service providers [contracted councils for the deaf]. TSD will provide a copy of this brochure to the parents of each TSD student

(B) TSD will provide TCDHI [TCD] with literature and information about TSD's programs and TCDHI [TCD] will make this information available to interested persons

(C) TSD and TCDHI [TCD] will ask the Texas Higher Education Coordinating Board and the Texas Education Agency to join with them in producing and distributing a brochure which lists the educational alternatives in Texas for children and adults who are deaf at elementary, middle, and high school, and post-secondary levels.

(D) TSD will attend meetings of the Deaf/Hearing Impaired Information Network (D/HInfoNet).

(3) Legal rights of persons who are deaf. Because of the isolation caused by deafness, students who are deaf may leave school without an awareness of what health, human, social, etc , services are required to be made accessible to them according to federal law. (Note method. TCDHI [TCD] and TSD will ask the Texas Education Agency to encourage curricular content in all programs serving students who are deaf which provides information about the legal rights of persons who are deaf to receive certain services, that identifies these services provided at the state and federal levels, and that provides procedures for accessing these services)

§181 915 The Texas Employment Commission

(a) Terms The memorandum [Memorandum] of understanding between the Texas Commission for the Deaf and Hearing Impaired and the Texas Employment Commission includes the same terms, except the name of the designated agency, as stated in §181 912(a) and (b) of this title (relating to the Texas Department of Criminal Justice [Corrections]) relating to the introduction and purpose and TCDHI [TCD] description of programs/services. These terms will not be repeated in this publication for each agency involved in the memorandum of understanding. The [However, the] Texas Commission for the Deaf and Hearing Impaired and the Texas Employment Commission herein agree to the memorandum of understanding

(b) The Texas Employment Commission. The Texas Employment Commission, hereafter referred to as TEC, provides services in three general areas that may impact persons with disabilities including persons who are deaf or hard of hearing. These areas include the provision of labor market information, the basic labor exchange, and the administration of the Texas Unemployment Insurance Com-

compensation Act. Some of the specific services include testing, counseling, evaluation, special programs (Job Training Partnership Act, JOBS, Food Stamps, Job Search Seminars, Job Corps, Targeted Jobs Tax Credit, Career Planning, Unemployment Benefits, Labor Market Data, etc.), and placement services. The basic labor exchange is accomplished through the computerized matching of job openings with applicant by various categories including industry, qualifications, experience, geographical preference, and vocational interests. These services are provided through a statewide network of over 200 offices. [to the general public including testing, counseling, evaluation, special programs (Targeted Job Tax Credit, Work Incentive Program, Job Training Partnership Act, Food Stamps, etc.) and placement services TEC has field offices across the state which provide these services. Additionally, the offices are able to match job openings with applicants by various categories including industry, qualifications, experience, geographical preference, and interests.]

(c) Specific programs for persons who are deaf or hard of hearing.

(1) Disability specialists All TEC services are available to persons who are deaf or hard of hearing, and other persons who have disabilities through the general staff and their designated disability specialists. The disability specialists are the TEC staff who assist in the application, testing, and counseling of clients who are deaf or hard of hearing. Currently, TEC has over 200 [105] field offices throughout the state. Most have [each with] a disability specialist who devotes from 10% to 100% of his or her [their] time to serving these clients, depending on the number of applicants, the size of the office, and other responsibilities. Support and coordination for these specialists are assigned to the TEC Job Services Operations Division. A state coordinator is designated in this division.

(2) Communications access. [Interpreter services] Communications access [Interpreter] services are provided to facilitate the application, testing, and counseling process of persons who are deaf or hard of hearing. TEC has an interagency contract with TCDHI [TCD] in the amount of 25,000. This amount is [was] set by legislative appropriation [line item funding from the Texas Legislature for the 1988-1989 biennium].

(3) Disabled Workers Program In Houston, in addition to the disability specialists available through TEC local offices, there is a special Disabled Workers Program entirely devoted to serving [disabled] persons with disabilities. [From April through December 1987, this office served 88 deaf applicants with 34 direct

placements, 51 of these persons were employed after receiving services.] This is a Job Training Partnership Act (JTPA) funded program [is a cooperative effort between the John Gray Institute of Lamar University and TEC]

(4) Targeted Jobs Tax Credit (TJTC) Program TEC certifies clients' eligibility for the TJTC program. Disabled applicants are one of several [nine] targeted groups covered by this program. TJTC encourages the employment of [disabled] applicants with disabilities by giving employers a tax credit for 40% of an eligible employee's first \$6,000 in salary.

[(5) TDDs in TEC facilities TEC has 34 locations across Texas which have TDDs.]

(5)[(6)] Employment service policy as it relates to persons with disabilities. An extensive policy relating to persons with disabilities is addressed in the TEC Employment Service Manual which is utilized by all TEC personnel serving [deaf] applicants who are deaf or hard of hearing. This policy deals with procedures and services concerning the interviewing, counseling, testing, routing, and placement of [disabled] individuals who are disabled seeking employment opportunities.

(6)[(7)] Other activities TEC conducts regional and statewide training throughout the year focusing on services provided through the disability specialists. TEC is an ex-officio member of the Governor's Committee on People with Disabilities [for Disabled Persons]. TEC sponsors and participates in activities in support of consumer organizations such as their participation in job fairs, and Governor's Committee activities, as well as general effort to promote the employment of people with disabilities. [Deaf "Symposium 88"]

(d) Coordination of services The primary means of cooperation between TCDHI [TCD] and TEC is the interagency contract for communications access [interpreter services]. TEC has had such a contract with TCDHI [TCD] for a number of years.

(e) Duplication of services No duplication of services between the two agencies is [was] identified.

(f) Gaps in the delivery of services In the course of developing this document, the following gaps in the delivery of services are [were] identified. Methods for reducing or eliminating these gaps are included. Many of these gaps concern accessibility of services for persons who are deaf or hard of hearing, and the methods included provide ways to enhance accessibility.

(1) Case coordination [management services]. Because of the communication gap caused by deafness and hearing

loss, many persons who are deaf or hard of hearing are not informed about the health and human services that are required to be made accessible to them by the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as amended [§504]. [(This act states that all programs which receive federal funding must make their services accessible to persons who are disabled)] Therefore, these persons do not seek necessary services and often suffer the consequences of not receiving them. Also, because of the communication difficulties of deafness and hearing loss, many health and human service agencies at the local level experience barriers in serving [refuse to serve] persons who are deaf or hard of hearing. (Note: TCDHI will work with its local service providers and other state agencies to improve coordination of services and ensure that persons who are deaf or hard of hearing are made aware of and are referred to necessary and appropriate services.) [(Note: TCD will request from the legislature monies for case worker services/personnel for each of its councils for the deaf in order to refer persons who are deaf to appropriate and necessary services and to coordinate the provision of these services. The case workers will serve as liaisons between the clients who are deaf and the various health and human service agencies.)]

(2) Telephone relay services and telecommunication devices for the deaf (TDDs)/teletypewriters (TTYs) [TDD]

[(A) Persons who are deaf have no comprehensive mechanism for accessing public services via the telephone system. Current avenues of access by phone in Texas for persons who are deaf are extremely limited in scope and costly for all concerned. TCD contracted relay services are primarily provided to 16 of the cities with councils and the funds provided by TCD are typically expended within the first three quarters of each fiscal year.]

(A) [(B)] Telephone relay services is a system where special operators function as a link between a caller who is deaf, hard of hearing, or speech-impaired and a hearing caller [something like an answering service]. The person who is deaf, hard of hearing, or speech-impaired calls the relay operator on a TDD/TTY. The operator receives the call on a TDD/TTY and then uses a regular telephone to transmit the caller's message to the desired party. The relay operator interprets [either can relay a message and later call the original caller back with an answer, or interpret] the ongoing conversation as it occurs, communicating with the TDD/TTY user by TDD/TTY and the non-TDD/TTY user by voice. In Texas, relay services are pro-

vided by RELAY TEXAS. (Note: Consumers who are deaf or hard of hearing do, however, need TDDs/TTYs in order to access the relay service.)

(B) While relay service enables persons who are deaf or hard of hearing to use the telephone to contact human service agencies, the use of TDDs/TTYs by state agencies allows for more direct and timely communication.

[(C) Without telephone relay services, every service agency facility should have a TDD in order to make their services accessible. Thirty-four of TEC's 130 field offices have TDDs. If the local office does not have a TDD, the person who is deaf in order to have any question answered or to receive any information must make an appointment (somehow), come to the office to talk to a staff person, and the staff person must arrange for an interpreter. This is a costly and time consuming process for the person who is deaf, the state worker, and the agency.]

(C) [(D)] Methods to address this gap in services are as follows: [.]

(i) TEC will study the effectiveness and accessibility to services afforded by the TDDs/TTYs which the agency currently has. As part of this study, TEC will address the appropriate placement of additional TDDs/TTYs in its facilities. Other telecommunications issues including, but not limited to, accessibility to courtesy telephones in TEC facilities will be examined as part of this study. The study will be conducted during the 1995 Fiscal Year.

[(ii) TCD will seek funding from the legislature for the 1990-9: biennium to expand telephone relay services.]

[(ii) [(iii)] In its [future editions of the] directory of offices [of TEC.] and other publications, the agency identifies the RELAY TEXAS telephone numbers to facilitate communication with clients who are deaf or hard of hearing. [will identify all field offices which have TDDs.]

(3) Communications access. [Interpreting services.]

(A) Interpreting services are the primary means for making health and human services accessible to persons who have a profound hearing loss and who use sign language as their primary means of communication. The [limited] interpreting services available through TCDHI's [TCD's] local service providers [17 contracted councils] run short of funds each

year [biennium]; there is always a greater demand for services than there are funds available.

(B) While current TEC contracted interpreter services facilitate the application, testing, and counseling of persons who have a profound hearing loss and who use sign language as their primary means of communication [are deaf], there are additional situations concerning the successful employment of these persons [who are deaf] where interpreter services are needed.

(C) Other forms of communications access, such as oral interpreting, real-time captioning, or notetaking, etc., may be required to make services accessible to persons who are hard of hearing or who do not use sign language.

(D) [(C)] Methods to address these gaps [this gap] in services are as follows: [.]

(i) TEC has studied [will study] the feasibility of using interpreter services for purposes related to TEC services [but] in situations outside the immediate TEC offices. These services are currently being provided on a limited basis.

(ii) After consultation with TCDHI [TCD], TEC will revise, as appropriate, the interpreter services procedure regarding when an interpreter should be requested and how to request an interpreter.

(iii) TEC will consult with TCDHI staff, on an as needed basis, concerning the provision of other forms of communication access.

(4) Staff training and development Persons who are deaf have needs which are different from those of any other disabled group. Persons who have a profound hearing loss and use sign language have a unique culture. Most persons in this [special] population have difficulty using English because their native language is sign language. Persons who are hard of hearing also have unique needs which are often markedly different from those of persons who are deaf. Deafness and hearing loss have [has] social and psychological ramifications. In order to provide many health and human services, service providers need special understanding of these matters. Methods which address this gap in the program are as follows: [.]

(A) [Within the 1990-1991 biennium,] TEC will continue placing an emphasis on regional training [hold a statewide or regional conference] for dis-

ability specialists and other agency personnel which includes [include] training in deafness and hearing loss and the [its] psychological impact on persons who are deaf or hard of hearing. TEC will coordinate with TCDHI [TCD] to identify [training] resources and programs for this training [conference].

(B) [For each city with a population of 100,000 or more,] TEC encourages [will encourage] the disability specialists [specialist] to learn sign language and to become familiar with deaf culture. The agency will also encourage the disability specialists to become familiar with the needs of persons who are hard of hearing. [However, such skills will not replace the need for interpreting services unless a disability specialist acquires at least Level III interpreting certification.] Aspects of deafness and hearing loss have been included in the TEC ADA Resource Manual. This manual is an in-house resource providing TEC employees with technical information and awareness training involving people with disabilities, including deafness and hearing loss.

(C) TEC will conduct a survey to generally determine the sign language capabilities of its disability specialists and other personnel.

(5) Sharing information.

(A) TCDHI [TCD] and TEC have no established means for sharing information and coordinating their expertise to better serve clients who are deaf or hard of hearing.

(B) It is often difficult to find employment for persons who are deaf or hard of hearing because of employer bias.

(C) Methods to address these gaps [this gap] in services are as follows: [.]

(i) TEC will work with TCDHI [TCD] either to secure any quality [existing] brochures that exist or to produce a brochure which provides basic information regarding persons who are deaf or hard of hearing, deafness, etc. TEC will then purchase or print these brochures and distribute them to potential employers, TEC personnel, and clients

(ii) TCDHI [TCD] will assemble a reading list of available publications from other sources on the subject of employment of persons who are deaf or hard of hearing. This list will be made available to TEC so that it can provide

copies to potential employers of persons who are deaf or hard of hearing.

(iii) TCDHI [TCD] will produce a brochure annually [at least biennially] which provides information about the services provided by each of its contracted local service providers [councils for the deaf]. This brochure will describe the services contracted by TCDHI [TCD]. Copies of this brochure will be provided to TEC by TCDHI [TCD] so that they can then be distributed to potential employers of persons who are deaf or hard of hearing.

(iv) TEC will annually provide TCDHI with brochures about TEC services, so that TCDHI can distribute these brochures to its local service providers.

(v) A TEC representative will attend meetings of the Deaf/Hearing Impaired Information Network (D/HInfoNet).

(6) Statistics. There are no census statistics for Texas that reveal the number of persons who are deaf or hard of hearing. This makes planning for services difficult (Note: TEC and TCDHI [TCD] will pursue mechanisms, both public and private, to identify the number of persons in our state who are deaf or hard of hearing.)

§181.916. The Texas Department of Mental Health and Mental Retardation

(a) Terms. The memorandum [Memorandum] of understanding between the Texas Commission for the Deaf and Hearing Impaired and the Texas Department of Mental Health and Mental Retardation includes the same terms, except the name of the designated agency, as stated in §181.912(a) and (b)(1) of this title (relating to Introduction and Purpose and TCDHI [TCD] Description of Programs/Services respectively). These terms will not be repeated in this publication for each agency involved in the memorandum of understanding. The [However, the] Texas Commission for the Deaf and Hearing Impaired and the Texas Department of Mental Health and Mental Retardation herein agree to the memorandum of understanding.

(b) The Texas Department of Mental Health and Mental Retardation.

(1) General services.

(A) The Texas Department of Mental Health and Mental Retardation, hereafter referred to as TXMHMR [TDMHMR], is the state agency mandated to assist persons with mental illness and mental retardation. It oversees a network of residential and community services and provides logistical support.

(B) Components of the TXMHMR [TDMHMR] service delivery system include [eight] state psychiatric hospitals, [13] state schools, [five] state centers, and a center for emotionally disturbed youth. The schools, hospitals, and centers offer residential services and provide outreach programs for the rural counties they serve. TXMHMR [TDMHMR] also contracts for services with [35] community mental health and mental retardation centers governed by local boards of trustees. The community MHMR centers, which are also considered components of TXMHMR [TDMHMR], offer a full range of programs including diagnosis and evaluation, referral, outpatient and inpatient services, day activities, emergency services, counseling, education, training workshops, and group homes.

(C) TXMHMR [TDMHMR] identifies priority recipients of its services as those persons who are most in need of services. It maintains a case management system through its community centers to help clients secure services.

(D) The agency has an Office of Client Services and Rights Protection which is responsible for resolving complaints, investigating alleged rights violations, and managing service delivery issues which involve individual clients. Additionally, the agency has clients' rights staff in each component.

(2) Specific services for persons who are deaf or hard of hearing.

(A) TXMHMR service are available to individual who are deaf or hard of hearing and meet the Department' eligibility criteria. [TDMHMR serves persons who meet its eligibility criteria. Persons who are deaf who meet eligibility criteria have MHMR services made accessible to them.] TXMHMR [TDMHMR], like any state governmental entity [entity that receives federal funding], is required to make its services accessible to persons who are disabled in accordance with the American with Disabilities Act of 1990 and the Rehabilitation Act of 1973, §504, a amended.

(B) TXMHMR [TDMHMR] has a special inpatient unit to serve persons who are mentally ill and deaf or hard of hearing and over the age of 14 [mentally ill, age 14 or older, and deaf]. This unit has a full-time staff interpreter and clinical staff skilled in manual communication and knowledgeable about mental health and deafness.

(c) Coordination of services

(1) TXMHMR [TDMHMR] has an interagency [interpreting] contract with TCDHI for interpreter services for consumers and employee who are deaf, hard of hearing, or deaf-blind [TCD to provide services for all TDMHMR board functions including board meetings and public hearings across the state. It is anticipated that a similar contract will be formulated next year. Additionally, some TDMHMR components contract with local councils for the deaf for services as needed]. The services provided under this contract are available for all TXMHMR facilities and the community MHMR centers.

(2) A TXMHMR representative will attend meetings of the Deaf/Hearing Impaired Information Network (D/HInfoNet).

(2) TDMHMR contracts with TCD for the placement of approximately 54 TDD units for its various service components]

(3) TXMHMR will keep TCDHI regularly informed of developments related to the Commissioner's Advisory Committee on Persons who are Mentally Ill and Deaf/Hard of Hearing.

(4) At least once a year, TCDHI and TXMHMR will exchange brochures describing their respective services. These brochures will then be provided to the TXMHMR facilities, the community MHMR centers, and TCDHI's local service providers for distribution to consumers.

(d) Duplication of services. In the process of developing this document, the agencies identified no duplication of services.

(e) Gaps in the delivery of services.

(1) Prior to the preparation of the original MOU, TCDHI [TCD recently] established a special subcommittee on mental health services to persons who are deaf. The subcommittee conducted [in order to conduct] a survey of the mental health services [currently] available to persons who are deaf [to assess the needs for these services; and to make] and made [to make] recommendations that were incorporated in [for] the mandated memorandum of understanding between TCDHI [TCD] and TXMHMR [TDMHMR].

(2) In the preparation of this memorandum of understanding, TXMHMR [TDMHMR] and TCDHI [TCD] have identified gaps in mental health and mental retardation services. [in services not only in the area of mental health but also in mental retardation] The majority of these gaps concern accessibility to services for persons who are deaf or hard of hearing, [and the methods included provide ways to enhance accessibility.]

(3) The [following] identified gaps are as follows: []

(A) Statewide accessibility and coordination of services. The availability and quality of accessible mental health and mental retardation services to Texans who are deaf or hard of hearing through TXMHMR [TDMHMR] varies widely across the state (Note method TXMHMR [TDMHMR] and TCDHI [TCD] agreed to [will] support a legislative resolution [proposed legislation] to establish the Advisory Committee on Mental Health Care of Hearing Impaired Adults and Children.) To carry out this method, which was suggested a part of the original MOU, TXMHMR has established a Commissioner's Advisory Committee on Persons who are Mentally Ill and Deaf/Hard of Hearing. The Advisory Committee is composed of representatives from the deaf community, mental health professionals, and individuals experienced in working with persons who are deaf. The nine member committee has five members who are deaf or hard of hearing. The recommendations of the Advisory Committee, which are expected to be released in the summer of 1994, will be incorporated into TXMHMR's Strategic Plan. [This committee will be composed of representatives from the deaf community, professionals in mental health, professionals in mental health and/or deafness, and persons experience in deafness. The committee will meet on a quarterly basis. The functions of the committee will be to address inpatient and outpatient mental health care and to review other issues pertinent to the provision of mental health services to persons who are deaf or hearing impaired. The committee is required to make a report of its findings to the 72nd Legislature.]]

(B) Staff development and training. All TXMHMR [TDMHMR] facilities may serve persons who are deaf or hard of hearing and who meet the Department's eligibility criteria. As knowledge about accessible services increases, it is expected that more persons who are deaf or hard of hearing will seek services. Currently, not all components have an on-site person who has specialized [is responsible for overseeing the accessibility of services and for having special] knowledge of the needs of persons who are deaf or hard of hearing. Methods to address this gap in services are as follows: []

(i) Beginning in fiscal year 1990 TXMHMR [TDMHMR] will require each of its components to employ or designate a person or persons who will serve as the coordinator(s) of services to persons who are deaf or hard of hearing and as the primary resource(s) on deafness

and hearing loss for the facility or community center. Depending on the local need, this person (or persons) may be a clinician and/or competent in sign language and may be required to have previous experience in the provision of mental health/mental retardation services to persons who are deaf or hard of hearing. All such designated persons, however, will receive periodic orientation and/or in-service training on mental health/mental retardation and deafness/hearing loss and on service provision/coordination. Currently, employees at each facility undergo ADA training which includes discussion of issues related to hearing loss, such as interpreter services, RELAY TEXAS, effective communication, and cultural sensitivity. The Commissioner's Advisory Committee, referenced in paragraph (3)(A) of this subsection, is expected to include among its recommendations methods to address gaps in service delivery relating to accessibility.

(ii) TXMHMR [TDMHMR] will develop short and long-term in-service training pertaining to the provision of MHMR services to persons who are deaf or hard of hearing. Subject to funding, by fiscal year 1990, TXMHMR [TDMHMR] will require all component staff primarily responsible for provision of services to persons who are deaf or hard of hearing to have in-service training in these areas [this area]. The Commissioner's Advisory Committee, referenced in paragraph (3)(A) of this subsection, is expected to make a recommendation regarding the provision of in-service training to TXMHMR employees who work with persons who are deaf or hard of hearing.

(iii) TCDHI [TCD] will assist TXMHMR [TDMHMR] in identifying information and training materials regarding the provision of services to persons who are deaf or hard of hearing and mentally ill and/or mentally retarded. This information and/or materials may be used by TXMHMR [TDMHMR] in its [their] staff training.

(C) Data collection. TXMHMR provides data from the CARE reporting system on the number of deaf, hard of hearing, deaf-blind, and blind individuals receiving services at the TXMHMR facilities. This information is provided on a quarterly basis. However, similar data are not available from the community MHMR centers. [There are no readily identifiable data to show how many persons who are deaf are currently served by TDMHMR per year, what kinds of services are provided, what age range of persons is served, or which population center(s) offer such services. These data are necessary in order to

accurately assess the need for services and to assure accessibility and accountability of TDMHMR service provision. (Note method. TDMHMR will study the feasibility of including information on deafness as part of its CARE reporting system. If possible, hearing disabilities will become a required reporting element in the TDMHMR CARE system. If this is not feasible, an alternative data collection system will be identified to permit information on persons served who are deaf and services to persons who are deaf.)]

(D) Case coordination [management services]. Because of the communication gap caused by deafness and hearing loss, many persons who are deaf or hard of hearing are not informed about the health and human services that are required to be made accessible to them by the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as amended [§504.] [This Act states that any entity that receives federal funds must make their services accessible to persons who are disabled.] Therefore, persons who are deaf or hard of hearing often do not seek necessary and appropriate services. [and suffer the consequences of not receiving them.] Also, because of the communication difficulties innate to deafness and hearing loss, many health and human service agencies experience barriers in serving [maintain that they are unable to serve] persons who are deaf or hard of hearing. Methods to address this gap in services are as follows: []

(i) TCDHI will work with its local service providers and other state agencies to improve coordination of services and ensure that persons who are deaf or hard of hearing are made aware of and are referred to necessary and appropriate services. [TCD will request from the legislature monies for case worker services/personnel for each of its councils for the deaf in order to refer persons who are deaf to appropriate and necessary services and to coordinate the access of these services. The case workers will serve as liaisons between the clients who are deaf and the various health and human service agencies.]

(ii) TCDHI will encourage each of its local service providers to provide follow-up and follow-along services as needed for person who are deaf or hard of hearing who have been referred by the respective local service provider to TXMHMR. The local service providers will be encouraged to provide ongoing cooperative support and assistance for the duration of the client's programming, therapy, and medication treatments as appropriate. [Contingent upon TCD receiving authority and adequate

funding for the establishment of case management services. TCD will encourage each of the councils for the deaf with a case manager to provide follow-up and follow-along services as needed for persons who are deaf and who have been referred by the respective case managers to TDMHMR and who are receiving or who have recently received services through TDMHMR components and will provide ongoing cooperative support and assistance for the duration of the client's programming, therapy, and medication treatments as is appropriate for the guidelines that will be established for the case management program by TCD and is feasibly possible given the caseload and other responsibilities of the case managers.] It is intended that the local service providers [case managers] establish and maintain close working relationships with the local components of the TXMHMR [TDMHMR] service delivery system.

(E) Telephone relay services/telecommunication devices for the deaf (TDDs) /teletypewriters. (TTYs)

(i) Persons who are deaf have no comprehensive, statewide mechanism for accessing public services via the telephone. Current avenues of access by phone in Texas for persons who are deaf are extremely limited in scope and costly for all concerned. TCD's contracted relay services are primarily provided to 16 of the cities which have councils and the funds provided for this purpose by TCD are typically expended by the first quarter of each fiscal year.]

(ii) While TDMHMR has 54 TDDs placed at many of its components, some TDMHMR facilities without TDDs are inaccessible by telephone to persons who are deaf.]

(i)(iii)] A statewide telephone relay service, provided by RELAY TEXAS, eliminates the need for every component to have a TDD/TTY in order to be accessible by telephone for persons who are deaf or hard of hearing. (Note: Consumers who are deaf or hard of hearing do, however, need TDDs/TTYs in order to access the relay service.) [(Note. method. TCD will seek funding from the legislature for the 1990-91 biennium to expand limited telephone relay systems)]

(ii) While relay service enables persons who are deaf or hard of hearing to use the telephone to contact human service agencies, the use of TDDs/TTYs by state agencies allows for more direct and timely communication.

(iii) In TXMHMR offices and facilities that have a courtesy telephone available for public use, a TDD/TTY will be made readily available next to the phone, so that persons who

are deaf, hard of hearing, or speech impaired can access the courtesy telephone.

(iv) TXMHMR has provided training to all facilities and the community MHMR centers on how to use RELAY TEXAS. TDDs/TTYs are available at emergency 9-1-1 numbers.

(F) Communications access [Interpreter services] Interpreting services are the primary means for making health and human services accessible to persons who have a profound hearing loss and who use sign language as their primary means of communication. The preferred situation is to have clinicians and personnel who are trained in deafness and also skilled in sign language. Often clinicians or personnel with these skills are not available, so they must use an interpreter for communication needs. TXMHMR requires that these interpreters be certified at Board for Evaluation of Interpreters (BEI) Level III or above. Other forms of communication access, such as oral interpreting, real-time captioning, or notetaking, etc., may be required to make services accessible to persons who are hard of hearing or who do not use sign language. [While the preferred situation is having a clinician who is trained in deafness and skilled in sign language to provide services to persons who are deaf, in the absence of such a professional, it is necessary for professionals without such specialized training and skills to secure an interpreter with appropriate levels of training in order that language can be accurately relayed.] Methods to address this gap in services are as follows: [.]

(i) TXMHMR [TDMHMR] contracts [will contract] with TCDHI [TCD] for the provision of interpreter services on an as-needed basis at all system components. These services will be provided through TCDHI's [TCD's] contracted local service providers [17 councils for the deaf] TXMHMR will consult with TCDHI staff, on an as-needed basis, concerning the provision of other forms of communication access.

(ii) Each facility is responsible to arrange for interpreter services for its consumers and employees as necessary. [By fiscal year 1990, subject to availability of adequate funding, TDMHMR will establish policy requiring that in all mental health/mental retardation interactions with persons who are deaf, interpreters be used with appropriate levels of skill. This policy will, however, specifically require that in all evaluations and assessment sessions, and in mental health counseling sessions for persons who are deaf, interpreters at Level III, IV, or V, the highest levels, (or comparable certification from a nationally recognized professional interpreting organization) be used.]

(iii) TXMHMR [TDMHMR] and TCDHI [TCD] will work together to explore avenues for establishing mechanisms to provide special training for interpreters who work in the mental health/mental retardation field and to recruit interpreters with this specialization

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 15, 1994

TRD-9442603

David W Myers
Executive Director
Texas Commission for the
Deaf and Hearing
Impaired

Earliest possible date of adoption July 24, 1994

For further information, please call (512) 451-8494

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Part XIX. Texas
Department of Human
Services
Chapter 700. Child Protective
Services

The Texas Department of Protective and Regulatory Services (TDPRS) proposes the repeal of §§700 106, 700 107, 700 1301-700 1306, 700 1309-700 1313, and 700 1764, concerning administration, substitute-care placement services, and day care for foster children, proposes new §§700 1301, 700. 1302, 700 1310-700 1316, 700 1320-700.1323, 700 1330-700 1334, 700 1340-700. 1343, 700.1350, and 700 1351, concerning substitute-care services, and proposes an amendment to §700 1502, concerning adoptive home screening, in its child protective services chapter. The purpose of the repeals, new sections, and amendment is to reorganize, update, and clarify the department's policies for serving children who have been removed from their homes and placed in substitute care.

The department's policies for serving children in substitute care have not been systematically revised since 1984. They require systematic revision now to accommodate changes in the Texas Family Code (especially in Chapter 18 regarding court reviews of the child's placement and case plan), amendments to Title IV-E of the Social Security Act of 1980 (regarding foster care and adoption assistance), the Office of Child-Care Licensing's new *Minimum Standards for Child-Placing Agencies*, the establishment of TDPRS as an independent state agency, TDPRS's recent implementation of a risk-based system for delivering protective services to families and children, and the recent revision of the department's policies for delivering services to families. The policies also require revision to address needs associated with the 100% increase in the number of children in TDPRS's managing

conservatorship over the last ten years, including the need for more effective permanency planning

The new sections define substitute care and identify the department's primary responsibilities, goals, and objectives when a child is in substitute care, establish detailed policies for selecting a permanency planning goal for each child in substitute care, and for reviewing the goal at each review of the child's case plan, describe the different types of substitute caregivers with whom TDPRS places children, and identify the types of care that those caregivers provide, set forth requirements for developing a detailed case plan for each child in substitute care, and for reviewing the plan at least every six months, address special issues such as discipline and releasing information to prospective adoptive parents, establish requirements for special services to children in substitute care, including medical and dental services, and incorporate those parts of the repealed and amended sections that will remain in effect when the new sections are adopted

Jerry Abel, chief fiscal officer, 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 Abel also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to ensure that children who cannot be protected from abuse and neglect in their own homes, receive the protection they need in temporary, planned substitute-care placements, receive care and remedial services consistent with their needs for permanency and belonging, and are either reunited with their families as soon as their families change the conditions that have placed the children at risk, or placed in alternative permanent living-situations if they cannot return home safely There will be no effect on small businesses There is no anticipated economic cost to persons who are required to comply with the sections

Questions about the content of the proposal may be directed to Larry Burgess at (512) 706-5320 in TDPRS's Protective Services for Families and Children department Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-183, Texas Department of Protective and Regulatory Services W-402, P O Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*

Subchapter A. Administration

- 40 TAC §700.106, §700.107

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

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41,

which authorizes the department to enforce laws for the protection of children The repeals are also proposed under the Texas Family Code (TFC), Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect The repeals are also proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS

The repeals implement TFC, §14.02, concerning the rights, privileges, duties, and powers of a conservator

§700.106 *Presenting Records to Prospective Adoptive Parents Before Placing a Child for Adoption*

§700.107 *Deleting Confidential Information Before Releasing a Child's Records to Authorized Parties*

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 15, 1994

TRD-9442409 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption September 1, 1994

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

Subchapter M. Substitute-Care [Placement] Services

- 40 TAC §§700.1301-700.1306, 700.1309-700.1313

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

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children The repeals are also proposed under the Texas Family Code (TFC), Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. The repeals are also proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the

Texas Department of Human Services to TDPRS

The repeals implement TFC, §14.02, concerning the rights, privileges, duties, and powers of a conservator.

§700.1301 *Substitute-Care Services.*

§700.1302 *The Case Plan*

§700.1303 *The Child's Service Plan*

§700.1304 *The Family Service Plan*

§700.1305 *Case Plan Review*

§700.1306 *Subsequent Placements*

§700.1309 *Family Planning Services for Children in Substitute Care*

§700.1310 *Medical and Dental Services to Children in Substitute Care*

§700.1311 *Visits and Contacts Between Children and Biological Parents*

§700.1312 *Transfer of Money Owed to Children Placed for Adoption*

§700.1313 *Administrative Review of Foster Parent Concerns About Placement Decisions*

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 15, 1994.

TRD-9442408 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption September 1, 1994

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

Subchapter M. Substitute-Care [Placement] Services

- 40 TAC §§700.1301, 700.1302, 700.1310-700.1316, 700.1320-700.1323, 700.1330-700.1334, 700.1340-700.1343, 700.1350, 700.1351

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter

41, which authorizes the department to enforce laws for the protection of children. The new sections are also proposed under the Texas Family Code (TFC), Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. The new sections are also proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS.

The new sections implement TFC, §14.02, concerning the rights, privileges, duties, and powers of a conservator.

§700.1301. Definition, Criteria, Goals, and Objectives.

(a) Definition. Substitute care consists of:

(1) the residential care and support provided to a child in the Texas Department of Protective and Regulatory Services' (TDPRS's) managing conservatorship who has been placed in a living situation outside the child's own home in order to protect the child from abuse or neglect; and

(2) the supportive and therapeutic services provided to the child, the child's parents, and the child's substitute caregiver until the child can either

(A) return home safely, or

(B) begin to live in another situation without continuing TDPRS supervision.

(b) Criteria. TDPRS's Office of Protective Services for Families and Children (PSFC) provides substitute-care services when:

(1) a child is at risk of abuse or neglect,

(2) the child's parents cannot improve the situation that has placed the child at risk unless PSFC intervenes,

(3) placing the child outside the parents' home is the only reasonable way to provide for the child's safety, and

(4) either

(A) PSFC has

(i) removed the child from the parents without a court order, and

(ii) filed a petition for an emergency hearing, as specified in the Texas Family Code, §17.03, or

(B) a court has.

(i) ordered the child to be removed from the home, and

(ii) placed the child in TDPRS's managing conservatorship.

(c) Goals. The goals of substitute care are to ensure that children receive:

(1) protection from abuse and neglect, and

(2) care consistent with their needs for permanency and belonging.

(d) Objectives. The objectives of substitute care are to:

(1) provide temporary, planned placements for children at risk of abuse or neglect,

(2) provide or arrange for social and remedial services appropriate to each child's needs,

(3) make reasonable efforts to reunite children with their families by:

(A) assessing each child's and family's situation, and

(B) developing and implementing a time-limited service plan to:

(i) change the conditions that have placed the child at risk, and

(ii) prepare the child and the family for the child's return, and

(4) find alternative permanent placements for children who cannot be safely reunited with their families.

§700.1302. The Texas Department of Protective and Regulatory Services' (TDPRS's) Primary Responsibilities When a Child is in Substitute Care. Whenever the court appoints TDPRS as a child's managing conservator, TDPRS assumes responsibility for

(1) working with the child's family, caregivers, and the court to find or create a safe and permanent living situation that will meet the child's needs,

(2) ensuring that the child receives the best residential care and parenting possible during the interim between the child's removal from his home and the child's placement in a safe and permanent living situation, and

(3) planning and implementing an integrated program of services to

(A) help the child (and usually the child's family)

(i) recover from the abuse or neglect that has already occurred, and

(ii) reduce the risk of it occurring again,

(B) ensure that the residential care and parenting provided to the child address the child's specific needs; and

(C) establish a safe and permanent placement for the child as soon as possible.

§700.1310. Permanency Planning.

(a) Definition. Permanency planning consists of:

(1) the identification of a safe and permanent living situation as the goal towards which the Office of Protective Services for Families and Children's (PSFC's) services to a child in substitute care (and usually to the child's family) are directed; and

(2) the specification of

(A) the steps to be taken to achieve that goal, and

(B) the time frames for taking those steps.

(b) Available goals. The permanency plan for every child in the Texas Department of Protective and Regulatory Services' managing conservatorship must be directed towards one of the following goals.

(1) family preservation;

(2) family reunification,

(3) permanent placement with relatives,

(4) adoption;

(5) an alternative form of long-term care, or

(6) adult living.

(c) Selecting a goal. To establish a permanency plan for a child, PSFC tries to select the permanency-planning goal that best serves the child's interest and long-term needs, including the child's needs for belonging, stability, and continuity of care. To this end, the worker must assess the child's needs, then identify the least disruptive available goal that is likely to meet those needs without compromising the child's safety.

(d) Revising the plan. If a previously established permanency-planning goal proves to be unrealistic, the goal must be changed.

§700.1311. Family Preservation.

(a) Definition. The permanency-planning goal of family preservation.

(1) identifies a child's own home as the safe and permanent living situation towards which the Office of Protective Services for Families and Children's (PSFC's) services are directed; and

(2) indicates that PSFC will provide services to the child and the family without removing the child from the home

(b) Selection criteria. PSFC selects family preservation as a child's permanency-planning goal when

(1) there is a risk of child abuse or neglect, but the child can be protected in the immediate or short-term future by providing services while the child either

(A) remains in the home, or

(B) lives with relatives without being removed from the parents' custody,

(2) the family cannot reduce the risk of abuse or neglect for the foreseeable future without PSFC assistance,

(3) PSFC can provide or arrange for services to help the family.

(A) reduce the risk of abuse or neglect, and

(B) function without PSFC assistance in the future, and

(4) the family is willing and able to accept PSFC's assistance

§700 1312 Family Reunification

(a) Definition. The permanency-planning goal of family reunification

(1) identifies a child's own home as the safe and permanent living situation towards which the Office of Protective Services for Families and Children's (PSFC's) services are directed, and

(2) indicates that PSFC

(A) has removed the child from the home, and

(B) will provide services to the child, the child's family, and the child's temporary substitute caregiver

(b) Selection criteria. PSFC selects family reunification as a child's permanency-planning goal when

(1) PSFC has removed the child from his home to protect him from abuse or neglect, and

(2) with PSFC's assistance, the family appears willing and able to reduce

the risk of abuse or neglect enough for the child to return home and live there safely for the foreseeable future.

(c) Priority

(1) PSFC must explore the possibility of selecting family reunification as the permanency-planning goal for every child in substitute care, except for children whose parents

(A) cannot be found,

(B) have either

(i) executed an affidavit of relinquishment as specified in the Texas Family Code, §15 03, or

(ii) had their parental rights terminated by the court, or

(C) have so severely mistreated the child or the child's siblings that any reasonable person would consider family reunification inappropriate

(2) In most cases, PSFC does not consider other permanency-planning goals for children in substitute care until there has been an opportunity to try helping the family achieve reunification

§700 1313 Permanent Placement With Relatives

(a) Relatives and friends. The Office of Protective Services for Families and Children's (PSFC's) policies for permanent placements with relatives apply to

(1) individuals related to the child by blood, adoption, or marriage, and

(2) individuals who have a significant, long-standing relationship with the child or the child's family (examples: godparents, close friends)

(b) Definition. The permanency-planning goal of placement with relatives

(1) identifies the safe and permanent living situation towards which PSFC's services are directed as the home of

(A) a relative, or

(B) a close friend of the family's, and

(2) indicates that PSFC

(A) has removed the child from his parents' home, and

(B) will provide services to the child, the relative or friend who wants

to care for the child, and the child's current substitute caregiver (if different)

(c) Selection criteria. PSFC selects placement with relatives as a child's permanency-planning goal when:

(1) PSFC has removed the child from his home to protect him from abuse or neglect,

(2) the child's parents are either unwilling or unable to reduce the risk of abuse or neglect enough for the child to return home and live there safely,

(3) a relative or close friend of the family's is willing and able to

(A) protect the child,

(B) assume responsibility for the child's care and upbringing, and

(C) either adopt the child or accept permanent managing conservatorship, and

(4) the child is willing to live with the relative or family friend.

§700 1314 Adoption

(a) Definition. The permanency-planning goal of adoption

(1) identifies the home of an adoptive family as the safe and permanent living situation towards which the Office of Protective Services for Families and Children's (PSFC's) services are directed, and

(2) indicates that PSFC

(A) has removed the child from his biological parents,

(B) will provide services to the child and the child's temporary substitute caregiver, and

(C) will try to find and prepare an adoptive family for the child.

(b) Selection criteria. PSFC selects adoption as a child's permanency-planning goal when

(1) PSFC has removed the child from his home to protect him from abuse or neglect,

(2) either

(A) the child's parents have executed an affidavit of relinquishment, or

(B) they are unwilling or unable to reduce the risk of abuse or neglect enough for the child to return home and live there safely, and

(3) either:

(A) the court has terminated the parental rights of the child's parents; or

(B) there are grounds for terminating the parents' parental rights, and doing so is in the child's best interest.

(c) Priority. Although PSFC can select adoption as a child's permanency-planning goal at any time, staff generally do not select adoption until they have tried working towards family reunification first. In most cases, when PSFC changes a child's permanency-planning goal from family reunification to adoption, the child's parents have demonstrated over a period of at least six months that they are unwilling or unable to make the changes needed to reduce the risk of abuse or neglect.

§700.1315 Alternative Long-Term Care.

(a) Definition. The permanency-planning goal of alternative long-term care:

(1) identifies the home or facility of a substitute caregiver as the safe and permanent living situation towards which the Office of Protective Services for Families and Children's (PSFC's) services are directed; and

(2) indicates that PSFC:

(A) has removed the child from his home,

(B) will provide services to the child and the child's substitute caregiver (unless the court transfers managing conservatorship to the caregiver); and

(C) has no immediate prospect of finding another permanent caregiver

(b) Selection criteria. The criteria for selecting alternative long-term care as a child's permanency-planning goal depend on the type of care under consideration. There are five possibilities:

(1) Transfer of conservatorship to the child's caregiver

(A) The Texas Department of Protective and Regulatory Services asks the court to transfer managing conservatorship to a child's caregiver if

(i) the child cannot return home safely,

(ii) the caregiver has begun to function as the child's psychological parent;

(iii) the caregiver is willing to protect, care for, and raise the child; and

(iv) the caregiver will accept managing conservatorship, but cannot or will not adopt the child.

(B) When the court appoints a child's caregiver as permanent managing conservator, the caregiver assumes all the rights and responsibilities specified in Texas Family Code, §14.02(c). Before asking the court to transfer conservatorship to the child's caregiver, the child's worker must inform the caregiver of those rights and responsibilities in writing.

(2) Long-term residential group-care for a child with severe disabilities. PSFC may select this type of long-term care as a child's permanency-planning goal if:

(A) the child cannot return home safely,

(B) adoption is not an option;

(C) the child's caregiver will not accept managing conservatorship; and

(D) the child has a permanent disability that can be managed only with intensive assistance in a residential group-care setting.

(3) Foster care with a commitment to raise the child to adulthood. PSFC may select this type of long-term care as a child's permanency-planning goal if

(A) the child cannot return home safely,

(B) adoption is not an option, and

(C) the child's foster caregiver is

(i) willing to protect, care for, and raise the child, but

(ii) unwilling to assume managing conservatorship

(4) Foster care without a commitment to raise the child to adulthood. PSFC may select this type of long-term care as a child's permanency-planning goal if

(A) the child cannot return home safely,

(B) adoption is not an option;

(C) the child's foster caregiver does not want to be the child's managing conservator; and

(D) the caregiver is currently capable of meeting the child's special needs, but cannot commit to meeting them until the child reaches adulthood.

(5) Another living arrangement. PSFC may accept another living arrangement as a child's permanency-planning goal if:

(A) the child cannot return home safely, or will not return home;

(B) adoption and transferring managing conservatorship are not options;

(C) ongoing substitute care with a qualified caregiver is not an option; and

(D) the child needs PSFC's services, but will not receive them unless PSFC accepts the reality of the child's current living arrangement.

§700.1316 Adult Living

(a) Definition. The permanency-planning goal of adult living:

(1) identifies the situation in which a youth will live when he becomes an adult as the safe and permanent living situation towards which the Office of Protective Services for Families and Children's (PSFC's) services are directed; and

(2) indicates that PSFC:

(A) has removed the youth from his home,

(B) will provide services to the youth and the youth's caregiver, and

(C) will either:

(i) try to prepare the youth to live independently as an adult, or

(ii) arrange the long-term care and support the youth will need in adulthood because of a disability

(b) Selection criteria. PSFC selects adult living as a youth's permanency-planning goal when

(1) PSFC has removed the youth from his home to protect him from abuse or neglect,

(2) the youth's parents are either unwilling or unable to reduce the risk of abuse or neglect enough for the youth to return home and live there safely.

(3) the youth is at least 14 years old, and

(4) PSFC will probably not be able to arrange a permanent placement for the youth before the youth ages out of foster care

§700 1320 Types of Placements

(a) Placement with relative caregivers

(1) Priority Relatives and family friends are usually in a better position to meet a child's needs for belonging, stability, and continuity of care than unrelated licensed caregivers. In most cases, the child knows them already, and they have an ongoing relationship with the parents that makes it easier to work towards family reunification. Accordingly, when relatives or friends of the family are willing and able to care for a child in the Texas Department of Protective and Regulatory Services' (TDPRS's) managing conservatorship, the Office of Protective Services for Families and Children (PSFC) generally prefers to place the child with them

(2) Exception When a child has important special needs that a relative caregiver cannot meet, PSFC tries to find a caregiver that can meet the child's special needs

(b) Placement with licensed caregivers When no relatives or family friends are available to care for a child in TDPRS's managing conservatorship, PSFC ordinarily places the child with a licensed foster caregiver. The possibilities include

- (1) foster family-homes,
- (2) family group-homes,
- (3) residential group-care facilities,
- (4) emergency shelters, and
- (5) facilities under the authority of other state agencies

(c) Independent living arrangements.

(1) Authorized arrangements

(A) Definition An authorized independent-living arrangement consists of a residential arrangement in which a youth lives independently of a foster caregiver as part of the youth's planned preparation for adult living

(B) When appropriate An authorized independent-living arrangement may be appropriate if

(i) the youth is 16 years or older, and

(ii) the arrangement is a planned aspect of the youth's participation in the preparation-for-adult-living program

(2) Unauthorized arrangements

(A) Definition An unauthorized independent-living arrangement consists of a residential situation in which a youth lives independently without the permission of TDPRS or the court

(B) TDPRS's role When a youth in TDPRS's managing conservatorship begins living in an unauthorized independent-living arrangement, TDPRS cannot approve or pay for the arrangement. The youth's worker, however, must try to remain involved enough in the youth's plans to ensure the youth's safety and welfare

§700 1321 Types of Licensed Caregivers

(a) Foster family-homes

(1) Definition A foster family-home is the private home of a family that has been trained and appropriately licensed or verified to provide foster care for as many as six children at a time, including the family's own children

(2) When appropriate Foster family-homes are appropriate for children of all ages who can take part in family life and live in the community without danger to themselves or others

(3) Licensing To qualify for the placement of children in the Texas Department of Protective and Regulatory Services' (TDPRS's) managing conservatorship, a foster family-home must be

(A) trained and verified by the Office of Protective Services for Families and Children (PSFC),

(B) independently licensed by the Office of Child-Care Licensing (CCL), or

(C) trained and verified by a CCL-licensed child-placing agency

(4) Types of care Depending on their licensure, foster family-homes can provide any of the four types of care specified in §700 1322 of this title (relating to Types of Care)

(b) Family group-homes

(1) Definition A family group-home is a residential care facility whose

staff have been trained and appropriately licensed or verified to provide foster care for 7 to 12 children at a time

(2) When appropriate Family group-homes are appropriate for children and adolescents who

(A) need experience in living with groups,

(B) share a need for major services that group-living will help to support (examples: maternity care, vocational planning and training),

(C) have physical, mental, or emotional disabilities requiring specialized services within the capabilities of a group-home, or

(D) need to make the transition from an institutional or therapeutic setting to a setting in which they can begin learning to live more self-sufficiently

(3) Children under five Children under five must not be placed in family group-homes unless the placement represents the only way to meet a child's special needs (examples: placement with siblings, proximity to the child's parents)

(4) Licensing To qualify for the placement of children in TDPRS's managing conservatorship, a family group-home must be

(A) trained and verified by PSFC,

(B) independently licensed by CCL, or

(C) trained and verified by a CCL-licensed child-placing agency

(5) Types of care Depending on their licensure, family group-homes can provide any of the four types of care specified in §700 1322 of this title (relating to Types of Care)

(c) Residential group care facilities

(1) Definition A residential group-care facility is a facility that is licensed to provide foster care for 13 or more children at a time

(2) When appropriate Group-care facilities are appropriate for

(A) emergency foster-care placements while a child's and family's needs are being assessed,

(B) temporary placements in which siblings need to be kept together while their service plans are being developed;

(C) children who have physical, mental, or emotional disabilities requiring specialized services that are within the capabilities of the group-care facility under consideration,

(D) children for whom peer relationships and group-living have more value than living in a family-home or a group-home;

(E) children who need the structure, controls, and planned socialization that an institution normally provides to develop the basic personal and interpersonal skills they must have to begin living in a family-home, in a group-home, or independently;

(F) teenagers who would react adversely to living in a family-like setting

because they are trying to free themselves from close family ties; and

(G) teenagers whose conflicts with authority would be disruptive in a foster family-home.

(3) Limitations.

(A) Facilities on probation PSFC does not place children in group-care facilities that are on probation with CCL.

(B) Children under five PSFC does not place children under five in group-care facilities unless doing so represents the only way to meet a particular child's special needs (examples: placement with siblings, proximity to the child's parents).

(C) Closing for the holidays If a group-care facility closes for a period of holidays, PSFC must ensure that the children it has placed there stay with other caregivers until the facility reopens.

(4) Licensing To qualify for the placement of children in TDPRS's manag-

ing conservatorship, a residential group-care facility must be independently licensed by CCL

(5) Types of care. Depending on their licensure, group-care facilities can provide any of the four types of care specified in §700.1322 of this title (relating to Types of Care).

(d) Emergency shelters.

(1) Definition. An emergency shelter is a residential group-care facility that CCL has licensed to provide emergency shelter for children

(2) When appropriate Emergency shelters are appropriate for children who need emergency placements Shelters that function as assessment centers are particularly appropriate for children with special needs

(3) Length of stay If a child's stay in an emergency shelter must exceed the time frames specified in the following chart, a supervisor must approve an extension of the placement, and the child's worker must document the reasons for extending it in the child's case record

Child's Age	Maximum Length of Stay
Five or older	Thirty days.
Under 5	Five workdays - unless the child is in the shelter with <ul style="list-style-type: none"> • a sibling who is 5 or older, or • a parent under 18.
Less than 12 months	Four days (96 hours) - unless the infant is in the shelter with a parent under 18.
Under 5, or less than 12 months old with a qualified parent or sibling.	Thirty days.

(4) Type of care Of the four types of care specified in §700.1322 of this title (relating to Types of Care), emergency shelters provide only emergency care.

(e) Facilities under the authority of other state agencies. When appropriate, the court may order a child in TDPRS's managing conservatorship to be placed in a foster-care facility operated or regulated by

(1) the Texas Youth Commission,

(2) the Texas Juvenile Probation Commission;

(3) the Texas Department of Mental Health and Mental Retardation,

(4) the Texas Education Agency;

(5) the Texas Department of Health,

(6) the Texas Commission on Alcohol and Drug Abuse,

(7) the Texas Commission for the Blind, or

(8) the Texas School for the Deaf

§700.1322 Types of Care

(a) Emergency care

(1) Definition Emergency care consists of the temporary foster care provided to a child immediately after removal when there is not enough time to find a nonemergency caregiver

(2) When appropriate The Office of Protective Services for Families and

Children (PSFC) places children in emergency care

(A) when a child is removed from his home and there is not enough time to explore the issues pertinent to finding an appropriate caregiver, and

(B) when a child's current placement is disrupted and it is not possible to find another caregiver immediately.

(3) Duration Emergency foster-care placements are not intended to last long As soon as a child is placed in emergency care, the child's worker must make a concerted effort to find a more lasting placement unless there is an exceptional reason for not doing so Whenever a child's stay in an emergency-care placement

must exceed 30 days, a supervisor must approve the extended stay

(4) Around-the-clock availability Every region must ensure that emergency foster-care services are available 24 hours a day, seven days a week

(5) Types of providers

(A) In most cases, emergency foster care must be provided by a caregiver that is specifically licensed to provide emergency foster care To be so licensed, the caregiver must be

(i) an emergency shelter (or assessment center),

(ii) a foster family-home,

(iii) a family group-home,

or

(iv) a group-care facility.

(B) In some cases, emergency foster care can also be provided by an emergency residential-care facility that is exempt from licensure (examples hospitals, juvenile detention centers)

(b) Basic care

(1) Definition Basic care consists of the foster care provided to every child whom PSFC places into foster care at level-of-care (LOC) 01 or 02

(2) When appropriate. Basic care is appropriate for children

(A) whose general functioning is adequate,

(B) whose problems are transient, and

(C) who need

(i) a normal home environment;

(ii) routine supervision, and

(iii) occasional guidance and discipline.

(3) Types of providers Basic care can be provided only by

(A) foster family-homes,

(B) family group-homes, and

(C) group-care facilities

(c) Therapeutic care

(1) Definition Therapeutic care consists of structured, supportive foster care

and therapeutic services provided to children with professionally identified emotional or behavioral problems by foster family-homes, family group-homes, and group-care facilities that have been licensed or verified to provide therapeutic services to children in their care

(2) When appropriate Therapeutic care is appropriate for children with emotional or behavioral problems who need

(A) structured, supportive care and occasional therapeutic counseling at

(i) LOC 02 if TDPRS separately contracts for the therapeutic services, or

(ii) LOC 03 if the caregiver provides or contracts for the therapeutic services, or

(B) a structured individual-treatment program and regular therapeutic counseling at LOC 04, 05, or 06

(d) Supportive care

(1) Definition Supportive care consists of specialized supportive care and services provided to children who are medically fragile, mentally retarded, or developmentally delayed by foster family-homes and family group-homes that have been licensed or verified to care for children who

(A) have primary medical needs,

(B) are mentally retarded or developmentally delayed (requiring "habilitative" care), or

(C) display autistic behavior, as specified in the Office of Child-Care Licensing's *Minimum Standards for Child-Placing Agencies*

(2) When appropriate Supportive care is appropriate for children who are so medically fragile, mentally retarded, or developmentally delayed that they have substantial limitations in at least three of the following major areas of life-activity

(A) self-care,

(B) mobility,

(C) communication,

(D) learning,

(E) self-direction,

(F) capacity for independent living, and

(G) capacity for economic independence

§700 1323 Subsequent Placements.

(a) Notifying the child's parents

(1) A child's worker must notify the child's parents whenever there is a change in the child's placement, unless the parents

(A) cannot be found;

(B) have had their parental rights terminated, or

(C) have executed an affidavit of relinquishment as specified in the Texas Family Code, §15 03

(2) If the safety of the child or the caregiver is likely to be compromised by giving the parents information that could be used to find the caregiver, the worker must ensure that the notification excludes such information

(b) Administrative review of foster parent concerns about new placements

(1) Keeping foster parents informed When a child is in a foster family-home or a family group-home that the Office of Protective Services for Families and Children (PSFC) has trained and verified, and the Texas Department of Protective and Regulatory Services (TDPRS) plans to remove the child from the home and make a different placement under the child's permanency plan, the child's worker must advise the foster parents of the planned placement unless the child's safety is at risk

(2) Resolving differences If the child's foster parents have concerns about the removal or the planned placement, PSFC staff must confer with them and try to resolve their concerns informally.

(3) Administrative review If the foster parents still disagree with PSFC's plans for removing a child from their care after discussing their concerns with staff informally, they may request a formal administrative review PSFC must conduct an administrative review at the request of a PSFC-verified foster family whenever the following conditions are satisfied.

(A) the foster parents have requested the review within ten days of receiving PSFC's notification about the decision to place the child;

(B) the placement decision has not been mandated by the court,

(C) the placement decision is not the result of an investigation of a report of child abuse or neglect in the foster home, and

(D) the foster parents' concerns address the child's permanency plan

(4) Expeditious conduct of the review When PSFC receives a foster-parent request for an administrative review, staff must conduct the review as expeditiously as possible. PSFC's implementation of the child's placement plan, however, must not be delayed by the review

(5) Regional procedures Every region must

(A) establish written procedures for conducting administrative reviews of placement decisions in response to requests from foster parents whom PSFC has trained and verified, and

(B) give a copy of its review procedures to each PSFC-verified foster home in its jurisdiction. At its own discretion, a region may also give a copy of its review procedures to any foster home that has been licensed by the Office of Child-Care Licensing (CCL) or verified by a CCL-licensed child-placing agency, if the home is caring for a child in IDPRS's managing conservatorship

§700 1330 The Case Plan

(a) Purpose The Office of Protective Services for Families and Children (PSFC) establishes detailed case plans for providing services to children in substitute care and to their families. PSFC's purposes in doing so are to

(1) establish a structured, time-limited process for providing services, and

(2) ensure that services and activities progress as quickly as possible towards

(A) the child's safe return home, or

(B) another permanent placement if the child cannot return home safely

(b) Components The case plan for each child in substitute care includes the child's service plan and, when applicable, the family's service plan

(c) Revisions PSFC revises each child's case plan as often as necessary to reflect changes in the case. At a minimum, PSFC must revise each child's case plan every six months

§700 1331 The Child's Service Plan

(a) Time frame Within 45 days after a child's placement in substitute care, the Office of Protective Services for Families and Children (PSFC) must develop a written plan for services to the child. As specified in §700 1330(b) of this title (relating to The Case Plan), the child's service plan is part of the case plan

(b) Required content The child's service plan must

(1) document the continuing need for the child's placement in substitute care,

(2) identify the caregiver with whom the child has been placed,

(3) document the appropriateness of the type of substitute care the caregiver is providing,

(4) document that, of the available settings consistent with the best interest and needs of the child, the setting of the current placement is both

(A) the least restrictive, and

(B) the one in closest proximity to the parents' home,

(5) either

(A) document that the current placement is close enough to the child's school to allow the child to continue to attend the same school, or

(B) explain why not,

(6) specify the expected outcomes of the placement and the estimated length of stay,

(7) identify the child's needs and specify how they will be met while the child is in substitute care,

(8) identify all the services that will be provided to help the child's caregiver meet the child's needs, and

(9) identify the child's permanency-planning goal, and specify

(A) the actions that will be taken to achieve it,

(B) the services that will be provided to prepare the child for it,

(C) the obstacles that could prevent its achievement, and

(D) the actions that will be taken to overcome those obstacles,

(10) if the child is 16 or older, identify the services being provided to prepare the child to live independently as an adult, and

(11) indicate how PSFC will ensure compliance with all specific orders of the court regarding the child

(c) Participation PSFC must ask the following individuals to participate in developing the child's service plan

(1) the child's worker in the conservatorship unit,

(2) the worker supervising the placement, if different from the worker in the conservatorship unit,

(3) the child, unless the child is too young to participate,

(4) the child's parents, unless they

(A) cannot be found,

(B) have had their parental rights terminated, or

(C) have

(i) executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03, and

(ii) indicated that they do not want to participate in the child's case,

(5) the substitute caregiver,

(6) the attorney or guardian *ad litem*, or both, and

(7) when appropriate, other professionals and volunteers who are providing services to the child or the child's family

(d) Distribution PSFC must send a copy of those parts of the child's service plan that identify services to be provided under the plan to each individual who has participated in developing the child's service plan as specified in subsection (c) of this section

§700 1332 The Family's Service Plan

(a) Time frame Within 45 days after a child's placement in substitute care, the Office of Protective Services for Families and Children (PSFC) must develop a written plan for services to the family unless

(1) the child's parents

- (A) cannot be found, or
- (B) have:
 - (i) executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03; and
 - (ii) indicated that they do not want to participate in the child's case, or
- (2) the court has:
 - (A) terminated the parents' parental rights; or
 - (B) appointed the Texas Department of Protective and Regulatory Services (TDPRS) as permanent managing conservator without terminating parental rights.
- (b) Part of the case plan As specified in §700 1330(b) of this title (relating to The Case Plan), the family's service plan is part of the case plan.
- (c) Required content The family's service plan must:
 - (1) include an assessment, developed with the family, of family problems and strengths related to the risk of child abuse or neglect;
 - (2) identify the changes needed to reduce the level of risk;
 - (3) specify the tasks the family must complete during the effective period of the plan in order to make the needed changes,
 - (4) describe the services PSFC must provide to help the family complete those tasks; and
 - (5) indicate how PSFC will evaluate the family's completion of those tasks.
- (d) Parents' participation
 - (1) The worker must meet and confer with the parents to develop the family's service plan unless the parents refuse to cooperate.
 - (2) If the parents refuse to cooperate, the worker must develop the family's service plan without them. When this occurs, the worker must document in the plan
 - (A) the reasons for the parents' lack of participation, and
 - (B) the worker's attempts to secure their participation.
 - (3) After completing the family's service plan, the worker asks the parents to sign it and gives them a copy of it

§700 1333 Case Plan Review.

- (a) Time frame
 - (1) The Office of Protective Services for Families and Children (PSFC) must review each child's case plan at least every six months to determine the continuing need for and appropriateness of the placement
 - (2) PSFC must review the child's service plan of each child in therapeutic foster care at least every 90 days.
- (b) What the review must cover Each case plan review must
 - (1) cover
 - (A) the child's service plan, and
 - (B) the family's service plan unless the child's parents
 - (i) cannot be found;
 - (ii) have had their parental rights terminated, or
 - (iii) have
 - (I) executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03, and
 - (II) indicated that they do not want to participate in the child's case, and
 - (2) ensure that the required content of both service plans is reconsidered point by point and updated wherever necessary
- (c) Required content. At a minimum, the written review must.
 - (1) describe the family's progress towards making the changes needed to reduce the level of risk,
 - (2) explain the continued need for substitute care,
 - (3) document the appropriateness of
 - (A) the child's placement with the caregiver, and
 - (B) the type of care provided by the caregiver,
 - (4) either
 - (A) document that, of the available settings consistent with the best interest and needs of the child, the setting of the current placement is both

- and
 - (i) the least restrictive,
 - (ii) the one in closest proximity to the parents' home, or
- (B) explain why not;
 - (5) describe the services that have been provided under the case plan, and their appropriateness to the child's and the parents' needs,
 - (6) describe any new needs identified since the last plan was developed, and the plan for meeting them;
 - (7) set forth the plan for complying with judicial determinations regarding the child or the parents,
 - (8) identify any changes in the expected outcomes of the placement or in the estimated length of stay, and
 - (9) document the worker's reassessment of the child's permanency plan, including
 - (A) the decision to continue or to change the current permanency-planning goal, and the reasons for doing so,
 - (B) the actions that will be taken to achieve the goal, and the services that will be provided to prepare the child for it,
 - (C) the obstacles that could prevent the goal's achievement and the actions that will be taken to overcome them, and
 - (D) the date projected for achieving permanency
- (d) Participation PSFC must ask the individuals who participated in the development of the most recent version of the child's service plan to participate in the case plan review. If any individuals specified in §700 1331 of this title (relating to The Child's Service Plan) did not participate in developing the most recent version of the child's service plan, PSFC may ask them also to participate in the case plan review
 - (e) Parents' participation.
 - (1) PSFC must ensure that the child's parents have an opportunity to participate in every case plan review unless the parents.
 - (A) cannot be found,
 - (B) have had their parental rights terminated, or

(C) have

(i) executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03; and

(ii) indicated that they do not want to participate in the child's case

(2) If a child's parents do not participate in a particular review, the worker must document in the case record

(A) either

(i) how and when the parents were notified of the review, or

(ii) why they were not notified, and

(B) why they did not participate

§700.1334 Case Planning in Subsequent Placements

(a) Time frame Within 30 days after transferring a child who is already in substitute care to a new placement, the child's worker must revise those parts of the case plan that provide information about the placement

(b) Minimum documentation At a minimum, the worker must document the placement's

(1) appropriateness,

(2) comparative restrictiveness, and

(3) proximity to

(A) the parents' home, and

(B) the child's school

(c) Caregiver's copy After revising the case plan, the worker must give the new caregiver a complete copy of the child's current service plan

§700.1340 Special Issues

(a) Contact between the parents and the child When a child in the Texas Department of Protective and Regulatory Services' (TDPRS's) managing conservatorship is in substitute care, the child's parents and the child have a right to maintain regular contact with each other unless

(1) the court restricts their contacts, or

(2) the parents have

(A) executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03, or

(B) had their parental rights terminated by the court

(b) When a child travels

(1) Whenever a child in TDPRS's managing conservatorship travels outside the state or the country, the court must approve the plan for the child's travel. To secure the court's approval, the worker

(A) notifies the court of the pending trip in writing, and

(B) advises the court that the Office of Protective Services for Families and Children (PSFC) will consider the plan for the child's travel approved if the court does not specifically object to it

(2) If the court responds, the worker places a copy of the court's response in the child's record. If the court does not respond, the worker places a copy of the written notification to the court in the case record

(c) Discipline Children in the department's managing conservatorship must be treated with respect and dignity. The primary purpose of discipline must be to encourage appropriate behavior, not to punish the child. Discipline must suit the particular needs and circumstances of each child, and it must take into account the child's age, developmental level, specific misbehavior, previous reaction to discipline, and history, including any history of physical or emotional abuse. No child in the department's managing conservatorship may be deprived of basic necessities or subjected to cruel, harsh, unusual, or unnecessary punishment

(d) Disaster plans

(1) Every PSFC region must prepare a regional disaster plan and give a copy of it to

(A) PSFC's field operations manager, and

(B) every TDPRS-paid foster caregiver in the region

(2) The plan must

(A) document the region's plans for evacuating children in TDPRS-paid foster care if a disaster occurs that requires evacuation, and

(B) specify what the region expects the children's caregivers to do in such a disaster to ensure the children's safety

(3) If a foster caregiver evacuates children in TDPRS's managing conservatorship during a disaster, the caregiver must notify PSFC of each child's whereabouts and condition as soon as possible after the evacuation. Every region must advise its caregivers in writing that the caregivers can call the child abuse hotline (1-800-252-5400) to complete such notifications

§700.1341 Requesting Termination of Parental Rights The Texas Department of Protective and Regulatory Services does not ask the court to terminate the parental rights of a child's parents until all three of the following conditions are satisfied

(1) the child's worker has determined that

(A) the parents are unwilling or unable to make the changes needed to reduce the risk of abuse or neglect,

(B) it is neither in the child's best interest nor feasible to transfer conservatorship to relatives, and

(C) it is in the child's best interest to

(i) sever the parent-child relationship, and

(ii) either place the child for adoption or pursue another permanency plan that entails termination of parental rights

(2) one or more of the conditions for terminating parental rights under Chapter 15 of the Texas Family Code are satisfied,

(3) if the child has two legal parents, it is feasible to terminate the rights of both

§700.1342 Presenting Records to Prospective Adoptive Parents Before Placing a Child for Adoption

(a) As specified in Texas Family Code (TFC), §16.032, the Texas Department of Protective and Regulatory Services (TDPRS) must give a prospective adoptive child's Health, Social, Educational, and Genetic History (HSEGH) report to the prospective adoptive parents

(b) The worker must present the HSEGH report to the prospective adoptive parents and discuss it with them at least five workdays before their first meeting with the child. If the prospective adoptive parents already know the child, the worker must present and discuss the HSEGH report when the home study is initiated

(c) To document that the prospective adoptive parents have received the HSEGH report and discussed its contents with the worker, the worker must have them sign and date the last page of a TDPRS copy of the report when they receive it, and initial each preceding page

(d) As specified in §700.1343 of this title (relating to Deleting Confidential Information Before Releasing a Child's Records to Authorized Parties), before presenting the HSEGH report to the prospective adoptive parents, the Office of Protective Services for Families and Children (PSFC) must delete identifying information from

(1) the copy of the report that will be given to them, and

(2) the TDPRS copy that they will be asked to sign, date, and initial

(e) If the worker and the prospective adoptive parents initially decide to proceed with the placement based on the HSEGH report and on any other information that the department has provided, the worker must then give the prospective adoptive parents an opportunity to review TDPRS records pertaining to the child's history. This review must take place before the child is placed with the prospective adoptive parents. To protect the confidentiality of the persons specified in §700.1343 of this title (relating to Deleting Confidential Information Before Releasing a Child's Records to Authorized Parties), PSFC must delete identifying information from the child's records before letting the prospective adoptive parents review them. The prospective adoptive parents must review the records in a supervised setting with a qualified staff member available to answer questions

(f) If the placement is subsequently cancelled or disrupted, the adoptive parents must return their copy of the HSEGH report to TDPRS. The adoptive parents must also return all other written information that TDPRS has released to them regarding the child's history, including copies of records released under the TFC, §§16.09 and 34.08, if the placement is cancelled or disrupted after the adoptive parents receive those records.

§700.1343 Deleting Confidential Information Before Releasing a Child's Records to Authorized Parties Before the Texas Department of Protective and Regulatory Services (TDPRS) presents or releases a child's Health, Social, Educational, and Genetic History (HSEGH) report, or case records pertaining to the child's history, to any of the parties specified in Texas Family Code, §§16.09, 16.032, and 34.08, TDPRS must delete identifying information about the following persons from the copies of the HSEGH report and the case records that are presented or released

(1) Everyone who reported the child's abuse or neglect To keep the identities of those who reported the child's abuse or neglect confidential, staff must delete their names, references to their relationship to the child and family, and information indicating how they can be located

(2) The child's biological family. To keep the identities of the child's biological parents and siblings confidential, staff must delete their last names, social security numbers, places of employment, and addresses

(3) Previous adoptive family To keep the identities of members of the child's previous adoptive family (if any) confidential, staff must delete their last names, social security numbers, places of employment, and addresses Staff must also remove documentation pertaining to the previous adoptive home study

(4) Other TDPRS clients Staff must delete the names, addresses, and social security numbers of individuals identified as TDPRS clients (examples another child living in the prospective adoptive child's foster home, a client who attended therapy or training with the prospective adoptive child) If the child already knows a client's first name, staff delete only the client's last name and address

§700.1350 Special Services

(a) Day care for children in foster homes that the Office of Protective Services for Families and Children (PSFC) has verified Children in the Texas Department of Protective and Regulatory Services' (TDPRS's) managing conservatorship who have been placed in foster family-homes and family group-homes that PSFC has trained and verified may receive TDPRS-paid day-care services from licensed and registered day-care providers if

(1) regional funds are available to pay for the services, and

(2) the services meet the child's and the foster family's needs

(b) Contraceptive services Any child in TDPRS-paid foster care may request and receive any contraceptive service except sterilization without the consent of the child's parents, caregivers, or managing conservator

§700.1351 Medical and Dental Services for Children in Substitute Care

(a) The Texas Department of Protective and Regulatory Services' (TDPRS's) general responsibilities The Office of Protective Services for Families and Children (PSFC) must ensure that children in TDPRS-paid foster care receive all the med-

ical and dental services they need. Each child's medical and dental care must include

(1) emergency treatments whenever necessary,

(2) timely examinations and treatments of nonemergency injuries and illnesses, and

(3) regular preventive care appropriate to the child's age and condition, including immunizations and tuberculin (TB) tests

(b) Informing the court and the parents

(1) Basic requirement. PSFC must keep the court, the child's attorney ad litem, and the child's parents informed of the occurrence, treatment, progress, and resolution of every serious medical problem that the child experiences

(2) Exception PSFC does not notify a child's parents about the child's medical problems if the parents

(A) cannot be found,

(B) have had their parental rights terminated, or

(C) have executed an affidavit of relinquishment as specified in the Texas Family Code, §15.03

(c) Consent Whenever PSFC places a child in substitute care, the child's worker must give the caregiver written authorization to consent to medical treatment for the child After receiving PSFC's written authorization, the caregiver can consent to the child's medical treatments only as specified in paragraphs (1)-(3) of this subsection

(1) Emergency care

(A) Necessary conditions In most medical emergencies, a child's substitute caregiver may consent to the child's medical care only if

(i) a physician, a dentist, or a mental-health professional orders the care, and

(ii) the child's worker or the worker's supervisor cannot be contacted

(B) Exception A child's caregiver has the authority to secure medical care immediately if there is not enough time to call PSFC first or if a telephone is not available

(C) Notification of PSFC

Regardless of the circumstances of the caregiver's consent, the caregiver must notify PSFC of the child's emergency treatment:

(i) immediately if possible; or

(ii) within 24 hours after the initial treatment.

(2) Basic nonemergency care

(A) Medicaid providers

(i) The caregiver's authority If a provider accepts Medicaid, the child's caregiver may directly consent to the provider's nonemergency medical examinations and treatments of the child

(ii) Exception A substitute caregiver does not have the authority to consent to major nonemergency treatments as defined in paragraph (3) of this subsection

(B) Non-Medicaid providers

(i) Limitation of the caregiver's authority If a provider does not accept Medicaid, the child's caregiver must arrange for the child's worker or the worker's supervisor to consent to the provider's nonemergency medical examinations and treatments of the child

(ii) Exception A substitute caregiver may directly consent to an examination or treatment provided by a non-Medicaid provider if

(I) the procedure does not constitute a major nonemergency medical treatment as defined in paragraph (3) of this subsection, and

(II) the cost of the procedure will be covered

(-a-) through a county medical-services agency,

(-b-) under health insurance provided through the substitute caregiver, or

(-c-) by the caregiver himself

(3) Major nonemergency treatments

(A) The conservatorship unit's consent If a child in substitute care needs to undergo a major nonemergency medical treatment, the child's conservatorship unit must arrange the treatment and consent to it

(B) Definition Any medical treatment or procedure that may be threatening to the child's life or long-term health

constitutes a major treatment (Examples: Surgeries that require general anesthesia, blood transfusions, procedures that might be dangerous in light of the child's medical history, procedures that the child's physician considers dangerous)

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 15, 1994

TRD-9442405

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

Proposed date of adoption September 1, 1994

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

◆ ◆ ◆
Subchapter O. Foster and
Adoptive Home Develop-
ment

• 40 TAC §700.1502

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendment is also proposed under the Texas Family Code (TFC), Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. The amendment is also proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDCPS.

The amendment implements TFC, §14.02, concerning the rights, privileges, duties, and powers of a conservator.

§700.1502 *Adoptive Home Screening* The Texas Department of Protective and Regulatory Services' (TDCPS's) [(PRS')] policies for screening and approval of adoptive homes are as follows:

(1)-(12) (No change)

(13) Discipline

[(A)] The primary purpose of discipline must be to encourage appropriate behavior, not to punish the child. Children in the department's managing conservatorship must be treated with respect and dignity. Discipline must suit the particular needs and circumstances of each child, and it must take into account the child's age, developmental level, specific misbehavior, previous reaction to discipline, and

history, including any history of physical or emotional abuse. No child in the department's managing conservatorship may be deprived of basic necessities or subjected to cruel, harsh, unusual, or unnecessary punishment.]

[(B)] TDCPS [(PRS)] evaluates applicants based on their willingness and ability to

[(A)] [(i)] recognize and respect differences in children, especially children who have been abused or neglected,

[(B)] [(ii)] employ methods of discipline that suit the particular needs and circumstances of each child, and

[(C)] [(iii)] employ methods of discipline that conform to the policies specified in §700.1340(c) of this title (relating to Special Issues) [this paragraph].

(14) (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 June 15, 1994

TRD-9442404

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

Proposed date of adoption September 1, 1994

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

◆ ◆ ◆
Subchapter Q. Purchased Pro-
tective Services

• 40 TAC §700.1764

(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 Department of Protective and Regulatory Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The repeal is also proposed under the Texas Family Code (TFC), Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. The repeal is also proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions,

programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS

The repeal implements TFC, §14.02, concerning the rights, privileges, duties, and powers of a conservator.

§700.1764. Day Care for Foster Children

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

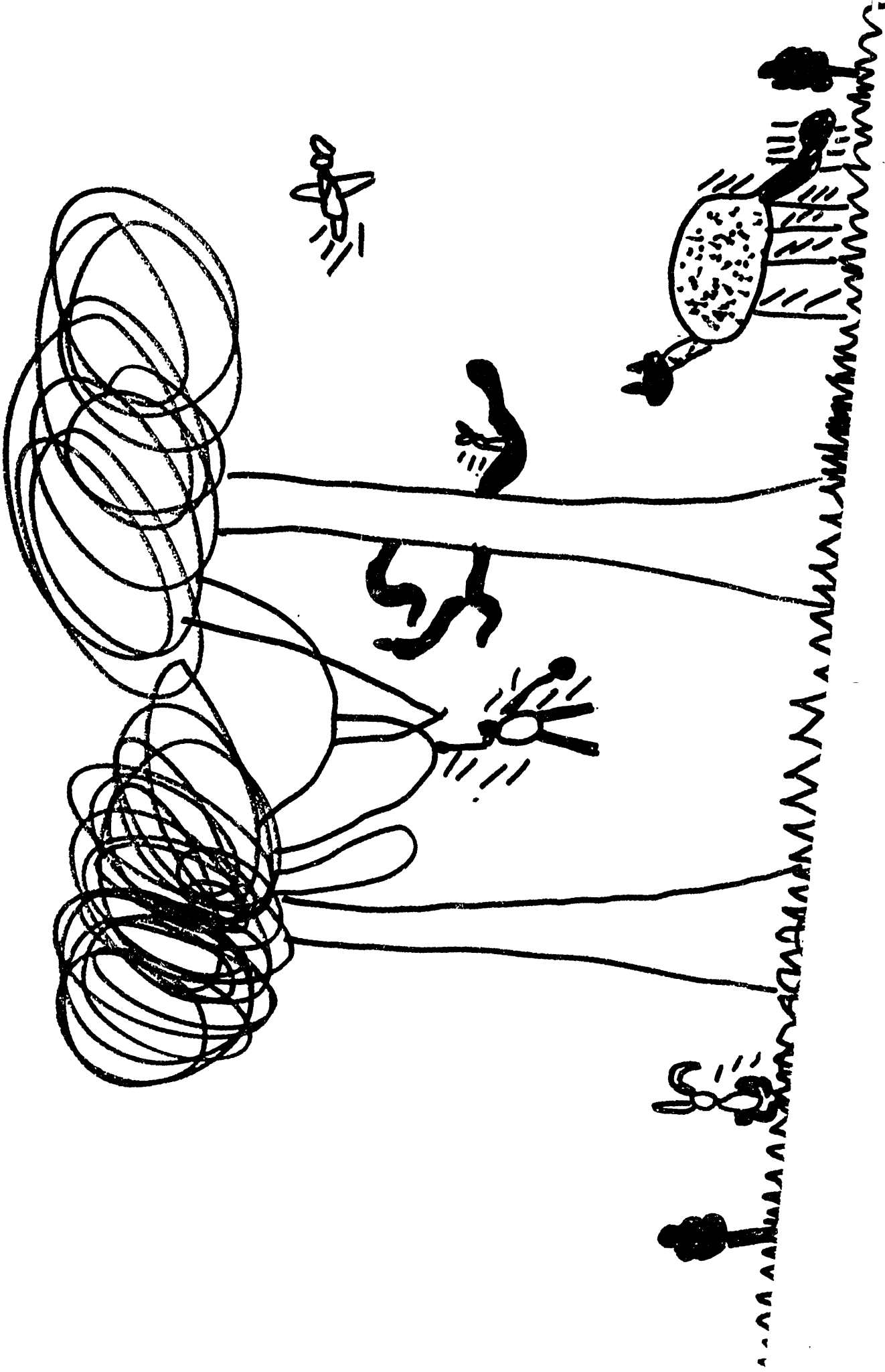
Issued in Austin, Texas, on June 15, 1994

TRD-9442407 Nancy Murphy
 Section Manager, Media
 and Policy Services
 Texas Department of
 Human Services

Proposed date of adoption September 1, 1994

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





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 7. BANKING AND SECURITIES

Part VI. Credit Union Management

Chapter 95. Texas Share Guaranty Credit Union

General

- 7 TAC §§95.2, 95.4, 95.6

The Credit Union Management has withdrawn from consideration for permanent adoption a proposed repeal to §§95.2, 95.4, and 95.6, which appeared in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1310). The effective date of this withdrawal is June 17, 1994.

Issued in Austin, Texas, on June 17, 1994

TRD-9442591 Robert W. Rogers
 Commissioner
 Credit Union Department

Effective date. June 17, 1994

For further information, please call (512)
837-9236

Powers

- 7 TAC §95.101

The Credit Union Department has withdrawn from consideration for permanent adoption a proposed repeal to §95.101, which appeared in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1310). The effective date of this withdrawal is June 17, 1994.

Issued in Austin, Texas, on June 17, 1994.

TRD-9442592 Robert W. Rogers
 Commissioner
 Credit Union Department

Effective date. June 17, 1994

For further information, please call (512)
837-9236

Finance and Accounts

- 7 TAC §§95.306, 95.307, 95.309

The Credit Union Department has withdrawn from consideration for permanent adoption a proposed repeal to §§95.306, 95.307, and 95.309, which appeared in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1311). The effective date of this withdrawal is June 17, 1994.

Issued in Austin, Texas, on June 17, 1994.

TRD-9442596 Robert W. Rogers
 Commissioner
 Credit Union Department

Effective date. June 17, 1994

For further information, please call (512)
837-9236

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 187. Job Training Partnership Act Rules

Subchapter A. General Provi- sions and Definitions

- 10 TAC §§187.101-187.105

The Texas Department of Commerce has withdrawn from consideration for permanent adoption a proposed new §§187.101-187.105, which appeared in the March 25, 1994, issue of the *Texas Register* (19 TexReg 2117). The effective date of this withdrawal is June 15, 1994.

Issued in Austin, Texas, on June 10, 1994

TRD-9442435 Deborah C. Kastin
 Executive Director
 Texas Department of
 Commerce

Effective date. June 15, 1994

For further information, please call (512)
320-9630

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners

Chapter 80. Practice of Chiropractic

- 22 TAC §80.3

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed new §80.3, which appeared in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2603). The effective date of this withdrawal is July 11, 1994.

Issued in Austin, Texas, on June 20, 1994

TRD-9442720 Patte B. Kent
 Executive Director
 Texas Board of
 Chiropractic Examiners

Effective date. July 11, 1994

For further information, please call (512)
305-6700

Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 573. Rules of Professional Conduct

General Professional Ethics

- 22 TAC §573.6

The Texas Board of Veterinary Medical Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §573.6, which appeared in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3415). The effective date of this withdrawal is June 17, 1994.

Issued in Austin, Texas, on June 14, 1994

TRD-9442660 Judy C. Smith
 Administrative Assistance
 Texas Board of Veterinary
 Medical Examiners

Effective date. June 16, 1994

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

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

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

Subchapter K. Treatment
Guidelines

• **28 TAC §134.1000**

The Texas Workers' Compensation Commission has withdrawn from consideration for permanent adoption a proposed new §134.1000, which appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4087). The effective date of this withdrawal is June 14, 1994.

Issued in Austin, Texas, on June 14, 1994

TRD-9442350

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Effective date June 14, 1994

For further information, please call (512)
440-3700



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 1. ADMINISTRATION

Part V. General Services Commission

Chapter 113. Central Purchasing Division

Purchasing

• 1 TAC §113.15, §113.18

The General Services Commission adopts an amendment to §113 15, concerning invoicing and payment and new §113 18, concerning auditing of purchase documents and payment vouchers, without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3397)

The amendment to §113 15 is adopted to provide that prompt pay provisions do not apply to bona fide disputes between a governmental entity and a vendor or contractor. The amendment to new §113 18 is necessary to conform auditing functions to the Uniform Statewide Accounting System

The adopted amendment to §113 15 and new §113 18 conform invoicing, payment and auditing functions to the Uniform Statewide Accounting System (USAS) procedures, and clarify the application of the Prompt Pay Act (Texas Government Code, Chapter 2251)

No comments were received regarding adoption of the amendment and new section

The amendment and new section are adopted under Texas Civil Statutes, Article 601b, and Texas Government Code, Chapter 2251, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purposes of the Article and Chapter

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 June 10, 1994

TRD-9442436 Judith M. Porras
General Counsel
General Services
Commission

Effective date July 6, 1994

Proposal publication date May 6, 1994

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

TITLE 7. BANKING AND SECURITIES

Part IV. Texas Savings and Loan Department

Chapter 63. Fees and Charges

• 7 TAC §63.15

The Texas Savings and Loan Department adopts new §63 15, concerning fees for open records requests, without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3401)

This rule is based on House Bill 1009, passed by the 73rd Legislature, Regular Session Section 9A(b) of this law requires each state agency to specify by rule the charges the agency will make for copies of public records

This is being done so that the public can be informed about the charges for copies of records of the Department that they have access to under the Texas Open Records Act prior to making a request for such records. It is also an attempt to have some degree of uniformity among the agencies in the level of those charges

No comments were received regarding adoption of the new section

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

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

Issued in Austin, Texas, on June 20, 1994

TRD-9442728 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date July 11, 1994

Proposal publication date May 6, 1994

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

Chapter 77. Loans, Investments, Savings, and Deposits

• 7 TAC §77.31

The Texas Savings and Loan Department adopts an amendment §77 31, concerning loan documentation, without changes to the proposed text as published in the May 6, 1994 issue of the *Texas Register* (19 TexReg 3401)

The rule as amended more closely tracks the lending and loan documentation requirements applicable to federal savings banks or associations, and state or national banks. Recent federal interagency regulations were adopted to establish the requirement for appraisals at \$250,000

The amendment deletes the specific definition of a "current" financial statement, deletes the provision requiring the board of directors of a savings bank to separately approve a specific list of acceptable appraisers, and increases the threshold for which appraisals are required for real estate loans to \$250,000

No comments were received regarding adoption of the amendment

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

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

Issued in Austin, Texas, on June 20, 1994

TRD-9442730 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date July 11, 1994

Proposal publication date May 6, 1994

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

Chapter 79. Miscellaneous

Fees and Charges

• 7 TAC §79.108

The Texas Savings and Loan Department adopts new §79.108, concerning fees for open records requests, without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3402)

This rule is based on House Bill 1009, passed by the 73rd Legislature, Regular Session Section 9A(b) of this law requires each state agency to specify by rule the charges the agency will make for copies of public records. This is being done so that the public can be informed about the charges for copies of records of the Department that they have access to under the Texas Open Records Act prior to making a request for such records

No comments were received regarding adoption of the new section

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

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

Issued in Austin, Texas, on June 20, 1994

TRD-9442727 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date July 11, 1994

Proposal publication date May 6, 1994

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

Statements of Policy

• 7 TAC §79.121

The Texas Savings and Loan Department adopts new §79.121, concerning statements of policy, without changes to the proposed text as published in the May 6, 1994 issue of the *Texas Register* (19 TexReg 3403)

While the ability of the commissioner and the Finance Commission to limit parity is important to maintain from a supervisory perspective, such limitations on parity should be intentional and very specific in order to avoid confusion. General regulations which might be interpreted as limiting the availability of parity should not have the effect of overriding this parity provision. Parity should only be overridden when it is the specific intent of the commissioner and the Finance Commission to do so. This rule is designed to clarify that

intent and procedure related to parity so that the rules applicable to savings banks will be clear and not subject to varying interpretations

This rule will describe the procedure for overriding the effect of the parity provision set forth in the Texas Savings Bank Act, §7.11. This provision differs from the parity provision in the Texas Savings and Loan Act in that it is subject to limitations and restrictions that may be prescribed by rule of the commissioner and the Finance Commission

No comments were received regarding the adoption of new section

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

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

Issued in Austin, Texas, on June 20, 1994

TRD-9442729 James L. Pledger
Commissioner
Texas Savings and Loan
Department

Effective date July 11, 1994

Proposal publication date May 6, 1994

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

Part VI. Credit Union Department

Chapter 91 Chartering, Operations, Mergers, Liquidations

Definitions

• 7 TAC §91.1

The Texas Credit Union Commission adopts the repeal of §91.1, concerning definitions, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1278)

The rule is repealed because it has been recast and renumbered

There were no comments received regarding repeal of the rule

The repeal is adopted under Texas Civil Statutes, Article 2461.1107, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD 9442537 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Changes in Corporate Status

• 7 TAC §91.1004

The Texas Credit Union Commission adopts an amendment to §91.1004, concerning conversion of charter, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1301)

The amendment deletes notification requirement to Texas Share Guaranty Credit Union since it is currently in liquidation

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-1107, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442562 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

General Rules

• 7 TAC §91.102

The Texas Credit Union Commission adopts new §91.102, concerning the definition and clarification of terms used in Credit Union Department rules, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1327). The definitions for Select Employees Groups and Special Purpose Groups were deleted, the definition for Shares and Deposits was amended to be consistent with the Act, §6.01, and the phrase "definable community of interest or" was added to the definition of Recognizable Community

The section will provide credit unions with definitions of terms used in the rules and will conform the rule number to the Act, to the extent possible

Comments were received from Dallas Teachers Credit Union, the Texas Credit Union League, and the staff of the Credit Union Department

The following is a summary of the comments by the Dallas Teachers Credit Union. The

commenter questioned whether the use of Application in the rules as defined limited the commissioner's authority to act on other matters. The commission disagrees and no change to the rule was made because legal counsel advised that the commissioner's authority is not limited by the rule. A comment indicating that the term "association" is not defined in this section even though used in the rules and does not convey the status of associations with more than 500 members implied the need for a definition. The commission disagrees that the term needed to be defined and no change was made in the rule because the term is adequately defined by the text of §91.301. Another comment asked if the quasi-regulatory oversight of a Credit Union Service Organization (CUSO) by the Credit Union Department would be reduced if an entity other than a credit union became part owner of a CUSO. The commission disagrees and the comment resulted in no change to the rule because the existing language in §91.801(c)(4) addresses regulatory oversight of CUSOs. The commission agrees with a comment that the definitions for Select Employee Groups and Special Purpose Groups were of little value because of how the rules were written. These terms were deleted from the rule as adopted.

The following is a summary of comments by the Texas Credit Union League. The commenter objected to the inclusion of terms in this rule such as Select Employee Groups and Special Purpose Groups be deleted because they are not used in the text of the rules. The commission agrees with the comment and the definitions were deleted. The commenter supported the rule, but suggested that the definition of Share and Deposits be changed to have the same meaning as the Act. The commission agrees and the definition was changed to be consistent with the text of the Act.

The following is a summary of comments by the Credit Union Department staff. The staff commented that the definition of Recognizable Community should be changed to more closely tie back to the Act. The commission agrees and the phrase "definable community of interest or" was inserted to provide clarity.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

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

Act—The Texas Credit Union Act (Texas Civil Statutes, Article 2461-1.01 et seq.)

Applicants—Incorporators and credit unions.

Application—A written request filed by an applicant with the Department seeking to incorporate, amend articles of incorporation or bylaws, deviate from standard bylaws, obtain a certificate of authority to

do business in the State of Texas or to obtain other relief for which the commission is authorized to issue a final decision or order subject to judicial review by the Act.

Commission—The Credit Union Commission.

Commissioner—The Credit Union Commissioner.

Common bond—A definable community of interest, in accordance with the articles of incorporation or bylaws of the credit union, including a community of interest based on occupation, association, or residence, and may include combinations thereof.

CUSO—An organization, the membership or ownership of which is confined or restricted to credit unions and their members or organizations of credit unions, which entity is designed primarily to serve or otherwise assist credit union operations.

Department—The Credit Union Department.

Department Newsletter—The monthly publication that serves as official notice of all applications, and by which procedures to protest applications are described.

Indirect financing—A program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

Loan to value ratio—The aggregate amount of all sums owed on an item of collateral securing a loan divided by the value of the collateral.

Manufactured home—A HUD-Code manufactured home as defined by the Texas Manufactured Housing Standards Act.

Overlap—The situation which exists when a group of persons eligible for membership in two or more state or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

Person—An individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

Protestant—A credit union that opposes or objects to the relief requested by an applicant.

Recognizable community—A geographical area which possesses such characteristics that the residents of the area share a definable community of interest or sense of identification with each other which may be based upon mutual interests, goals, community pride or other similar elements.

Improved residential property—Real property consisting of a residential dwelling having one to four dwelling units, at least one of which is occupied by the owner of

the property. This term shall also include one to four unit dwelling occupied in whole or in part by the owner on a seasonal basis.

Secured credit—A loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.

Shares and deposits—All share and deposit accounts of the credit union, the terms share account and deposit account shall have the same meaning as provided in the Act.

Title—The word "title" refers to Title 7 of the Texas Administrative Code (TAC), Banking and Securities. This volume of the TAC contains all of the Department's rules.

Unsecured credit—A loan or extension of credit upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

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 June 17, 1994.

TRD-9442538

Robert W. Rogers
Commissioner
Credit Union Department

Effective date: July 8, 1994.

Proposal publication date: February 22, 1994.

For further information, please call (512) 837-9236.

◆ ◆ ◆
• 7 TAC §91.1110

The Texas Credit Union Commission adopts new §91.1110, concerning share deposit guaranty requirements, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1302).

The section replaces Rule 95.3 and requires all state chartered credit union deposits to be insured by the National Credit Union Share Insurance Fund.

There were no comments received regarding adoption of the rule.

The new section is adopted under Texas Civil Statutes, Article 2461.11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call (512) 837-9236

Organization Procedures

• 7 TAC §§91.200, 91.204, 91.205, 91.207

The Texas Credit Union Department adopts the repeal of §91.200, 91.204, 91.205, and 91.207, concerning Interpretations, Issuance and Denial of Permits, Standard Bylaws, and Monthly Publication, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1279)

Rule §91.200 is repealed because it has been recast and renumbered, Rules §91.204 and 91.205 are repealed because they are obsolete and not needed. Rule §91.207 is repealed because the definition of Department Newsletter is included in Rule §91.102

There were no comments received regarding repeal of the rules

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442539

Robert W. Rogers
Commissioner
Credit Union Department

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call (512) 837-9236

• 7 TAC §91.203

The Texas Credit Union Commission adopts an amendment to §91.203, concerning incorporation procedures, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1279). The change in subsection (a) clarifies the timeframe for the commissioner to determine when an application is complete, the change in subsection (b) clarifies the date of publication in the Department Newsletter, the change in subsection (e) clarifies the language regarding the consideration of overlap for any federal or state credit union

The amendment clarifies the timeframe in which the commissioner must act on a completed application, the publishing date of a completed application, and the process for protesting an application

Comments were received from Dallas Teachers Credit Union and the Texas Credit Union League

The following is a summary of comments by the Texas Credit Union League. The commenter suggested that the rule should include a time period for the commissioner to determine when an application is complete. The commissioner agrees, and the rule was changed to require a written notice from the commissioner to an applicant within 30 days of receipt of an application, the written notice must include any deficiencies with the application. The commenter noted that §91.301 requires the commissioner to consider overlap in all cases, but proposed §91.206 was requiring overlap to be considered only if a protest was filed. The commission agrees that the rule was contradictory to §91.301, and a change was made to require the commissioner to consider overlapping of fields of memberships in any application to expand the field of membership.

The following is a summary of comments by the Dallas Teachers Credit Union. The commenter suggested that an application to incorporate be published in the first Newsletter subsequent to submission of an application deemed to be complete. The commission agrees and changed the rule to require publication as suggested. The commenter suggested that a time period for filing a protest should be specified in the rule. The commission disagrees, and no change was made to the rule because subsections (b), (d), and (g) of §91.206 adequately address protest of amendments of the bylaws. The commenter questioned whether a definition of "protest" was needed. The commission disagrees that a definition of "protest" was necessary, and no change to the rule was made because the context in which the word protest used in Chapter 93 of the rules provides significant clarification. The commenter noted that §91.301 requires the commissioner to consider overlap in all cases, but proposed §91.206 was requiring overlap to be considered only if a protest was filed. The commission agrees that the rule was contradictory to §91.301, and a change was made because the commissioner must consider overlap of fields of memberships in any application to expand the field of membership. The commenter questioned whether the commissioner should be required to publish a notice when the application will not be approved, notwithstanding the lack of a protest. The commission disagrees that an application should not be published just because it would not be approved. A change to the rule was not necessary because the minimal effort required to publish such applications is offset by the credit unions' right to be informed.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

§91.203 Incorporation Procedures

(a) The commissioner shall determine whether or not an application is com-

plete within thirty days of its receipt and provide written notice of the determination. The notice shall provide with reasonable specificity any deficiencies in the application

(b) Notice of complete applications to incorporate shall be published in the Department's first newsletter subsequent to a complete submission. The published notice shall describe the proposed field of membership for each application

(c) If no protest is filed, the commissioner shall approve the application upon being satisfied that the credit union, its incorporators and board of directors meet the requirements of the Act, §2.03(d)

(d) If no protest is filed and the commissioner is not satisfied that the application for incorporation should be approved, the commissioner shall serve by first class mail a preliminary written order denying the application

(e) The commissioner shall additionally consider the extent and effect of overlapping fields of membership on the applicant and existing state or federal credit unions. The commissioner may require the applicant to limit or eliminate the overlap to achieve the purposes of the Act and promote the welfare and stability of the applicant and existing state or federal credit unions. The commissioner's preliminary decision shall be in writing and served by first class mail

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 June 17, 1994

TRD-9442540

Robert W. Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

• 7 TAC §91.206

The Texas Credit Union Commission adopts an amendment to §91.206, concerning the form of the bylaws, the steps necessary to amend bylaws, and the approval process for bylaws, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1280). The change in subsection (a) clarifies that standard bylaws must be adopted by all credit unions, not just those incorporating, the change in subsection (h) provides for notification to the applicant and each protestant, the change in subsection (f) requires the commissioner to determine whether an application is complete and to provide a written notice to the applicant within 30 days of receipt, providing reasonable specificity for any deficiencies in the application

The amendment clarifies the form of bylaws, the steps necessary to amend bylaws, and the approval process for the bylaws

Comments were received from Texins Credit Union, Independent Bankers Association of Texas, Dallas Teachers Credit Union and the Texas Credit Union League

The following is a summary of comments by the Texins Credit Union. The commenter stated that the requirements which must be met by an applicant to obtain approval for an expansion of the field of membership was not adequately detailed. The commission disagrees because a significant degree of judgment and discretion must be exercised and general criteria have been established by previous commission pronouncements. No change was made to the rule. The commenter stated that the rule did not resolve the question of whether a hearing can or must be scheduled prior to a preliminary ruling by the commissioner. The commission agrees, but made no change to this rule because §93.12 was considered the appropriate area to address this concern.

The following is a summary of the comments by the Texas Credit Union League. A comment that the determination of when an application is complete should require written notice of any deficiencies after a prescribed time period. The commission agrees and amended the rule to require the commissioner to provide written notice to an applicant within 30 days of the receipt of an application. The notice must indicate any deficiencies found in the application.

The following is a summary of the comments by the Dallas Teachers Credit Union. The comment indicated that the rule did not clearly state that adoption of the standard bylaws was required of all credit unions. The commission agrees and amended the rule to clarify that incorporating credit unions and existing credit unions must adopt the Standard Bylaws for State Chartered Credit Unions. The commenter stated that the approval process appeared to require the submission of two applications when non-standard bylaw amendments are sought. The commission disagrees and indicated that subsections (c) and (e) provide sufficient guidance regarding deviations from standard bylaws and about the approval process. A comment questioning who would receive notification of the commissioner's preliminary determination resulted in a change in the rule that a written notice be directed to the applicant and to each protestant because the commission agrees with the commenter. A further comment stated that the commissioner should provide written notification if the application is determined to be incomplete. The commission agrees and amended the text of the rule to require such notice be provided within 30 days of receiving the application and that the deficiencies, if any, should be provided with reasonable specificity. The commenter stated that the publication of fields of membership of merging credit unions should be required. The commission disagrees that such publication was necessary when a continuing credit union in a merger or consolidation is not expanding its field of membership.

The following is a summary of the comments by the Independent Bankers Association of Texas. The comment opposed adoption of the rule and the method of publication for charter or branch office applications. The Association opposed the rule and indicated that publication in a newspaper of general circulation or the Texas Register of charter or branch applications should be required. The commission disagrees. The comment resulted in no change to the rule because the rules provide for effective notice of new charters or foreign credit union branch applications through the Department's Newsletter. Interested entities may subscribe to the monthly newsletter.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.206 Form of Bylaws: Amendments to Articles of Incorporation and Bylaws

(a) The Standard Bylaws for State Chartered Credit Unions, adopted by the commission in 1986 or as subsequently amended, constitute the standard form of bylaws which shall be used by credit unions and incorporators.

(b) The commissioner is expressly authorized to approve deviations from and amendments to the standard bylaws. The commissioner may approve a deviation or amendment unless the deviation or amendment violates the Act or rules of the commission.

(c) A credit union may obtain a deviation from the standard bylaws by submitting a written application to the commissioner. A request for a deviation shall be considered in the same manner as an application to amend bylaws under this section.

(d) A copy of the "Standard Bylaws for State Chartered Credit Unions" may be obtained from the Credit Union Department.

(e) Credit unions desiring to amend articles of incorporation or bylaws must submit an application to the commissioner on forms prescribed by the commissioner. The application shall include the text of the amendment, the date that the board of directors adopted the amendment, a brief statement explaining the purpose of the amendment, and information regarding the financial impact on the credit union if the amendment is approved.

(f) The commissioner shall determine whether or not an application is complete within thirty days of its receipt and provide written notice of the determination. The notice shall provide with reasonable specificity any deficiencies in the application.

(g) The commissioner shall publish notice of the application in the Department Newsletter when the application is complete. The commissioner shall allow at least 30 days after the date of the Department Newsletter in which the notice is published for any affected credit union or credit unions to respond to the application prior to taking preliminary action approving or denying the application. This subsection shall not apply to applications for standard optional field of membership provisions (1), (2), and (3) as contained in the Standard Bylaws for State Chartered Credit Unions, standard optional provision (4) with any radius up to 10 miles, or any application submitted to accomplish a supervisory merger or consolidation pursuant to the Act, unless the application encompasses a field of membership not presently served by the credit unions that are being merged or consolidated.

(h) The commissioner's preliminary determination shall be in writing and served by first class mail directed to the applicant and to each protestant.

(i) The commissioner may approve and make available to credit unions standard bylaw amendments, if

(1) the commissioner determines that the amendment is consistent with the purposes of the Act and does not violate the Act or the rules adopted under the Act, and

(2) the subject matter of the amendment is of a type which can be applied to credit unions uniformly.

(j) The commissioner shall consider approving a standard bylaw amendment pursuant to subsection (i) of this section if a request for a uniform amendment is made by 25 or more state chartered credit unions or an association with at least 25 state chartered credit unions as members.

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 9442541 Robert W. Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

Organization Procedures

• 7 TAC §91.209

The Texas Credit Union Commission adopts an amendment to §91.209, concerning penalties for late filing of reports, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1282).

The amendment establishes a late fee of \$100 per day for late filing of reports

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11 07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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

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Commissioner
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For further information, please call (512) 837-9236

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• 7 TAC §91.211

The Texas Credit Union Commission adopts an amendment to §91.211, concerning the applications for authority to do business in Texas (foreign state credit union branch office), with one change to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1282) The change requires a foreign state credit union to file a written application prior to commencing business in Texas

The amendment clearly states the requirements for foreign credit unions to establish a branch office in Texas In practice, foreign branches have not been operating prior to an application, but the rule clarifies the requirement

Comments were received from Dallas Teachers Credit Union and the Independent Bankers Association of Texas

The following is a summary of the comments by Dallas Teachers Credit Union Dallas Teachers Credit Union supported the proposed rule but suggested that the rule be more specific about when a foreign branch operation certificate must be obtained The commission agreed and the proposed rule was amended to require that an application be approved prior to commencing business in Texas

The following is a summary of the comments by the Independent Bankers Association. The commenter opposed the rule, particularly the substitution of the term "credit union" for the word "person" because the rule prevents entities other than credit unions from filing protests The commission disagrees because the primary purpose for §91.211 is to provide an orderly process for resolving conflicts between credit unions The Act limits to scope of the Department's inquiry into the effects on state or federal credit unions

The amendment is adopted under Texas Civil Statutes, Article 2461-11 07, which provide the Credit Union Commission with the author-

ity to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

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§91.211 Application for a Certificate of Authority to do Business in the State of Texas

(a) A credit union chartered by a foreign state shall prior to commencing business be required to file a written application for a certificate of authority to do business in the State of Texas on a form prescribed by the commissioner.

(b) The commissioner shall publish official notice of the filing of the application in the Department Newsletter.

(c) The commissioner shall approve the application upon finding that the applicant:

(1) is financially sound,

(2) will conduct its operations in the State of Texas in accordance with the intent and purpose of the Act;

(3) has paid a permit fee of \$500 for each branch office proposed to be established in the State of Texas;

(4) has in force fidelity bond coverage as required by the state in which the credit union was incorporated,

(5) has furnished to the commissioner a true and correct copy of the act under which it was incorporated, and all amendments thereto and of the current rules adopted by the principal regulatory agency of the state in which it was incorporated, and of the credit union's bylaws and all amendments thereto,

(6) has agreed to comply with the maximum loan interest rates authorized for credit unions doing business in the State of Texas,

(7) has submitted a copy of the latest examination report of the principal regulatory agency of the state in which it was incorporated and has agreed to submit a copy of each succeeding examination report of such agency;

(8) has agreed to pay the appropriate operating and filing fees,

(9) has proven that the shares and deposits of its members in the State of Texas are insured by the National Credit Union Share Insurance Fund or its successor;

(10) has appointed a registered agent for service of process and has provided the commissioner with the name and address of such registered agent who shall be a resident of the State of Texas, and

(11) has submitted to the commissioner a letter from the chief supervisor of the principal regulatory agency of the

state in which the applicant was incorporated, confirming that such supervisor has no objection to the establishment of such branch office in the State of Texas by the applicant.

(d) Within 30 days after receipt of such an application in substantially complete form, the commissioner shall publish notice of the filing of such application in the Department Newsletter.

(e) Any credit union aggrieved by the order of the commissioner approving or denying an application for a branch office in this state may appeal that order to the commission and may request that a hearing be scheduled on the matter. Either the commissioner or the commission may order that a hearing be scheduled on the matter.

(f) Each credit union chartered by a foreign state and which is operating a branch office within the State of Texas shall furnish to the commissioner a copy of its annual audited financial statements, if any, or other statements of financial condition as the commissioner may require.

(g) The commissioner is authorized to examine the books and records of any branch office operated in the State of Texas by any credit union chartered by a foreign state, and shall collect the appropriate filing and operating fees from the credit union In lieu of performing a periodic examination, the commissioner may accept the most recent examination report on the credit union prepared by examiners of the principal regulatory agency of the state in which it was incorporated

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-9442543 Robert W Rogers
Commissioner
Credit Union Department

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Proposal publication date. February 22, 1994

For further information, please call. (512) 837-9236

◆ ◆ ◆
Members

• 7 TAC §91.301

The Texas Credit Union Commission adopts new §91.301, concerning field of membership, with changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1283) Paragraph (1)(A) was changed by deleting the phrase "but does not include employee groups of 300 or less;" paragraph (2)(A) was change by deleting "Groups comprised of 500 or less members are not considered as an associational group for the purpose of this rule," paragraph (5)(C) was changed to replace

"members of" with "persons eligible for primary membership in"

The section provides guidelines and standards to be considered by the commissioner in evaluating fields of membership

Comments were received from Dallas Teachers Credit Union, Texas Credit Union League, Texins Credit Union and Credit Union Department staff

The following is a summary of the comments by the Dallas Teachers Credit Union. The first comment objected to the failure to use all six fields of membership definition types suggested by the Task Force Advisory Committee in §91.301. As a result of counsel's advice that the terms cannot be used as intended, the commission disagrees and no change was made to the rule. The commenter stated that the explanation of the burden to prove economic viability of an expansion request of the field of membership was inadequate. The commission disagrees. Section 93.14 adequately addresses the question of burden of proof. The commenter objected to the continued use of the term "recognizable community." The commission disagrees and retained the text of the rule, the definition is only relevant to the consideration of community field of membership expansion requests and provides discipline to an expansion effort. Further, the rule adequately emphasizes the geographic definition when considering occupational and associational expansion requests. The commenter indicated that overlap protection should focus on those eligible for primary membership not members. The commission agrees and amended the proposed rule to provide that the example used for an acceptable exclusionary language provision would provide limits on the overlap of those eligible for membership.

The following is a summary of the comments by the Texins Credit Union. The commenter objected to the text because the phrases dealing with the eligibility of employees of association members for membership in a credit union and what constitutes "a sufficiently close tie to the association" lacked clarity. The commission disagrees because when considered with other subsections of the rule, the phrase is considered to be meaningful.

The following is a summary of the comments by the Texas Credit Union League. The commenter questioned whether the commissioner had the authority to reject an application or to merely require limitation or elimination of an overlap. The commission disagrees. The effect of eliminating an overlap is often to deny the request.

The following is a summary of the comments by the Credit Union Department staff. The commenter indicated that certain phrases in the definitions of the term "Common Bond" should be deleted because they served no purpose. The commission agrees and amended the proposed rule to delete the phrase "but, does not include employee groups of 300 or less" from the definition of a common bond created as a result of an employment relationship. Additionally, the sentence, "Group comprised of 500 or less

members are not considered as an associational group for the purposes of this rule" was deleted for the same reason.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.301 Field of Membership State credit unions will be allowed to have, as a minimum, at least as much flexibility as federal credit unions in the regulation of fields of membership. The following guidelines and standards shall be considered by the commissioner in evaluating field of membership requests:

(1) Occupational Common Bond.

(A) This common bond is based on an employment relationship with a specified employer. Persons sharing this common bond may be geographically dispersed. Employees of a parent corporation and its subsidiaries and persons under contract to work regularly for an enterprise may be considered under a single occupational bond. Each category to be served (e.g., subsidiaries, contractors) should be separately listed, if practical. Persons employed by different entities, even if closely related geographically, persons working at a single shopping center, industrial park, or office building, for example, are not treated as having an occupational common bond.

(B) All occupational common bonds should include a geographic definition, e.g., "employees, officials, and persons who work under contract regularly for ABC Corporation or any of its subsidiaries, who work in Houston, Texas." Other acceptable geographic definitions are "employees who are paid from" or "employees who are supervised from."

(C) The employer may also be included in this common bond--e.g., "ABC Corporation and its subsidiaries."

(D) Some examples of occupational group definitions are:

(i) "employees of the Scott Manufacturing Company who work in El Paso, Texas."

(ii) "employees and elected and appointed officials of municipal government in Tyler, Texas."

(iii) "employees of Sharp Drillbit Company and its subsidiary, Drillbit Salvage Company, who work in Midland or Houston, Texas."

(iv) "personnel of fleet units of the United States Navy home port at Ingleside, Texas."

(v) "civilian and military personnel of the United States Government who work or are stationed at, or are attached or assigned to Fort Hood, Texas, or those who are retired from, or their dependents or dependent survivors who are eligible by law or regulations to receive and are receiving benefits or services from that military installation."

(vi) "employees of these contractors who work regularly at United States Naval Shipyard in Ingleside, Texas."

(vii) "employees, doctor, medical staff, technicians, medical and nursing students who work at Galveston Medical Center at the locations stated."

(viii) "employees and teachers who work for the Fort Worth Independent School District in Fort Worth, Texas."

(E) Some examples of insufficiently defined occupational groups are:

(i) "employees of engineering firms in Houston, Texas." (No common employer, names of firms must be stated, however, may be the basis for a multiple group.)

(ii) "persons employed or working in Dallas, Texas." (No common employer, names of firms must be stated.)

(iii) "persons working in the entertainment industry in Texas." (No common employer, names of firms should be stated.)

(2) Associational Common Bonds

(A) This common bond is generally based on groups consisting primarily of natural persons who participate in activities developing common loyalties, mutual benefits, and mutual interest. Qualifying associational groups must hold meetings open to all natural person members at least once a year, must sponsor other activities providing for contact among natural persons members, and must have an authoritative definition of who is eligible for membership--usually, this will be in the association's constitution and bylaws. The clarity of the associational group's definition and compactness of its membership will be important criteria in reviewing the application. The department policy is to organize associational charters at the lowest organizational level which is economically feasible.

(B) Students constitute an associational common bond and may qualify for a credit union charter

(C) Associations formed primarily to obtain a credit union charter do not have a sufficient associational common bond, nor do associations based on a client or customer relationship, an insurance company's customers or a buyer's club, for example

(D) The department normally charters associational credit unions consisting of natural person members. The department will allow nonnatural persons (e.g., corporate sponsor or organizations of members) to be eligible for membership

(E) Moreover, the common bond usually would extend to the association's members and their employees. However, situations may exist where the employees of a member of an association do not have a sufficiently close tie to the association to be included

(F) Homeowner associations, tenant groups, electric co-ops, consumer groups, and other groups of persons having an interest in a particular cause and certain consumer cooperatives may be eligible to receive a charter, however, they must make a strong showing of common activities and economic viability. Newly-organized associations must make similar showing, experience has shown that a new group's efforts are best focused on solidifying member interest before attempting to offer credit union service

(G) All associational common bonds will include a definition of the group and a geographic or operational area limitation, unless the constitution or bylaws of the associational group limit the geographical area. e.g., "Members of the Small Businessmen Association living or working in Dallas, Texas who qualify for membership in accordance with its constitution and bylaws in effect on January 21, 1989"

(H) The association itself may also be included in the field of membership, e.g., "ABC Association"

(I) Some examples of associational group definitions are

(i) "regular members of Locals 10 and 13, IBEW Union, Houston, Texas, who qualify for membership in accordance with their constitution and bylaws in effect on May 20, 1989,"

(ii) "members of the Texas Farm Bureau who live or work in Williamson or adjacent counties, who qualify for membership in accordance with its constitution and bylaws in effect on March 7, 1990,"

(iii) "members of the Catholic Church who live or work in Del Rio, Texas,"

(iv) "members of the First Baptist Church in Georgetown, Texas,"

(v) "regular members of the Corporate Executives Association, located in Dallas, Texas, who live or work in Dallas, Texas, who qualify for membership in accordance with its constitution and bylaws in effect on December 1, 1985,"

(vi) "members of the Lower Colorado River Authority located in Austin, Texas"

(J) Some examples of insufficiently defined association group definitions are

(i) "members of military service clubs in the State of Texas," (No single associational tie, specific clubs and locations must be named, may be considered as multiple group)

(ii) veterans of United States military service"

(K) Some examples of unacceptable associational common bonds are

(i) "ABC Buyers Club," (An interest in purchasing only does not meet associational standards)

(ii) "customers of ABC Insurance Company" (Policyholders or customer/client relationships do not meet associational standards)

(3) Community common bonds

(A) This common bond is based upon employment or residence within a clearly defined and specified geographic area(s). Business entities within the specified geographic area(s) may also qualify for membership. Given the diversity of community characteristics throughout the state and the department's goal of making credit union service available to all eligible groups who wish to have it, the department has established the following community common bond guidelines

(i) The geographic area(s) must be clearly specified

(ii) The charter application must establish that the area(s) is recognized as a distinct neighborhood, community, or geographic area(s)

(B) A typical definition of a community-based common bond is "Persons who live or work in are located in ABC, the area of XYZ City bounded by Fern Street on the north, Long Street on the east, Fourth Street on the south, and Elm Avenue on the west"

(C) Additional criteria may be considered for an application to convert to or expand an existing community common bond and may include, but not be limited to, providing for a protective exclusion for honoring existing credit unions in the proposed area(s)

(D) Some examples of community common bond definitions are

(i) "persons who live or work are located in Brown County, Texas,"

(ii) "persons who live or work in and business entities located in Spring Branch Independent School District, Houston, Texas,"

(iii) "persons who live or work are located within a ten-mile radius of El Campo, Texas"

(E) Some examples of insufficiently defined community common bond definitions are

(i) "persons who live or work in East Texas,"

(ii) "persons who live or work in the ship channel section of Houston, Texas"

(4) Multiple-Group Charters

(A) The department may charter a credit union to serve a combination of definable occupational, associational and/or community groups

(B) In addition to general chartering requirements, special requirements pertaining to multiple-group applications may be required before the department will grant such a charter

(i) Each group to be included in the proposed field of membership of the credit union must have its own common bond

(ii) Each group must individually request inclusion in the proposed credit union's charter

(5) Overlap protection

(A) The commissioner will consider the extent and effect of an overlap proposed by an application to expand a credit union's field of membership or when a charter application proposes an overlap

(B) The commissioner will weigh the information in support of the application and any information provided by a protesting or affected credit union. If the applicant demonstrates feasibility and no protestant reasonably establishes a basis for denying the request, it shall be approved.

(C) If a finding is made that overlap protection is warranted, the commissioner shall reject the application or require the applicant to limit or eliminate the overlap by adding exclusionary language to the text of the amendment, e.g., "excluding persons eligible for primary membership in any occupation or association based credit union that has an office within a specified proximity of the applicant credit union at the time membership is sought."

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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Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.302

The Texas Credit Union Commission adopts an amendment to §91.302, concerning the use of mail ballots by credit unions for the election of officials, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1285).

The amendment permits mail ballots and requires opportunity for nomination by petition, and appropriate notice and information to all members.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461.11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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.

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Commissioner
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For further information, please call (512) 837-9236

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Powers of Credit Unions

• 7 TAC §91.401

The Texas Credit Union Commission adopts an amendment to §91.401, concerning the investment limits in fixed assets, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1285).

The amendment reduces the projection period from ten years to five years.

The following is a summary of the comments by the Credit Union Department staff. The commenter supported the rule but recommended that a provision should be included to assess credit unions for violations of subsection (c). The commission disagrees. Other enforcement actions are available to the commissioner when credit union officials blatantly violate the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461.11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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.

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.402

The Texas Credit Union Commission adopts an amendment to §91.402, concerning records retention, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1285). The change to subsection (b)(2) added the words "currently effective" to describe certificates or licenses, the change to subsection (b)(3) also added "currently effective" to describe membership agreement documents and account agreements, an additional change to subsection (b)(3) permits the board to use other methods to maintain membership records provided that an attorney gives an opinion that the method retains all legal remedies, the change to subsection (d)(2) clarified record retention for active accounts, the change to subsection (f) deletes a reference to the board to provide clarity.

The amendment establishes minimum record retention periods, provides authority for boards to establish periods longer than the

minimum and to establish retention periods by board policy for records not specified in the rule, and permits boards to use the latest technology for storage, retrieval, and reproduction of records, provided an attorney's written opinion that the method retains all legal remedies.

Comments were received from Southwest Resource Credit Union, Texas Credit Union League, and Dallas Teachers Credit Union.

The following is a summary of the comments by the Southwest Resource Credit Union. The commenter objected to the rule because it did not retain the phrase "currently effective" in subsection (b)(2) and (3) to more clearly define which records are subject to the rule. The commission agrees and amended the rule by inserting the phrase into these subsections.

The following is a summary of the comments by the Texas Credit Union League. The first comment objected to the proposed rule because it was unclear which records must be retained in original form. The commission agrees and amended the rule to insert the phrase "currently effective" in subsection (b)(2) and (3) to more clearly define which records are subject to the rule, and the phrase "record that has been superseded by another record" in subsection (d)(2) was replaced by the phrase "account agreement which is no longer in effect." A comment that the beginning text deleted from the previous rule was important resulted in agreement by the commission, but no change was made to the rule because this information can be provided by other means.

The following is a summary of the comments by the Dallas Teachers Credit Union. The commenter objected to the proposed rule because it was not clear which records must be retained in original form and that the phrase "currently effective" was not used in subsection (b)(2) and (3) of the text. The commission agrees and amended the rule by inserting "currently effective" into the referenced subsections. An objecting comment resulted in agreement by the commission and approval of an amendment to subsection (b)(3) authorizing the retention of membership records in other forms supported by a legal opinion. The commenter objected to the rule because subsection (f) was unclear and appeared to permit a board of directors to set policy conflicting with the intent of the rule. The commission agrees to delete the phrase "or by the board" from subsection (f).

The amendment is adopted under Texas Civil Statutes, Article 2461.11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.402 Records Retention

(a) General. Except for those records described in subsection (b) of this section, the requirement to retain any records under this rule may be satisfied by retention of the original or a copy. The board of directors shall adopt a written policy authorizing the destruction of specified

records on a continuing basis upon expiration of specified retention periods

(b) Permanent retention The following records must be retained permanently in their original form

(1) charter, bylaws, articles of incorporation, and amendments thereto,

(2) currently effective certificates or licenses to operate under programs of various government agencies, such as a certificate to act as issuing agent for the sale of United States savings bonds, and

(3) currently effective membership applications, joint membership agreements, payable on death agreements, share draft agreements, signature cards, and any other currently effective account agreements related to share or deposit accounts A credit union board of directors may by policy elect to maintain these membership records in other than original form after obtaining a legal opinion that the proposed methodology continues all legal remedies as if the original has been retained

(c) Ten-year retention Records which are significant to the continuing operation of the credit union must be retained until the expiration of ten years following the making of the record or the last entry thereon, or the expiration of the applicable statute of limitations, whichever is later The records are

(1) minutes of meetings of the members and board of directors,

(2) journal and cash record,

(3) general ledger and subsidiary ledgers,

(4) for active accounts, one copy of each individual share and loan ledger or its equivalent,

(5) comprehensive annual audit reports including evidence of account verification, and

(6) examination reports and official correspondence from the department or any other government agency acting in a regulatory capacity

(d) Five-year retention The following records must be retained until the expiration of five years following the making of the record or the last entry thereon, or the expiration of the applicable statute of limitations, whichever is later

(1) records related to closed accounts including membership applications, joint membership agreements, payable on death agreements, signature cards, share draft agreements, and any other account agreements,

(2) for an active account, any account agreement which is no longer in effect

(e) Reproduction method Credit unions must use a reproduction process which produces a means to retrieve the information in a readable and useable format

(f) Data processing records Provisions of this rule apply to records produced by a data processing system. Output reports that substitute for standard conventional records, or that provided the only support for entries in the journal and cash record, should be retained for the minimum period specified in this rule As with most other records, retention of the original or a copy of the original satisfies the requirements of this rule.

(g) Records preservation All state chartered credit unions are required to maintain a records preservation program to identify and store vital records in order that they may be reconstructed in the event the credit union's records are destroyed Storage of vital records is the responsibility of the board but may be delegated to the responsible person(s) A vital records storage center should be established at some location that is far enough from the credit union office to avoid the simultaneous loss of both sets of records in the event of a disaster Records must be stored every calendar quarter within 30 days following quarter-end at which time records stored for the previous quarter may be destroyed Stored records may be in any form which can be used to reconstruct the credit union's records This includes machine copies, microfilm, or any other usable copy The records to be stored shall be for the most recent month-end and are

(1) a list of all shares and/or deposits and loan balances for each member's account Each balance on the list is to be identified by an account name or number Multiple balances of either shares or loans to one account shall be listed separately,

(2) a financial statement/statement of financial condition which lists all the credit union's assets and liability accounts,

(3) a listing of the credit union's banks, insurance policies and investments This information may be marked "permanent" and updated only when changes are made

(h) Compliance Credit unions that have some or all of their records maintained by an off-site data processor are considered to be in compliance so long as the processor meets the minimum requirements of this section Credit unions that have in-house capabilities shall make the necessary provisions to safeguard the backup of data on a continuing basis

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 June 17, 1994.

TRD-9442547

Robert W Rogers
Commissioner
Credit Union Department

Effective date: July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §§91.403, 91.404, 91.407

The Texas Credit Union Department adopts the repeal of §§91 403, 91.404, and 91.407, concerning EDP and Confidentiality of Member Records, Safe Deposit Box Facilities, and Securities, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1286)

Section 91 403 and §91 404 are repealed because they have been recast and renumbered, §91 407 is repealed because it is obsolete and not needed

There were no comments received regarding repeal of the rules

The repeals are adopted under Texas Civil Statutes, Article 2461-11 07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442548

Robert W Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
Direction of Affairs

• 7 TAC §91.503

The Texas Credit Union Commission adopts an amendment to §91 503, concerning the eligibility to hold office and removal of officers, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1286) The only change was to correct the outline format of the rule to be consistent with Texas Register standards.

The amendment added two qualifications for serving as a director and increased the number of members necessary to vote on removal of a director.

Comments were received from Dallas Teachers Credit Union and the Texas Credit Union League

The following is a summary of the comments by the Dallas Teachers Credit Union. The commenter questioned whether the sanctions in the rule are sufficient to automatically remove a disqualified director or is the board required to take action to remove the individual. The commission disagrees that formal action by the board was necessary and no change was made to the rule because the Application to Serve as a Director will identify any standard that is not met and failure to meet the standard prevents the individual from functioning as a board member. The commenter recommended the word "not" be removed from subsection (c)(4) and (5). The commission noted that the error was corrected prior to publication in the *Texas Register* as a proposed rule and no other changes were necessary.

The following is a comment by the Texas Credit Union League. The commenter noted that the outline format of the rule was not consistent with *Texas Register* standards. The commission agrees and the outline format was changed with no changes in the text.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.503 Eligibility to Hold Office and Removal of Directors

(a) Election of board of directors. The board of directors shall be elected by and from the membership in accordance with the Act; this section, the credit union's bylaws and election rules established by the board of directors of the credit union.

(b) Elective office. No credit union shall adopt or amend articles of incorporation or bylaws to designate or reserve one or more places on the board of directors for any member representative of any classification that restrict or infringe the equal rights of all members to vote for or seek any position on the board of directors of that credit union.

(c) Qualifications. No member may be elected to or serve on the board of directors if that member:

(1) has been convicted of any criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage by the blanket bond required under the provisions of the Act or §91.506 of this title (relating to Director Meeting Fees and Bond Requirements); or

(3) has caused the credit union to suffer a financial loss;

(4) has been removed by any regulatory authority or government agency as an officer, agent, employee, consultant or representative of any credit union or other financial institution;

(5) has had the certificate of incorporation or authority or license to do business of any state or federally chartered credit union or other financial institution of which the applicant was an officer, director or key management person suspended, revoked or applicant was personally made subject to an operating directive for cause.

(d) Application. Any member nominated for, or seeking election to, the board of directors must submit a written application in the form prescribed by the commissioner, together with any additional information requested by the credit union. The application shall be submitted:

(1) to the nominating committee prior to the determination by the committee of its nominees; or

(2) to the board chairman within 30 days following the election if the member elected is not nominated by the nominating committee or by petition, or is elected by the board to fill an unexpired term. The applications of elected directors shall be incorporated into and made a part of the minutes of the first board of directors meeting following the election of those directors. Applications of unsuccessful nominees shall be destroyed or returned to the nominee upon request. The application must be on the standard form promulgated by the commissioner and shall establish at a minimum that the nominee or director designate:

(A) has not been convicted of a criminal offense involving dishonesty or breach of trust or has not been convicted of any felony;

(B) is eligible for coverage under the blanket bond required by this Act, §5.06 and any rules adopted under this Act;

(C) has not defaulted in the payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss;

(D) has not been removed by any regulatory authority or government agency as an officer, agent, employee, consultant or representative of any credit union or other financial institution;

(E) has not had the certificate of incorporation or authority or license to do business of any state or federally chartered credit union or other financial institution of which the applicant was an officer, director or key management person suspended, revoked or applicant was personally made subject to an operating directive for cause. Failure to complete and return the application or failure to take the prescribed oath of office shall disqualify the

nominee or director designate from holding office.

(e) Removal of directors. In addition to removal of directors by the board of directors as provided in the bylaws, the members may remove a director by a vote of two-thirds of those members voting at any special or regular meeting, provided however, that the members voting shall constitute not less than 10% of the membership eligible to vote in any election, and provided that all members are given at least 30 days' notice of the meeting which shall state the reasons why the meeting has been called.

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 June 17, 1994.

TRD 9442549 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.506

The Texas Credit Union Commission adopts an amendment to §91.506, concerning director meeting fees and bond requirements, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1287).

The amendment was minor language changes with no change in the intent of the rule.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07 which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD 9442550 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February ?? 1994

For further information, please call (512) 837-9236

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Capital Accounts

• 7 TAC §91.601

The Texas Credit Union Commission adopts an amendment to §91.601, concerning the authorization of credit unions to offer share and deposit to members with changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1289). The only change was to delete the phrase "Consistent with this section" in subsection (a).

The amendment will provide greater flexibility to credit unions in structuring member savings accounts.

Comments were received from Dallas Teachers Credit Union and Southwest Resource Credit Union.

The following is a summary of comments by the Dallas Teachers Credit Union. The commenter expressed concern that "comprehensive asset liability management policy" was not defined and that credit unions needed to know what should be included in the policy. The commission agrees that the term "asset liability policy" may not be well understood but providing regulatory guidance within a rule would place a burden on smaller credit unions and no change was made to the rule. The commenter also expressed concern that a standard for liquidity levels should be established in the rule. The commission disagrees and the rule was not changed because the many variables between credit unions preclude a standard that could be applied uniformly to all credit unions. The commenter suggested deletion of the phrase "consistent with this section" in subsection (a). The commission agrees and the deletion was made.

The following is a summary of comments by the Southwest Resource Credit Union. The commenter expressed concern that "comprehensive asset liability management policy" was not defined and that credit unions needed to know what should be included in the policy. The commission agrees that the term "asset liability policy" may not be well understood but providing regulatory guidance within a rule would place a burden on smaller credit unions and no change was made to the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.601 Share and Deposit Accounts

(a) A credit union may offer share and deposit accounts under terms and at rates established by policies approved by the board of directors. Before instituting a new program or within 90 days from the effective date of this rule, each credit union shall adopt and implement

(1) a comprehensive asset liability management policy, and

(2) policies and procedures for determining and maintaining adequate liquidity levels.

(b) Capital. All deposit and share accounts shall be considered capital for regulatory purposes.

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 June 17, 1994.

TRD-9442551 Robert W. Rogers
Commissioner
Credit Union Department

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Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

• 7 TAC §91.602

The Texas Credit Union Department adopts the repeal of §91.602, concerning deposit accounts, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1289).

Rule §91.602 is repealed because it has been recast and renumbered.

There were no comments received regarding repeal of the rule.

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442552 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

• 7 TAC §91.608

The Texas Credit Union Commission adopts new §91.608, concerning the confidentiality of members' accounts, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1290).

The section is to protect the member from having their individual credit union records disclosed improperly.

The following is a summary of the comments by the Credit Union Department staff. Staff commented that the rule should include a prohibition against employees serving as elected credit union officials. The commission disagrees. Despite the fact that conflicts of interest sometimes occur when an individual credit union employee serves in more than

one role within the organization, §91.506(c)(1) provides adequate controls if an individual's pecuniary interest is involved.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442553 Robert W. Rogers
Commissioner
Credit Union Department

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Capital Accounts

• 7 TAC §91.610

The Texas Credit Union Commission adopts new §91.610, concerning safe deposit box facilities, with one change to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1290). The title Safe Deposit Box Facilities is added to the rule.

The section replaces §91.401.

There were no comments received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.610 Safe Deposit Box Facilities

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

(1) Credit union. This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

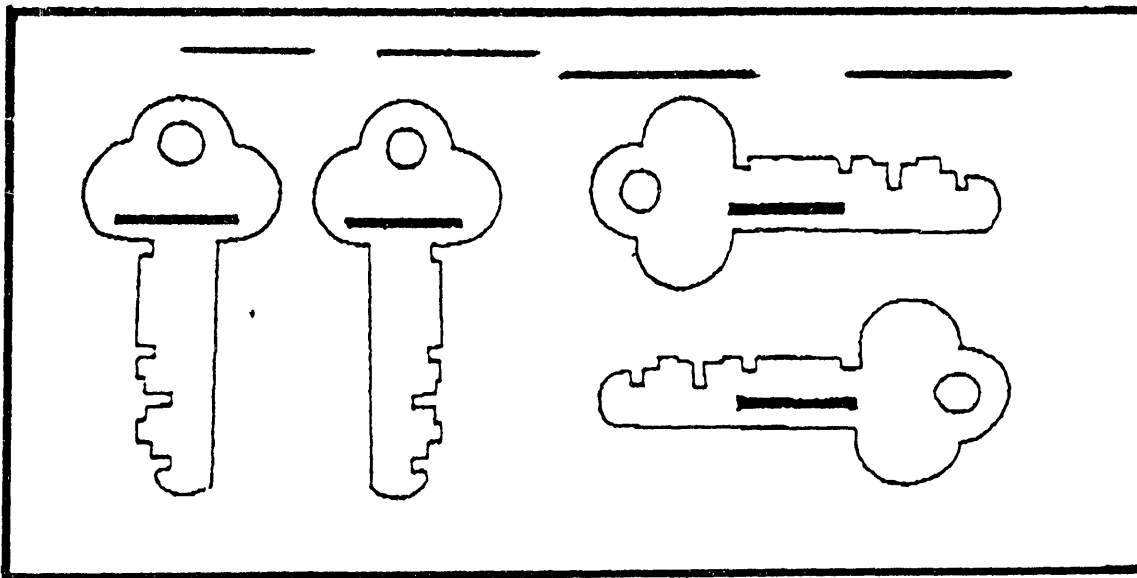
(2) Routing number. The routing and transit number issued to the credit union under the auspices of the American Bankers Association and as listed in the American Bankers Association's "Key to Routing Numbers."

(b) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the follow-

ing instructions and diagram. The imprint can be made anywhere on the key that has the required space available. It can be either on the head or on the shank of the key. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the

location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its

affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.



(c) Branch designation A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with

successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union must maintain a master list of branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the following information: three-

digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(d) Report of defaced or altered key Within 10 days after an officer or

employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached Exhibit A. The report should be submitted to the Department of Public Safety, attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Act shall require a credit union to inspect routing numbers imprinted on a key or

an attached tag to determine if the number has been altered or defaced.

(e) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Credit unions may begin imprinting keys prior to that date. The imprinting requirement shall apply to all keys currently outstanding as well as to all keys issued after September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Act shall be construed to require a credit union to provide notice to its safe

deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Texas Civil Statutes, Article 2461-6.10 (d).

(f) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.

**REPORT OF DEFACED OR ALTERED ROUTING NUMBER
ON SAFE DEPOSIT BOX KEY**

INSTRUCTIONS: Complete the information below and submit the original report to Department of Public Safety, Attn: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001, no later than 10 days after the defaced or altered key is used to access the box. Retain one copy for your files for a period of three years.

CREDIT UNION INFORMATION

Name of credit union _____

Address of safe deposit box facility _____

Name and title of contact person
at facility _____

Area code and phone number of facility _____

Routing number and branch designation
(if any) _____

INCIDENT INFORMATION

Member name _____

Date member presented
defaced or altered key _____

Description of problem with key

Date of reports: _____

Exhibit A

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

Issued in Austin, Texas, on June 17, 1994

TRD-9442554 Robert W. Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

Loans

• 7 TAC, §91.701

The Texas Credit Union Commission adopts an amendment to §91.701, concerning loans, personal and real estate, with changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1293). Subsection (c)(1)(B) was changed to add "or the loan to value ratio is maintained at 70% or less at all times." Subsection (c)(1)(D) was changed to increase the maximum loan amount from 80% to 90%. Subsection (c)(2)(C) and (D) regarding property insurance and recording documents were added to the section dealing with second liens. Subsection (c)(2)(A) was changed to add "except that property improvement loan to value ratios may be based upon the projected appraised value at completion."

The amendment will provide greater flexibility to credit union officials to offer and structure loan programs for their members.

Comments were received from Southwest Resource Credit Union, the Texas Credit Union League, Dallas Teachers Credit Union, Community Credit Union, and Credit Union Department Staff.

The following is a summary of the comments by the Southwest Resource Credit Union. The commenter supported the rule but suggested that the rule should include specific authority for MasterCard or other credit card loan programs. The commission disagrees. A change in the rule is not needed because an interpretative letter by the commissioner or written approval under subsection (b)(3) provides authority for these loans.

The following is a summary of comments by the Texas Credit Union League. The commenter supported the rule but recommended that the rule include a provision that escrow account requirements may be waived for loans with a low loan-to-value ratio. The commission agrees and amended subsection (c)(1)(B) to permit waiving of the escrow account if loan-to-value ratio is less than 70%. The commenter objected to the prohibition of commissions, fees, or compensation in connection with any loan because it did not permit an incentive compensation program for credit union employees. The commission disagrees that employee incentive programs are covered by this rule, and no change was made because this prohibition deals with pay-

ments from persons or entities other than the credit union.

The following is a summary of comments by the Dallas Teachers Credit Union. The commenter objected to the 80% limitation in subsection (c)(1)(D) and recommended that the maximum loan amount for loans without mortgage insurance be changed to 90% of the purchase price or appraised value consistent with other mortgage lenders. The commission agrees, and the rule was amended to reflect 90% instead of 80%. The commenter objected to the rule because second lien real estate loans did not include such requirements as property insurance, recording instruments, and title insurance. The commission agrees and the rule was changed to include requirements for property insurance and recording instruments in subsection (c)(2). The commenter supported the rule but recommended that the loan-to-value ratio for property improvement loans be based upon the appraised valuation of the property after completion of the improvements. The commission agrees and amended subsection (c)(2)(A) to permit valuation to be based upon the projected value of property after completion.

The following is a summary of comments by the Community Credit Union. The commenter supported the rule but recommended that the rule include a provision that escrow account requirements may be waived for loans with a low loan-to-value ratio. The commission agrees and amended subsection (c)(1)(B) to permit waiving of the escrow account if loan-to-value ratio is less than 70%.

The following is a summary of comments by the Credit Union Department staff. The commenter supported the rule but recommended that the rule include a provision that escrow account requirements may be waived for loans with a low loan-to-value ratio. The commission agrees and amended subsection (c)(1)(B) to permit waiving of the escrow account if loan-to-value ratio is less than 70%. The commenter supported the rule but recommended that closed-end loans documents be required on all, but line-of-credit loans. The commission disagrees. No change to the rule was made because there was no value to requirement. The commenter supported the rule but recommended a requirement that interim construction loans include draw schedules and the source of permanent financing prior to funding. The commission disagrees with the recommendation because these requirements fall into the category of sound business practices which credit unions are subject to under the bylaws, §5.09 and would be more appropriately addressed by the board in written policy. The commenter objected to the permissibility of title opinions in subsection (c)(1)(C) and recommended that a title insurance policy be required. The commission disagrees and no change was made to the rule because an attorney's opinion on the title is acceptable. The commenter supported the rule but recommended that the phrase "or in any other case" be defined or interpreted. The commission agrees but did not change the rule because an interpretation of the phrase "or in any other case" will be developed and notification will be through the Department's Newsletter. The commenter

supported but recommended that real estate loans be amortized. The commission disagrees and no change was made to the rule because credit unions may provide an amortization schedule to members with real estate loans for the purpose of controlling delinquency of loans with long-term maturities, but no requirement is deemed necessary. The commenter objected to the deletion of sections of the previous rule relating to non-preferential treatment, limitation on fixed rate loans, secured loans, unsecured installment loans, balloon payment loans, and single-payment term loans and recommended that they be reinstated in the proposed rule. The commission did not agree that these need to be reinstated because the intent of the rule is to provide broad discretion to the board of directors in establishing lending programs, procedures, and policies. The commenter supported the rule on loan policies but recommended that the rule require the credit union to include specific industry guidelines and criteria to be used in granting credit as a part of their lending policies. The commission disagrees that specificity was needed and the rule was not changed because a model loan policy will be developed within the agency and the intent of the rule is to provide broad discretion to the board of directors. The commenter supported the rule on loan policies but recommended that the rule require extension and loan workout policies. The commission agrees that the practice is reasonable, but disagrees regarding any change to the rule because the board can address workouts and loan extensions in lending policy. The commenter recommended an addition to the rule to require the credit union to charge off of loans delinquent in excess of six months or loans with inadequate loan-to-value ratios. The commission disagrees that a requirement was necessary and no change was made to the rule because this would require credit unions to occasionally write-off a loan prematurely and perhaps diminish collection efforts.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.701. Loans.

(a) General. A credit union may make loans and extend credit in accordance with the Act, these Rules, and other applicable law.

(b) Loans not secured by real estate. The maturity of a loan not secured by a lien on real estate may not, at the time the loan is executed, exceed 15 years unless:

(1) the purpose of the loan is to finance the purchase of a manufactured home and the loan is secured by a first lien, in which case the maturity may not exceed 20 years,

(2) the loan is at least 90% insured or guaranteed as to both principal and interest by the State of Texas or the United

States or any agency or instrumentality thereof; or

(3) the commissioner has approved, in writing, and prior to the making of a loan or class of loans, a greater maturity for that loan or class of loans

(c) Loans secured by real estate. For loans secured, in whole or in part, by a lien on real estate, the requirements described in this subsection shall apply unless waived in writing by the commissioner.

(1) Loans secured by a first lien on real estate. A loan, or any refinancing thereof, secured by a first lien on real estate shall be subject to the requirements described in this paragraph as applicable.

(A) Maximum Maturity; Loan to Value ratio.

(i) A loan secured by a lien on improved residential real estate occupied by the owner shall have, at the time the loan is executed, a maximum maturity of 40 years and a loan to value ratio not greater than 5%.

(ii) A loan secured by a lien on improved real estate not to be occupied by the owner shall have, at the time the loan is executed, a maximum maturity of 30 years and a loan to value ratio not greater than 80%.

(iii) An interim construction loan shall have, at the time the loan is executed a maximum maturity of 18 months and the amount of the loan shall not exceed 90% of the projected appraised value at completion or the estimated cost of construction, whichever is less.

(iv) Any other loan not described in clauses (i), (ii), or (iii) of this paragraph shall have, at the time the loan is executed, a maximum maturity of 20 years and a loan to value ratio not greater than 80%.

(B) Escrow; pledged accounts. A loan, other than an interim construction loan, shall have as a requirement in its terms and conditions that the borrower must pay, in addition to principal and interest, an amount to be deposited to an escrow account, or otherwise applied as provided in the credit union's loan policies, for estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing the loan. The additional payment may be waived if an amount equal to at least the estimated annual insurance premium and annual taxes is pledged to and maintained at the credit union during the term of the loan, the loan is not in arrears or delinquent at any time, and the credit union is furnished with evidence of payment of taxes and insurance each year, or the loan to

value ratio is maintained at 70% or less at all times

(C) Title opinion; Title insurance. A loan may not be made by the credit union unless it is furnished with either a written title opinion of an attorney or a satisfactory policy of title insurance in the principal amount of the loan, which policy shall be issued by a title company authorized to insure titles in this state, insuring that the lien is a first and prior lien.

(D) Private Mortgage Insurance or U S Government Guaranteed Loans Unless a real estate loan is insured by an agency of the United States Government or by a private mortgage insurance company, the maximum loan amount is 90% of the purchase price or appraised value of the property, whichever is less

(E) Property insurance Any loan secured by a lien on improved real estate must require in its terms and conditions that fire and extended coverage be maintained in an amount not less than the loan balance (plus any amount secured by prior liens) or the replacement value of improvements, whichever is less, and that the credit union be named as loss payee

(F) Recording instruments Every mortgage, deed of trust, or other instrument creating, constituting, or transferring a lien securing a loan shall be properly and timely recorded in the appropriate deed records

(G) Valuation Every loan must have included in its documentation evidence of the market value of the real estate determined in accordance with written board policy or, if the amount of the loan exceeds \$50,000, a report of an appraisal prepared by a state certified appraiser

(2) Other real estate loans, Maximum maturity, Loan to value ratio. A loan, or any refinancing thereof, secured by a lien on real estate other than a first lien:

(A) which is not an interim construction loan, shall have, at the time the loan is executed a maximum maturity of 20 years and, if occupied by the owner or will be so occupied, a loan to value ratio not greater than 90%, or in any other case 80%, except that property improvement loan to value ratios may be based upon the projected appraised value at completion, or

(B) which is an interim construction loan, shall have, at the time the loan is executed, a maximum maturity of 18

months and the amount of the loan shall not exceed 80% of the projected appraisal value at completion or the estimated cost of construction, whichever is less;

(C) property insurance. Any loan secured by a lien on improved real estate must require in its terms and conditions that fire and extended coverage be maintained in an amount not less than the loan balance (plus any amount secured by prior liens) or the replacement value of improvements, whichever is less, and that the credit union be named as loss payee;

(D) recording instruments. Every mortgage, deed of trust, or other instrument creating, constituting, or transferring a lien securing a loan shall be properly and timely recorded in the appropriate deed records, except for those instances when recording is not required under an applicable state or federal guaranty program.

(d) Prohibited activity. A credit union shall not make a loan or extend credit if any commission, fee, or compensation of any type from any person or entity other than the credit union is to be received by any credit union official or employee, or an immediate family member of either, in connection with underwriting, insuring, procuring, servicing, or collecting the loan or extension of credit.

(e) Indirect Financing. A credit union shall provide written notice to the commissioner at least 30 days prior to implementing a program of indirect financing of motor vehicles or other chattels.

(f) Loan policies. The board of directors shall establish, implement, and maintain prudent and reasonable written loan policies that specify guidelines and criteria to be used in making loans and extending credit consistent with this rule.

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

Issued in Austin, Texas, on June 17, 1994.

TRD-9442555 Robert W Rogers
Commissioner
Credit Union Department

Effective date. July 8, 1994

Proposal publication date. February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.705

The Texas Credit Union Commission adopts new section §91.705, concerning loans to officials and employees, with changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1290). Changes in subsection (a)

were made to be consistent with the requirements in the Act, §7.05, changes in subparagraph (B) were made to be consistent with the requirements in the Act, §7.05.

The section increases the limits on unsecured and secured loans that must be approved by the board of directors and removes approval by the board for any loan for the homestead of the official or employee.

The following is a comment by the Texans Credit Union: The commenter supported the rule but stated that subsections (a) and (b) were inconsistent with one another regarding which loans need to be approved by the board and the rule was also inconsistent with the Act. The commission agrees and the rule was amended to include directors, employees, loan officers, credit manager, members of the credit committee, and members of the immediate family of any of these employees or officials.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

§91.705 Loans to Officials

(a) The rates, terms, conditions, and availability of any loan or extension of credit made to, or endorsed or guaranteed by, a director, employee, loan officer, credit manager, members of the credit committee or an immediate family member of any such individual shall not be more favorable than the rates, terms, conditions, and availability of comparable loans or credit to other credit union members

(b) Before making a loan, extending credit, or becoming contractually liable to make a loan or extend credit to a director, employee, loan officer, credit manager, members of the credit committee or members of their immediate families, the board of directors must approve the transaction if the loan or the extension of credit or aggregate of outstanding loans or extensions of credit to any one person, the person's business interests, and members of the person's immediate family is greater than \$25,000 if unsecured credit or \$50,000 if secured credit, plus pledged shares and deposits. A loan secured by a lien on improved residential real estate which is the homestead and is actually occupied by the borrower shall not be subject to, or included in the aggregate amounts included in this section

(c) For purposes of this section, the term immediate family member includes a spouse or other family member living in the same household

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-9442556 Robert W Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

• 7 TAC §91.708

The Texas Credit Union Department adopts the repeal of §91.708, concerning late charges for delinquent loans, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1297)

Rule §91.708 is repealed because it is not necessary. The bylaws permit establishment of late fees by board policy.

There were no comments received regarding repeal of the rule.

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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.

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Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

Investments

• 7 TAC §91.802

The Texas Credit Union Commission adopts an amendment to §91.802, concerning investments, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1298). A change in subsection (a)(7)(B) was made to clarify the rule that had been stated in an unclear manner.

The amendment clarifies investment types of repurchase agreements.

The following is a summary of comments by the Credit Union Department staff. The commenter supported the rule but noted that subsection (a)(7)(B), as proposed, was awkward and unclear. The commission agrees and the rule was amended to clarify repurchase investments with financial institutions. The commenter supported the rule but recommended that the rule include other requirements when a credit union is using a broker to place investments. The commission disagrees with the recommendation and no change was made to the rule because the board of directors must adopt written invest-

ment policies which should address the use of brokers

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

§91.802 Other Investments.

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

(1) Bailment for hire contract—A contract whereby a third party, bank, or other financial institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

(2) Bankers' acceptance—A time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

(3) Cash forward agreement—An agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of 30 days from the trade date.

(4) Eurodollar deposit—A deposit in a foreign branch of a United States financial institution.

(5) Federal funds transaction—A short-term or open-ended transfer of funds to a financial institution.

(6) Financial institution—A bank or similar entity, savings and loan association, savings association, or mutual savings bank insured by an agency of the federal government, or a federal or state-chartered credit union or the National Credit Union Central Liquidity Facility.

(7) Repurchase transaction—A transaction in which a credit union agrees to purchase a security from a vendor and to resell the same or any identical security to that vendor at a later date. A repurchase transaction may be one of the three following types:

(A) An investment-type repurchase transaction is a repurchase transaction where the credit union purchasing the security takes physical possession of the security, or receives written confirmation of the purchase and a custodial or safekeeping receipt from a third party under a written bailment for hire contract, or is recorded as the owner of the security through the Federal Reserve book-entry system.

(B) A financial institution-type repurchase transaction is a repurchase transaction with a financial institution.

(C) A loan-type repurchase transaction is any repurchase transaction that does not qualify as an investment-type or financial institution-type repurchase transaction

(8) Reverse repurchase transaction-A transaction whereby a credit union agrees to sell a security to a purchaser and to repurchase the same or any identical security from that purchaser at a future date and at a specified price

(9) Security-Any security, obligation, account, deposit, or other item authorized for investment by the Act or this section other than an investment authorized by the Act, §8.01(1).

(10) Settlement date-The date originally agreed to by a credit union and a vendor for settlement of the purchase or sale of a security

(11) Trade date-The date a credit union originally agrees, whether orally or in writing, to enter into the purchase or sale of a security

(12) Yankee Dollar deposit-A deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank

(13) Mortgage related security-A security which meets the definition of mortgage related security in United States Code Annotated, Title 15, §78c(a)(41)

(14) Asset-backed security-A bond, note, or other obligation issued by a financial institution, trust, insurance company, or other corporation secured by either a pool of loans, extensions of credit which are unsecured or secured by personal property, or a pool of personal property leases.

(b) Authorized activities.

(1) General authority A credit union may contract for the purchase or sale of a security provided that delivery of the security is to be made within 30 days from the trade date

(2) Cash forward agreements A credit union may enter into a cash forward agreement to purchase or sell a security, provided that:

(A) the period from the trade date to the settlement date does not exceed 180 days;

(B) if the credit union is the purchaser, it has written cash flow projections evidencing its ability to purchase the security,

(C) if the credit union is the seller, it owns the security on the trade date, and

(D) the cash forward agreement is settled on a cash basis at the settlement date

(3) Repurchase transactions A credit union may enter into an investment-type repurchase transaction or a financial institution-type repurchase transaction provided the purchase price of the security obtained in the transaction is at or below the market price. A repurchase transaction not qualifying as either an investment-type or financial institution-type repurchase transaction will be considered a loan-type repurchase transaction subject to the Act.

(4) Reverse repurchase transactions. A credit union may enter into a reverse repurchase transaction A reverse repurchase transaction is a borrowing transaction subject to the Act

(5) Federal funds A credit union may enter into a federal funds transaction with a financial institution, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(6) Yankee Dollars A credit union may invest in Yankee Dollar deposits

(7) Eurodollars. A credit union may invest in Eurodollar deposits.

(8) Bankers' acceptance A credit union may invest in bankers' acceptances

(9) Open-end Investment Companies (Mutual Funds) A credit union may invest funds, not used in loans to members, in an open-end investment company established for investing directly or collectively in any authorized investment. A credit union shall record each investment in an open-end investment company at the lower of its cost or market value, determined at the end of each month, and net of all purchase and load fees

(10) Government-sponsored enterprises A credit union may invest in government-sponsored enterprise obligations such as Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and the Student Loan Marketing Association

(11) Commercial paper A credit union may invest in commercial paper having a rating of A1 or P1 by Standard & Poor's or Moody's rating service

(12) Corporate bonds A credit union may invest in corporate bonds that have a rating of "A" or better by Standard

& Poor's or Moody's rating service and remaining maturities of five years or less.

(13) Mortgage related securities. A credit union may invest in mortgage related securities, except not in the "accrual bond" (or Z-bonds) or the residual interest of the mortgage related security.

(14) Asset-backed securities. A credit union may invest in asset-backed securities rated AA or better by Standard & Poor's or having an equivalent rating from another nationally recognized rating agency.

(c) Reporting investment activities to the board of directors The president shall provide the board of directors a monthly comprehensive report of investment activities, including

(1) investments purchased and sold during the month,

(2) unrealized market gains or losses compared to book value at month's end;

(3) calculated yield to maturity (current yield on mutual funds) on each outstanding investment as of month's end;

(4) net asset value (NAV) or market value of each marketable investment,

(5) total book value of investments outstanding at month's end,

(6) the total amount of investments having maturities exceeding three years and the ratio of the investments to total reserves and undivided earnings;

(7) unrecorded and unreported obligations to buy or sell investments; and

(8) amounts of investments, other than designated depositories, in other institutions which are not fully insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, or federal or state governments or their agencies.

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 June 17, 1994

TRD-9442558

Robert W. Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.803

The Texas Credit Union Commission adopts an amendment to §91.803, concerning investments in other financial institutions, without changes to the proposed text as

published in February 22, 1994, issue of the *Texas Register*. (19 TexReg 1299)

The amendment contains grammatical changes permitting credit unions to invest in financial institutions similar to banks

There were no comments received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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.

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Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

Reserves and Dividends

• 7 TAC §91.901

The Texas Credit Union Commission adopts an amendment to §91.901, concerning reserving requirements, with changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1299) A change in subsection (c)(11) was made to remove reference to "the lending Federal credit union."

The amendment will make the reserving requirement consistent with that of the share insurer and eliminate confusion on method of calculation

Comments were received from the Credit Union Department Staff and Dallas Teachers Credit Union.

The following is a comment by the Credit Union Department Staff The commenter supported with the rule but suggested deletion of subsection (c)(1) because charged off loans will be charged to the Allowance for Loan Loss Account. The commission agrees that loans will be charged off against the Allowance for Loan Loss account The commission did not change the rule, however, because without the limitation as stated, credit unions might consider these appropriated retained earnings available for other uses.

The following is a comment by the Dallas Teachers Credit Union The commenter agrees with the rule but recommended that the definition of risk assets in subsection (c)(11) should delete the reference to a Federal credit union. The commission agrees and the rule was amend to include any credit union.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the author-

ity to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

§91.901. Reserve Requirements.

(a) In accordance with the requirements of Act, §901, state-chartered credit unions shall set aside a portion of their current gross income, prior to the declaration or payment of dividends, at the close of each dividend period, as follows.

(1) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside 10 per centum of gross income until the regular reserve shall equal 4 per centum of the total of outstanding loans and risk assets, then 5 per centum of gross income until the regular reserve shall equal 6 per centum of the total of outstanding loans and risk assets The totals of the Regular Reserve, the Allowance for Loan Losses Account and the Allowance for Investment Losses shall be combined for determining the applicable percentage of gross income to be transferred to the Regular Reserve.

(2) A credit union in operation less than four years or having assets of less than \$500,000 shall set aside 10 per centum of gross income until the regular reserve shall equal 7-1/2 per centum of the total of outstanding loans and risk assets, then 5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets

(3) Whenever the regular reserve falls below the stated per centum of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(4) Special reserves In addition to the regular reserve, special reserves to protect the interest of members may be established by board resolution or by order of the commissioner, from current income or from undivided earnings In lieu of establishing a special reserve, the commissioner may direct that all or a portion of the undivided earnings and any other reserve fund be restricted In either case, such directives must be given in writing and state with reasonable specificity the reasons for such directives

(b) Reserves to be used only as follows

(1) to charge off uncollectible loans,

(2) to make other distributions as allowed by law and approved by the commissioner

(c) For the purpose of establishing the reserves, all assets except the following shall be considered risk assets

(1) cash on hand;

(2) deposits and/or shares in federally or state-insured banks, savings and loan associations, and credit unions that have a remaining maturity of five years or less,

(3) assets that have a remaining maturity of five years or less and are insured by, fully guaranteed as to principal and interest by, or due from the United States Government, its agencies, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Government National Mortgage Association Collateralized mortgage obligations that are comprised of government guaranteed mortgage loans shall be included in this asset category,

(4) loans to other credit unions that have a remaining maturity of five years or less,

(5) student loans insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 United States Code, §1071, et seq) or similar state insurance programs that have a remaining maturity of five years or less;

(6) loans that have a remaining maturity of five years or less and are fully insured or guaranteed by the Federal or a state government or any agency of either;

(7) shares or deposits in a corporate credit union that have a remaining maturity of five years or less, other than Membership Capital Share Deposit accounts A corporate credit union is defined as a credit union that

(A) is operated primarily for the purpose of serving other credit unions;

(B) is designated by the National Credit Union Administration as a corporate credit union, and

(C) limits natural person members to the minimum required by state or federal law to charter and operate the credit union,

(8) common trust investments, including mutual funds, which deal exclusively in investments authorized by the Federal Credit Union Act that are either carried at the lower cost or market, or are marked to market value monthly;

(9) prepaid expenses;

(10) accrued interest on non-risk investments,

(11) loans fully secured by a pledge of shares or deposits in the credit union, equal to and maintained to at least the amount of the loan outstanding;

(12) loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration;

(13) National Credit Union Share Insurance Fund Guaranty Accounts,

(14) investments in shares of the National Credit Union Administration Central Liquidity Facility;

(15) assets included in paragraphs (2), (3), (4), (5), (6), and (7) of this subsection with maturities greater than three years are exempt from risk assets if the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly;

(16) assets included in paragraphs (2), (3), (4), (5), (6), and (7) of this subsection with remaining maturities greater than three years are exempt from risk assets provided they meet the following criteria, irrespective of whether or not the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly:

(A) the interest rate is reset at least annually;

(B) the interest rate of the instrument is less than the maximum allowable interest rate for the instrument on the date of the required reserve transfer,

(C) the interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index;

(17) fixed assets;

(A) any office, branch office, suboffice, service center, parking lot, or any other facility or real estate where the credit union transacts business;

(B) furniture, fixtures and equipment including all office furnishings, office machines, computer hardware and software, automated terminals, heating and cooling equipment; and

(18) deposit in the National Credit Union's capitalization account balance of 1.0% of insured shares.

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 June 17, 1994

TRD-9442560 Robert W Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §91.902

The Texas Credit Union Commission adopts an amendment to §91 902, concerning dividends without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1301)

The amendment clarifies eligibility for dividends.

The following is a summary of comments by the Credit Union Department staff: The commenter supported the rule, but suggested that it should contain a requirement that prior written approval of the commissioner be obtained for the payment of dividends when the credit union is subject to dividend restrictions or a Cease and Desist Order. The commission disagrees because adequate administrative authority is provided in §91 901(a)(4)

The amendment is adopted under Texas Civil Statutes, Article 2461-11 07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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

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TRD-9442561 Robert W Rogers
Commissioner
Credit Union Department

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For further information, please call (512) 837-9236

◆ ◆ ◆
Chapter 93. Administrative
Procedures

Common Terms

• 7 TAC §93.1

The Texas Credit Union Commission adopts an amendment to §93 1, concerning definitions, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1302)

The amendment provides definitions and acronyms for individuals using rules in Chapter 93

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11 07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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

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Commissioner
Texas Credit Union
Commission

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For further information, please call (512) 837-9236

◆ ◆ ◆
General Rules

• 7 TAC §93.11

The Texas Credit Union Commission adopts an amendment to §§93 11, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1303)

The amendment addresses the delegation of authority to an authorized representative of the commission or commissioner

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461 11 07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442571 Robert W Rogers
Commissioner
Texas Credit Union
Commission

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.12

The Texas Credit Union Commission adopts an amendment to §93 12, concerning requests for hearings before the State Office of Administrative Hearings, (SOAH) with changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1303)

The amendment provides the commissioner with the authority to refer a matter to SOAH prior to entering a preliminary decision

Texins Credit Union commented on the proposed rule

The following is a summary of comments by Texins Credit Union: The commenter supported the rule, but indicated that the pro-

posed rule failed to clarify whether or not the commissioner could set a hearing prior to making a preliminary decision on an application. The commission agrees. The rule was changed to provide that the commissioner may call a SOAH hearing prior to a preliminary decision.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act

§93.12 Finality and Request for SOAH Hearing. Except as provided otherwise by this chapter, the preliminary decision of the commissioner becomes final 20 days from the date of service, unless prior thereto, an applicant or protestant files a written request for hearing before SOAH. The commissioner may, at the commissioner's sole discretion, refer any matter to SOAH for hearing prior to entering a preliminary decision when a hearing is requested by a party, whether or not it has been referred to ADR.

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 June 17, 1994.

TRD-9442572 Robert W Rogers
Commissioner
Texas Credit Union
Commission

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For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.13

The Texas Credit Union Commission adopts an amendment to §93.13, concerning administrative procedures associated with hearings, without changes, to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1304).

The amendment authorizes referral by the commissioner to Alternative Dispute Resolution prior to setting a SOAH hearing.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442573 Robert W Rogers
Commissioner
Texas Credit Union
Commission

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Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.14

The Texas Credit Union Commission adopts an amendment to §93.14, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1304)

The amendment establishes procedures for appeals of applications to incorporate, amendments of bylaws, and mergers or consolidations

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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

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TRD-9442574 Robert W Rogers
Commissioner
Texas Credit Union
Commission

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For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.15

The Texas Credit Union Commission adopts an amendment to §93.15, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1304).

The amendment establishes procedures for appeals of applications for certificates of authority and all other applications for which no specific procedure is provided

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442575 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.16

The Texas Credit Union Commission adopts an amendment to §93.16, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1305)

The amendment establishes procedures for appeals of Cease and Desist Orders and Orders for Removal

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442576 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.17

The Texas Credit Union Commission adopts an amendment to §93.17 concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1305)

The amendment establishes procedures for appeals of Orders of Conservation and Suspension

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442577 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.18

The Texas Credit Union Commission adopts an amendment to §93.18, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1306).

The amendment permits the hearing to continue in the absence of a party.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442578 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.19

The Texas Credit Union Commission adopts an amendment to §93.19, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1306).

The amendment establishes the method of notice and service of pleadings to parties

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442579 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.20

The Texas Credit Union Commission adopts an amendment to §93.20, concerning administrative procedures associated with hearings without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1306).

The amendment establishes the timing for serving interrogatories among parties.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442580 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.21

The Texas Credit Union Commission adopts an amendment to §93.21, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1307).

The amendment permits a party to request admission of another party once the hearing has been scheduled by SOAH.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442581 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.22

The Texas Credit Union Commission adopts an amendment to §93.22, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1307)

The amendment provides for a pre-hearing conference once a hearing has been scheduled before SOAH and states the purpose of the pre-hearing conference.

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442582 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.23

The Texas Credit Union Commission adopts an amendment to §93.23, concerning administrative procedures associated with hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1307)

The amendment provides for placing witness under The Rule.

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442583 Robert W. Rogers
 Commissioner
 Texas Credit Union
 Commission

Effective date. July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call. (512) 837-9236

◆ ◆ ◆
• 7 TAC §93.24

The Texas Credit Union Commission adopts an amendment to §93.24, concerning administrative procedures associated with hearings without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1308).

The amendment provides for prefilng of prepared direct testimony in narrative or question-and-answer form, cross-examination of the witness, and subjects the prepared testimony to be stricken in part or whole.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442584 Robert W. Rogers
Commissioner
Texas Credit Union
Commission

Effective date. July 8, 1994

Proposal publication date. February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §§93.25-93.28

The Texas Credit Union Department adopts the repeal of §§93.25, 93.26, 93.27 and 93.28, concerning procedures related to hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1308).

These rules are repealed because all hearings will be conducted by the State Office of Administrative Hearings.

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442585

Robert W. Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
Contested Cases

• 7 TAC §§93.41-93.64

The Texas Credit Union Department adopts the repeal of §§93.41-93.64, concerning procedures related to hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1309).

These rules are repealed because all hearings will be conducted by the State Office of Administrative Hearings.

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442586 Robert W. Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
Rulemaking Procedures

• 7 TAC §§93.81-93.83

The Texas Credit Union Department adopts the repeal of §§93.81, 93.82, and 93.83, concerning procedures related to hearings, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1309).

These rules are repealed because all hearings will be conducted by the State Office of Administrative Hearings.

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442587

Robert W. Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call. (512) 837-9236

◆ ◆ ◆
The Commission

• 7 TAC §§93.91-93.97

The Texas Credit Union Department adopts the repeal of §§93.91-93.97, concerning procedures related to hearings, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1309).

These rules are repealed because all hearings will be conducted by the State Office of Administrative Hearings.

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442588 Robert W. Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

◆ ◆ ◆
The Commissioner

• 7 TAC §§93.221-93.224

The Texas Credit Union Department adopts the repeal of §§93.221-93.224, concerning procedures related to hearings, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1310).

These rules are repealed because all hearings will be conducted by the State Office of Administrative Hearings.

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442589 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Chapter 95. Texas Share Guaranty Credit Union

General

• 7 TAC §§95.1, 95.3, 95.5

The Texas Credit Union Commission adopts the repeal of §§95.1, 95.3, and 95.5, concerning the operation of Texas Share Guaranty Credit Union, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1310)

These rules are repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rules

There were no comments received regarding adoption of the repeals

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442590 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Powers

• 7 TAC §§95.102, 95.103

The Texas Credit Union Commission adopts the repeal of §§95.102 and 95.103, concerning the powers of Texas Share Guaranty Credit Union, without changes to the pro-

posed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1310).

These rules are repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rules

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442593 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Direction of Affairs

• 7 TAC §§95.201-95.204

The Texas Credit Union Commission adopts the repeal of §§95.201-95.204, concerning the direction of affairs of Texas Share Guaranty Credit Union, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1311)

These rules are repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rules

There were no comments received regarding adoption of the repeals

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442594 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Finance and Accounts

• 7 TAC §§95.301-95.303, 95.305, 95.310-95.313

The Texas Credit Union Commission adopts the repeal of §§95.301-95.303, 95.305, and 95.310-95.313, concerning the finance and accounts of Texas Share Guaranty Credit Union, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1311).

These rules are repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rules

There were no comments received regarding adoption of the repeals

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442595 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date February 22, 1994

For further information, please call (512) 837-9236

Dissolution of TSGCU

• 7 TAC §95.401

The Texas Credit Union Commission adopts the repeal of §95.401, concerning the dissolution of Texas Share Guaranty Credit Union, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1311).

This rule is repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rule

There were no comments received regarding adoption of the repeals.

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442597 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

Supervision and Examination

• 7 TAC §§95.501-95.508

The Texas Credit Union Commission adopts the repeal of §§95.501-5.508, concerning the supervision and examination of member credit unions by Texas Share Guaranty Credit Union, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1312)

These rules are repealed because Texas Share Guaranty Credit Union is currently in liquidation and there is no continuing need for the rules

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442598 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

Chapter 97. Commission Policies and Administrative Rules

General Provisions

• 7 TAC §97.101

The Texas Credit Union Commission adopts an amendment to §97.101, concerning meetings of the commission, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1312)

The amendment provides for the commission chairman to schedule commission meetings and that the minutes will be in writing

There were no comments received regarding adoption of the rule

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442599 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

• 7 TAC §97.102, §97.106

The Texas Credit Union Commission adopts the repeal of §97.102 and §97.106, concerning hearings and compensation, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1312).

These rules are repealed because they are obsolete

There were no comments received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442600 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

Fees

• 7 TAC §97.110

The Texas Credit Union Commission adopts the repeal of §97.110, concerning fees, without changes to the proposed text as published in the February 22, 1994, issue of the *Texas Register* (19 TexReg 1313)

This rule is repealed and replaced by proposed new §97.114.

There were no comments received regarding adoption of the repeal

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994

TRD-9442601 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

• 7 TAC §97.113

The Texas Credit Union Commission adopts an amendment to §97.113, concerning operating fees, without changes to the proposed text as published in February 22, 1994, issue of the *Texas Register* (19 TexReg 1313).

The amendment establishes an annual operating fee of \$200 for each foreign state credit union branch office located in Texas.

There were no comments received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 June 17, 1994.

TRD-9442602 Robert W Rogers
Commissioner
Texas Credit Union
Commission

Effective date: July 8, 1994

Proposal publication date: February 22, 1994

For further information, please call: (512) 837-9236

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners Chapter 71. Application and Applicants

• 22 TAC §§71.1-71.10, 71.12

The Texas Board of Chiropractic Examiners adopts the repeal §§71.1-71.10 and 71.12 and simultaneously adopts new §§71.1-71.3 and §71.5-71.12, concerning definition and the licensure process, without changes to the proposed text in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2588) The Texas Board of Chiropractic Examiners is repealing all of Chapter 71 and replacing it with new Chapter 71

The new sections contain definitions of terms used elsewhere in the rules or terms used in the Chiropractic Act, Texas Civil Statutes, Article 4512(b). The new sections will provide useful information to applicants about the examination and licensure process, including qualification to sit for the examination, scope of the examination and grade requirements.

The following is a summary of the comments received and the Board's response

Comments on §71.1: Definitions.

The Texas Medical Association, Texas Physical Therapy Association, Texas Osteopathic Medical Association, Executive Council of Physical Therapists and Occupational Therapists, and the International Chiropractic Association, as well as several individuals provided comments on this section. The comments were. The definitions of "Biomechanical conditions of the musculo-skeletal system", "surgery", and "subluxation and its direct or indirect relation...to other body systems" exceed the statutory authority of the Texas Board of Chiropractic Examiners. The word "indirect" circumvents legislative intent.

Response. After consideration of these various comments, the Texas Board of Chiropractic Examiners disagrees with the comments. These definitions neither expand nor diminish the actions in which the licensees of this Board may engage. Several of the terms referred to in the comments are used in the Chiropractic Act, Texas Civil Statutes, Article 4512b without statutory definition. The definitions of this section are reasonably necessary for the regulation of the practice of Chiropractic as authorized by Texas Civil Statutes, Article 4512b, §4a.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of five to zero with one abstaining of the six members present and participating.

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §§4a, 10,1(1), 3, 4, 8,1, 4(c)(1), and 13a.

Comments on §71.3: Qualifications of Applicants.

The Texas Physical Therapy Association and the International Chiropractic Association as well as several individuals made the following comments on this section: The Physical Therapy Act restricts the use of the term "Physical Therapy" to the licensees of the Texas Board of Physical Therapy Examiners.

Response. After consideration of all comments made, the Texas Board of Chiropractic Examiners concluded that the offending term was a title of a portion of an examination established by an entity over which this Board has no jurisdiction. The reference to the term

"physical therapy" in this rule is not an authorization for chiropractors to hold themselves out to the public as practicing physical therapy.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating.

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §4a and §10

Comments on §71.5: Approved Chiropractic Schools and Colleges. The International Chiropractic Association and an individual commented that the Chiropractic Act does not authorize the Texas Board of Chiropractic Examiners to regulate Chiropractic Colleges.

Response: The Texas Board of Chiropractic Examiners, after consideration of comments, found that this rule does not purport to regulate chiropractic colleges. Texas Civil Statutes, Article 4512b, §10, uses the term "bona fide reputable chiropractic schools" without definition. The rule as adopted gives meaning to the term and provides assurance that only graduates of chiropractic schools meeting minimum requirements will be eligible to sit for the Texas examination.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating.

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §4a and §10.

Comments on §71.6: Time, Place, and Scope of Examination

An individual commented that the rule conflicts with the Chiropractic Act, §12.

Responses The Texas Board of Chiropractic Examiners, after consideration, found that the Chiropractic Act, §12, establishes the basis for promulgation of this rule. Adequate guidelines for establishing the time, place and scope of the examination allow for each applicant to be notified via rule of the administration and disposition of the examination.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas

Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §4a and §12

Comments on §71 12. National Board Examination

The Texas Physical Therapy Association, International Chiropractic Association, and Executive Council of Physical Therapists and Occupational Therapists, as well as several individuals made the following comments the Physical Therapy Act, Texas Civil Statutes, Article 4512e, precludes the use of the term Physical Therapy or its derivative by anyone not licensed by the Texas Board of Physical Therapy Examiners

Response After consideration of all comments made, the Texas Board of Chiropractic Examiners concluded that the offending term was a title of a portion of an examination established by an entity over which this Board has no jurisdiction. The reference to the term "physical therapy" in this rule is not an authorization for chiropractors to hold themselves out to the public as practicing physical therapy.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

No comments were received on §§71 2, 71.7-71 11. The Texas Board of Chiropractic Examiners promulgated and published these rules based on its statutory authority established in the Chiropractic Act, Texas Civil Statutes, Article 4512(b), §§4a, 5a(a) and 10.

The repeals are adopted under Texas Civil Statutes, Article 4512b, §4 and §4(c), which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules

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-9442705 Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700

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• 22 TAC §§71.1-71.3, 71.5-71.12

The new sections are adopted under Texas Civil Statutes, Article 4512b, §4 and §4(c), which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules.

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-9442704 Pate B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700



Chapter 73. Licenses and Renewals

• 22 TAC §§73.1-73.4, 73.6

The Texas Board of Chiropractic Examiners adopts the repeal §§73 1-73 4 and 73 6 and simultaneously adopts new §§73 1-73 5, concerning licenses and renewals, without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2590)

The new sections are adopted to more completely define the processes, procedures, and requirements affecting licensure, renewal and continuing education.

The repeal of the old rules and adoption of the new rules will further unify the operations of the Board. The ultimate effect of the new rules is to increase accessibility by the public to the administrative process, and to efficiently and expeditiously process applications and petitions in a manner consistent with the requirements of the process

The following is a summary of the comments received and the Board's response

Comments on §73.2: Renewal of License

An individual commented, regarding Student Loan repayment, §73.2(a)(1)(b) The Board should not be in the position of monitoring the financial status of a licensee

Response The Texas Board of Chiropractic Examiners found that after consideration of the comment that in establishing the Texas Guaranteed Student Loan Corporation, the Legislature set forth that no license may be renewed, except under specific provisions, by any licensing agency of the state. This Board did not establish the provision but is required by law to uphold it.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at

its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

Comments on §73.3. Continuing Education

The Texas Physical Therapy Association and the Texas Medical Association, as well as several individuals commented that the Board cannot delegate the authority to set Continuing Education course as required by rule to the Education Committee of the Board. Continuing Education should enhance a Chiropractor's abilities. Guidelines and subjects which are acceptable should be more rigid.

Response The Chiropractic Act, §4a, provides for the establishment of Committees and "the making of rules and regulations not inconsistent with this law as may be necessary for the performance of its duties"

Comment The Texas Medical Association and the Texas Physical Therapy Association commented that the rule requires a state agency to participate in and provide a benefit to private industry which is illegal

Response The rule provides for specific continuing education topics which will be set by and presented by a Board representative. The topics will provide the licensees with direct information regarding rules and statutes as well as giving the licensees access to the Board members or the Board's designee, thus opening avenues of communication

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

No comments were received on §§73.1, 73.4, and 73.5. The Texas Board of Chiropractic Examiners promulgated and published these rules based on its statutory authority established in the Chiropractic Act, Texas Civil Statutes, Article 4512(b), §§4a, 4(c), and 8d

The repeals are adopted under Texas Civil Statutes, Article 4521b, §§4a and 8a-8d, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules

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-9442707 Pate B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700



• 22 TAC §§73.1-73.5

The new sections are adopted under Texas Civil Statutes, Article 4521b, §§4a and 8a-8d, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules

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-9442706 Pate B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700



Chapter 74. Chiropractic Facilities

• 22 TAC §74.1

The Texas Board of Chiropractic Examiners adopts new §74 1, without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2592)

The new rule establishes the procedure as well as the jurisdiction for registration of chiropractic facilities

The following comments were received during the comment period held before adoption of the proposed rules

Comment on §74 1: Chiropractic Facilities

An individual asked Who is affected by this rule?

Response. The owners of chiropractic facilities in the State of Texas

Comment. An individual commented that rules regulating facilities may be used to force doctors of chiropractic to have specific equipment

Response. The Board disagrees with this comment. In adding this requirement to the statute, the intent of the legislature does not appear to be granting the authority to this or any other board the right to designate specific equipment which must be in each facility. The statute does, however, appear to be designed to give this Board the jurisdiction to apply the Chiropractic Act's requirements to owners of facilities

Comment An individual commented that this rule may be used as an enforcement tool.

Response This Board is established to protect the public. This protection would be provided no matter whether it is an issue with a licensee or a facility

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May

19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §4a and §12a

The new section is adopted under the provisions of Texas Civil Statutes, Article 4512b, §4a which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules for the regulation of chiropractic and the enforcement of the Chiropractic 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 27, 1994

TRD-9442708 Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700

Chapter 75. Rules of Practice

The Texas Board of Chiropractic Examiners adopts the repeal of §§75 1-75 6 and adopts new §§75 1-75 10 Section 75 3 and §75 4 are adopted with changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2593) Sections 75 1, 75 2, and 75 5-75 10 are adopted without changes and will not be republished

The new sections are adopted to define authorized instruments, diagnostic techniques and adjunctive therapy, to establish authorized fees, to provide for the processing of complaints and to describe the disciplinary process, including the assessment of administrative penalties

Several changes have been made in the rules from the version proposed The new language in §75 3 (Diagnostic Techniques) and §75 4 (Adjunctive Therapy) do not substantively change the rules as proposed but more accurately reflect the legislative intent as understood by the Board

The following is a summary of the comments received and the Board's response

Comments on §75 1 Grossly Unprofessional Conduct

The Texas Physical Therapy Association, the Texas Osteopathic Medical Association, the Texas Medical Association and an individual made the following comments §75 1(7) is in direct violation of the provisions contained in the Health Professions Act, Article 4512p, §4 The Board is proposing to continue a marketing practice prohibited by law

Response After consideration of the written and oral comments presented, the decision of the Board was to pass the rule as written based on the fact that numerous insurance companies forms provide for waiver of co-payment or deductible which necessitates guidelines to be used by the profession

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its opening meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

The Texas Board of Chiropractic Examiners promulgated and published these rules based on its statutory authority established in Texas Civil Statutes, Article 4512b, §§4a, 14, and 14a

Comments on §75 2 Authorized Instruments

The Texas Medical Association and the Texas Physical Therapy Association, as well as an individual made the following comments Rule is an attempt to circumvent the Chiropractic Act, §4(c) It is an expansion of the meaning of the practice of Chiropractic

Response The rule is written to be more explicit and to directly refer the licensee to the statute when authorized instruments are in question

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating.

Comments on §75 3 Diagnostic Techniques

The rule does not specifically and directly relate to a subluxation of the spine or a musculoskeletal condition that directly relates to the spine Rule exceeds the rulemaking authority of the Board

Response After consideration of oral and written comments, the Board amended the rule as proposed to reflect techniques as defined by statute The amended rule is consistent with acts constituting the practice of chiropractic describes in the Chiropractic Act, Texas Civil Statutes, Article 4512(b), §1

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve as amended with a vote of six to zero with six members present and participating

Comments on §75 4 Adjunctive Therapy

The Texas Physical Therapy Association, the Texas Medical Association, the Certified Orthotic and Prosthetic Advocates in Texas made the following comments Definitions should be limited to the practice of chiropractic involving the spine The rule is beyond the authority of the Board

Response The rule was amended in response to these comments and advise of counsel

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve as amended with a vote of six to zero with six members present and participating

No comments were received on §§75 5-75 10

• 22 TAC §§75.1-75.6

The repeals are adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules

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-9442710 Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700

• 22 TAC §§75.1-75.10

The new sections are adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules

§75 3 *Diagnostic Techniques* Diagnostic techniques that are approved by the Texas Board of Chiropractic Examiners and are within the scope of practice as defined by Texas Civil Statutes, Article 4512(b), §1, are authorized where necessary to make proper diagnosis

§75 4 *Adjunctive Therapy* The use of adjunctive therapy modalities and procedures are authorized for treatment of spinal and spine-related conditions as authorized in

Texas Civil Statutes, Article 4512(b) , §1.

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-9442709

Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call: (512) 305-6700

Chapter 77. Advertising and Public Communication

The Texas Board of Chiropractic Examiners adopts the repeal of §§77.1, 77.2, and 77.5 and new §§77.1, 77.2, and 77.3, without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2596).

The new rules will more clearly define the role and responsibility of the licensee as well as increase the certainty, uniformity, and clarity of the administrative process at the Texas Board of Chiropractic Examiners.

No comments were received on §§77.1-77.3.

• 22 TAC §§77.1, 77.2, 77.5

The repeals are adopted under Texas Civil Statutes, Article 4512(b), §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules.

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-9442712

Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call: (512) 305-6700

• 22 TAC §§77.1-77.3

The new sections are adopted under Texas Civil Statutes, Article 4512(b), §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate and publish rules.

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-9442711

Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call: (512) 305-6700

Chapter 78. Chiropractic Radiologic Technologists

The Texas Board of Chiropractic Examiners adopts the repeal of §78.1 and new §78.1. New §78.1 is adopted with changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2800).

The new rule clearly defines the registration procedure and establishes minimum continuing education for chiropractic radiologic technologists.

The following comments were received during the comment period held before adoption of the proposed rules:

Comments on §78.1: Registration of Chiropractic Radiologic Technologists.

The Texas Physical Therapy Association and the Texas Department of Health made the following comments: The rule requires minimal training and supervision. The rule is not specific about other X-ray procedures the radiologic technologist will be asked to perform. The Board does not have authority to set continuing education for radiologic technologists.

Response: The Texas Board of Chiropractic Examiners through statute is appointed to protect the public. In adopting this rule the Board sets forth criteria which will create further protection against untrained or uncertified individuals.

After consideration of the written comments (submitted to the board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve as amended with a vote of six to zero with six members present and participating.

The Texas Board of Chiropractic Examiners promulgated and published this rule based on its statutory authority established in Texas Civil Statutes, Article 4512b, §§4a, 6, and 14b.

• 22 TAC §78.1

The repeal is adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules.

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-9442715

Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date. July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call (512) 305-6700

The new section is adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provides the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules.

§78.1. Registration of Chiropractic Radiologic Technologists.

(a) Any person performing radiologic procedures under the supervision of a chiropractor must register with the Texas Board of Chiropractic Examiners. This section does not apply to registered nurses or to persons certified under the Medical Radiologic Technologists Certification Act.

(b) The fee for registration required under this section shall be set and approved annually by the board, and, payable to the Texas Board of Chiropractic Examiners by cashier's check or money order upon submission of the registration application

(c) Registration may be suspended, revoked, not renewed, or denied for the following.

(1) violation of the rules of the Texas Board of Chiropractic Examiners;

(2) violation of the Medical Radiologic Technologist Certification Act,

(3) violation of the rules of the Texas Department of Health;

(4) violation of the Texas Chiropractic Act;

(5) violation of the rules of the registrant's licensing agency; and

(6) nonpayment of registration fees.

(d) Each chiropractic radiologic technologist shall renew the registration annually. The technologist shall complete 12 clock hours of continuing education prior to the expiration of the initial registration and six clock hours annually prior to the expiration of each subsequent registration. The continuing education shall meet the requirements of the rules of the Texas Department of Health relating to continuing education for medical radiologic technologists

(e) All registrants must comply with the rules of the Texas Department of Health for the Control of Radiation.

(f) All registrants who perform radiologic procedures must meet the minimum training and supervision standards promulgated by the Texas Department of Health, 25 TAC §§143.1-143.14, unless they perform said procedures under the supervision issued by a licensed chiropractor.

(g) Procedures that include cineradiography are limited to use by a doctor who has passed a course in its use, approved by the Texas Board of Chiropractic Examiners.

(h) Any nonstatic procedure has the potential to be more dangerous and hazardous and by definition may only be performed by a practitioner or a certified medical radiologic technologist.

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-9442713 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call: (512) 305-6700

Chapter 79. Reciprocity

• 22 TAC §§79.1-79.4

The Texas Board of Chiropractic Examiners adopts the repeal of §§79.1-79.4 and new §79.1 and §79.2, without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2601).

The new rule clearly defines the processes and procedures required for persons seeking provisional licensure through the Board and increases the certainty, uniformity and clarity of the administrative process.

The repeal of the old rules and adoption of the new rules will further unify the operations of the Board. The ultimate effect of the new rules is to increase accessibility by the public to the administrative process.

The following comments were received during the comment period held before adoption of the proposed rules:

Comments on §79.2: Specific Requirements of Applicants.

The Texas Physical Therapy Association and the Executive Council of Physical Therapists and Occupational Therapists made the following comment: The Physical Therapy Act restricts the use of the term physical therapy or physiotherapy to the licensees of the Texas Board of Physical Therapy Examiners.

Response: After consideration of all comments made, the Texas Board of Chiropractic Examiners concluded that the offending term

was a title of a portion of an examination established by an entity over which this Board has no jurisdiction. The reference to the term "physical therapy" in this rule is no an authorization for chiropractors to hold themselves out to the public as practicing physical therapy.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held on May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating.

No comments were received on §79.1.

The Texas Board of Chiropractic Examiners promulgated and published these rules based on its statutory authority established in Texas Civil Statutes, Article 4512b, §4a and §9.

The repeals are adopted under the provisions of Texas Civil Statutes, Article 4512b, §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules; and the Administrative Procedure Act (Chapter 2001, the Government Code) which requires agencies to adopt rules of practice.

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-9442717 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call: (512) 305-6700

Chapter 79. Provisional Licensure

• 22 TAC §79.1, §79.2

The new sections are adopted under the provisions of Texas Civil Statutes, Article 4512b, §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules, and the Administrative Procedure Act (Chapter 2001, the Government Code) which requires agencies to adopt rules of practice

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

TRD-9442716 Patte B. Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: July 11, 1994

Proposal publication date: April 12, 1994

For further information, please call (512) 305-6700

Chapter 80. Practice of Chiropractic

The Texas Board of Chiropractic Examiners adopts the repeal of §§80 1-80.3 and new §80 2, without changes to the proposed text and withdraws §80 3 as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2602)

The new rule defines authorized titles by which chiropractors may hold themselves out to the public

The following comments were received during the comment period held before the adoption of the proposed rules

Comments on §80 2 Titles

The Texas Osteopathic Medical Association, the Texas Medical Association, and individual made the comment that, This rule is in conflict with Article 4590e "The Healing Arts Act" The term "chiropractic physician" is false, misleading and deceptive

Response: The Board disagrees with these comments The rule directly defines the titles which may be used by a chiropractor The term chiropractic physician is deemed as appropriate based on Attorney General Opinion Number 1279.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to approve with a vote of six to zero with six members present and participating

The Texas Board of Chiropractic Examiners promulgated and published these rules based on its statutory authority established in the Chiropractic Act, Texas Civil Statutes Article 4512b, §4a.

Comments on §80 3. Specializations

The Texas Medical Association made the following comment. Should the Board attempt to establish a professional name or title through its registry that is reserved to or used by another profession it would be in violation of the Health Professions Act

Response. The Board voted to withdraw the rule.

After consideration of the written comments (submitted to the Board on May 23, 1994 via Airborne overnight delivery), the verbal comments made at a public hearing held May 19, 1994 (verbatim transcription submitted to the Board via Airborne overnight delivery on May 23, 1994), and Board discussion held at its open meeting on May 27, 1994, the Texas Board of Chiropractic Examiners voted to disapprove with a vote of zero to six with six members present and participating

• 22 TAC §§80.1-80.3

The repeals are adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provide the Texas

Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules.

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-9442718 Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700

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• 22 TAC §80.2

The new section is adopted under the provisions of the Chiropractic Act, Texas Civil Statutes, Article 4512b, §4a, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural and substantive rules.

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-9442719 Patte B Kent
Executive Director
Texas Board of
Chiropractic Examiners

Effective date July 11, 1994

Proposal publication date April 12, 1994

For further information, please call (512) 305-6700

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Part XXIV. Texas Board
of Veterinary Medical
Examiners

Chapter 571. Licensing

Examinations

• 22 TAC §571.18

The Texas Board of Veterinary Medical Examiners adopts an amendment to §571.18, concerning Provisional Licensure, without changes to the proposed text as published in the March 4, 1994, issue of the *Texas Register* (19 TexReg 1534).

The amendment will make candidates failing the State Board Examination ineligible for a provisional license. The rule provides a means by which an individual may be licensed until sitting for the next regularly scheduled examinations for licensure. The basic intent of the statutory authority for this rule is to allow a licensing mechanism for persons licensed in another state to become provisionally licensed in Texas until the next available scheduled full State Board Examination. The Provisional License avoids such

applicants from waiting as much as eight months to be candidates for examination. However, the Board has found the Provisional License has become a mechanism for persons failing the State Board Examination to practice until the next scheduled examination, which is not the purpose of the Provisional License.

The Board did not receive any comments concerning amendment to this rule.

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

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

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

TRD-9442664 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: July 8, 1994

Proposal publication date March 4, 1994

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

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Chapter 573. Rules of
Professional Conduct

Supervision of Personnel

• 22 TAC §573.10

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.10, concerning Direct Supervision of Lay Personnel, without changes to the proposed text as published in the March 4, 1994, issue of the *Texas Register* (19 TexReg 1534).

The amendment brings the rule into compliance with the definitions contained in the Veterinary Licensing Act for direct and general supervision, and removes the directive that Rabies Certificates be personally signed by the veterinarians in accordance with the Rabies Control Act.

The Board did not receive any comments concerning amendment to this rule.

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

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

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

TRD-9442661 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date July 8, 1994

Proposal publication date: March 4, 1994

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

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Responsibilities to Clients

• 22 TAC §573.29

The Texas Board of Veterinary Medical Examiners adopts new §573.29, concerning Complaint Information with changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3416). The changes remove redundant language, correct the Board's mailing address, and clarify that the forms of adequate notification is not intended to be a list from which the practitioner must choose, but rather only examples

This new rule requires that licensees provide an effective way to inform clients as to how a complaint may be filed against a licensee, including the Board's address and telephone number. The Board did not receive any comments concerning this rule.

The new section is adopted under Texas Civil Statutes, Article 8890, §18(b), which states: "The Board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the Board for the purpose of directing complaints to the Board."

§573.29. Complaint Information.

(a) A licensee shall provide an effective way to inform his/her consumers and recipients of services about how to file complaints with the Board about his/her services. The notification must contain:

(1) the following specific address. Texas State Board of Veterinary Medical Examiners, 1946 South IH 35, Suite 306, Austin, Texas 78704;

(2) the Board's telephone numbers. (512) 447-1183, fax (512) 442-3443.

(b) Some examples of acceptable forms of notification are: a notice form, with print size of at least 14-point, prominently displayed in each business location in the area that is most frequented by the public, and/or, a statement on each written bill, invoice, or receipt

(c) Failure to have an effective means for providing the information required in this section, or failing to provide the information to a member of the public, is a violation of this rule and 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 June 14, 1994.

TRD-9442663 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: July 8, 1994

Proposal publication date: May 6, 1994

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

Other Provisions

• 22 TAC §573.64

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.64, concerning Continuing Education Requirements, without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3416).

The amendment provides an exemption for retired licensees, veterinary interns or residents, and out-of-country licensees on charitable or special government assignments during the last nine months of the preceding year. The rule is adopted to relieve the 15-hour continuing education requirement for annual license renewal from persons who will either not be practicing on animals or their current activities are advanced training in veterinary medicine. Further, out-of-country licensees often find access to continuing education programs difficult.

The rule is also amended to simplify the time period in which continuing education requirements must be met for license renewal. The rule also provides for disciplinary action for noncompliance.

The Board did not receive any comments concerning amendment to this rule.

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

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

Issued in Austin, Texas, on June 14, 1994

TRD-9442659 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: July 8, 1994

Proposal publication date May 6, 1994

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

• 22 TAC §573.70

The Texas Board of Veterinary Medical Examiners adopts new §573.70, concerning Operation of Temporary Limited-Service Veterinary Services, without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3417).

This new rule establishes conditions under which temporary limited-service veterinary

activities at a mercantile establishment may be provided. The rule also ensures that consumers are provided with adequate and safe services and that consumers and health officials will have information as to where records created during the clinic will be maintained following conclusion of the clinic. The Board did not receive any comments concerning this new rule.

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

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

Issued in Austin, Texas, on June 14, 1994

TRD-9442662 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: July 8, 1994

Proposal publication date May 6, 1994

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 53. Finance

License Fees and Boat and Motor Fees

• 31 TAC §53.8

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held May 19, 1994, adopted 31 TAC §53.8, concerning License Fees and Motor Boat Fees, with no changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2665)

Increases in the fees are necessary to continue current levels of service directed to the public good and to adjust temporary license fees for consistency with other fixed-period license fees

The rule will function by regulating license fees

There were no public comments regarding adoption of the rule.

The amendment is adopted under the authority of the Texas Parks and Wildlife Code, which provides the Texas Parks and Wildlife Commission with the authority to set certain license fees. Section 11 027, Parks and Wildlife Code, directs the Commission to establish reasonable and necessary fees for the administration of department programs

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 June 17, 1994

TRD-9442059 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date September 1, 1994

Proposal publication date April 12, 1994

For further information, please call 1-800-792-1112, Ext 4433 or (512) 389-4433

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing Proclamation

• 31 TAC §§65.1, 65.3, 65.9, 65.13, 65.15, 65.21, 65.26, 65.27, 65.31, 65.40, 65.46, 65.58, 65.62, 65.78, 65.91

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held May 19, 1994 adopted the repeal of 31 TAC §§65.1, 65.3, 65.9, 65.13, 65.15, 65.21, 65.26, 65.27, 65.31, 65.40, 65.46, 65.58, 65.62, 65.78 and 65.91, concerning the Statewide Hunting and Fishing Proclamation. The repeal was adopted without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2665)

The repealed rules are being replaced with new rules necessary to appropriately manage wildlife and fisheries resources through the use of means, methods and manners, bag and possession limits, to clarify the rules for law enforcement purposes, and to protect the fisheries and wildlife resources from over-harvest

The rules are designed to prevent depletion or waste, to simplify regulations for law enforcement, to provide harvest opportunity of fisheries and wildlife resources consistent with acknowledged fisheries and wildlife resources

There were no public comments regarding adoption of the repeals

The repeals are adopted under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with authority to establish wildlife resource regulations for this state

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 June 16, 1994

TRD-9442640 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date September 1, 1994

Proposal publication date: April 12, 1994

For further information, please call: 1-800-792-1112, Ext 4433 or (512) 389-4433

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- 31 TAC §§65.1, 65.3, 65.9, 65.13, 65.21, 65.26-65.28, 65.31, 65.32, 65.40, 65.46, 65.58, 65.62, 65.72, 65.78, 65.91

The Texas Parks and Wildlife Commission, in a regularly scheduled public hearing held May 19, 1994, adopted amendments to 31 TAC §§65.1, 65.3, 65.9, 65.13, 65.21, 65.26-65.28, 65.31, 65.32, 65.40, 65.46, 65.58, 65.62, 65.72, 65.78, and 65.91, concerning the Statewide Hunting and Fishing Proclamation Sections 65.3 and 65.32 were adopted with changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2666). Sections 65.1, 65.9, 65.13, 65.15, 65.21, 65.26-65.28, 65.31, 65.40, 65.46, 65.58, 65.62, 65.72, 65.78, and 65.91 were adopted without changes and will not be republished.

Changes to the proposed text are itemized as follows: In §65.3, the Commission added the statutory definition for migratory game birds to provide consistency with other statewide hunting and fishing proclamations. An error in the reservoir boundary definition for Cooper Lake (§65.3(B)) was corrected. The proposed definition which referred to F.M. Road 17 was in error and was corrected to properly refer to F.M. Road 71.

In §65.32, the Commission added new language in subsection (b) which would set requirements for having deer presented at check stations with hide and head intact.

The rules as adopted are necessary to appropriately manage wildlife and fisheries resources through the use of means, methods and manners, bag and possession limits, clarify the rules for law enforcement purposes, and protect the fisheries and wildlife resources from over-harvest.

The rules are designed to prevent depletion or waste, to simplify regulations for law enforcement, to provide harvest opportunity of fisheries and wildlife resources consistent with acknowledged fisheries and wildlife tenets.

Public comments were received from 2,012 persons who attended 74 county public hearings conducted between February 22 and April 19, 1994. Notice of public hearings was published in local newspapers in each county and news releases were sent to 161 newspapers statewide. Additionally, the public made comments by letter and telephone. Wildlife issues addressed included proposals to change opening date for the spring turkey season in several counties, addition of a white-tailed deer muzzleloader season, new Managed Lands Buck Permits and Spike-Buck Control Permits, and an either-sex option for taking of white-tailed deer in the archery-only season.

Comments received concerning fisheries proposals were minimal, although comments

were received concerning inclusion of Lake Granbury in those reservoirs where take of largemouth bass is restricted to a three-fish daily bag and 18-inch minimum length; proposals to limit the number of crab traps used by a commercial fisherman to 200; support for a 14- to 24-inch slot limit at Fayette County Lake and comments concerning proposed red drum and tarpon tags.

All comments received during public hearings, by correspondence or telephone, or during the Commission's public hearing are available for public inspection at the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744.

Those speaking in favor of the proposed rules include:

One individual (each) spoke in favor of a one buck limit in Bell County and Burnet County.

Thirteen individuals spoke in favor of proposals for Managed Lands Buck Permits.

Twenty-six individuals spoke in favor of Spike-buck Control Permits.

Thirty-three individuals spoke in favor of a special muzzleloader season.

One hundred thirty-four individuals spoke in favor of either-sex take of white-tailed deer during archery-only season.

Lone Star Bowhunters Association spoke in favor of either-sex take of white-tailed deer during archery-only season.

Eight individuals spoke in favor of archery season regulations which were consistent with gun season regulations.

One hundred thirty-six individuals supported the longer season and increased bag limit for pheasants in the Texas panhandle.

The Floyd County and Texas Pioneer Chapters of Pheasants Forever spoke in favor of the longer season and increased bag limit for pheasants in the Texas panhandle.

Seventeen individuals spoke in favor of delaying the spring turkey season in the north zone from the first Saturday to the third Saturday in April.

Seven individuals spoke in favor of increasing the turkey bag limit from one to two turkeys.

Four individuals spoke in favor of closing six east Texas counties to spring turkey hunting.

Two individuals spoke in favor of the proposed prohibition of baiting for eastern turkeys.

Three individuals spoke in favor of limiting the number of commercial crab traps fished by a commercial fisherman to 200.

Two individuals supported recommendations to set the number of crab traps fished by a recreational crab fisherman at three traps.

Three individuals supported spacing proposals for crab traps.

Six individuals supported proposals to prohibit the use of plastic bottles as floats on crab traps.

Two individuals spoke in favor of increasing the minimum length limit for possession of red snapper to 14 inches.

Twenty-two individuals spoke in favor of red drum and bonus red drum tags.

Six individuals spoke in favor of tarpon tags.

Four individuals spoke in favor of smallmouth bass proposals to increase the minimum length limit for possession.

One individual spoke in favor of the proposal to increase the length limit for largemouth bass at Lake Granbury to 18 inch minimum and three fish daily bag.

Those speaking in opposition to proposals include:

Three individuals spoke in opposition to either-sex take of white-tailed deer during archery-only season and two individuals spoke in opposition to archery season regulations which were consistent with gun season regulations.

Fifteen individuals spoke in opposition to a special muzzleloader season.

Ten individuals spoke in opposition to a one-buck limit in Bell County and Burnet County.

Seven individuals spoke in opposition to proposals for Managed Lands Buck Permits.

Sixteen individuals spoke in opposition to Spike Buck Control Permits.

Two hundred thirty-two individuals did not support the longer season and increased bag limit for pheasants in the Texas panhandle. The Olton Chamber of Commerce and Hart Lions Club did not support the longer season and increased bag limit for pheasants in the Texas panhandle.

Seventy-seven individuals spoke in opposition to delaying the spring turkey season in the north zone from the first Saturday to the third Saturday in April. The Dallas Woods and Waters Conservation Club opposed proposals to increase the turkey bag limit and in opposition to the proposal to delay the spring turkey season. The Texas Wildlife Association opposed proposals to increase the turkey bag limit and in opposition to the proposal to delay the spring turkey season. Fifteen individuals spoke in opposition to increasing the turkey bag limit from one to two turkeys.

Nine individuals spoke in opposition to closing six east Texas counties to spring turkey hunting. Temple-Inland and Champion International both opposed closure of six east Texas counties to spring turkey hunting.

Two individuals spoke in opposition to the proposed prohibition of baiting for eastern turkeys.

Nine individuals spoke in opposition to limiting the number of commercial crab traps fished by a commercial fisherman to 200.

Six individuals spoke in opposition to recommendations to set the number of crab traps fished by a recreational crab fisherman at three traps.

Three individuals spoke in opposition to increasing the minimum length limit for possession of red snapper to 14 inches.

Eleven individuals spoke in opposition to red drum and bonus red drum tags.

Fifteen individuals spoke in opposition to tarpon tags

Five individuals spoke in opposition to smallmouth bass proposals to increase the minimum length limit for possession.

Fourteen individuals spoke in opposition to the proposal to increase the length limit for largemouth bass at Lake Granbury to 18 inch minimum and three-fish daily bag

Reasons why agency disagrees with public comment.

Agency response to public comment are addressed in the same numerical order as listed in comments against the proposed rules,

The agency disagrees with supporters of buck-only archery regulations because of the limited archery deer harvest and potential loss of hunting opportunity. Either-sex/no permit required regulations will not impact deer harvest. Uniform statewide archery regulations will be easier for the public to understand and will improve compliance. Elimination of antlerless permit requirements for archery deer reduces burdensome governmental regulation.

The agency disagrees with opposition to the muzzleloader season. The region proposed for the season is characterized by high deer populations that often are in excess of carrying capacity. Landowners ultimately control deer hunting and harvest on property and may voluntarily choose to prohibit muzzleloader hunting on their property. The season provides additional hunting opportunity while benefiting the white-tailed deer resource.

The agency disagrees with opposition to white-tailed deer one-buck bag limits. Bag limit is set at one-buck when hunting pressure removes a significant portion of the annual recruitment of bucks. Allowance for higher bag limits would negatively impact the deer population. However, agency agrees with opposition to the proposed change in white-tailed deer bag limit for Burnet County and withdraws the proposal for further study.

The agency disagrees with opposition to managed-lands buck permits because the extra harvest will be controlled by the biological recommendations in the wildlife habitat and harvest recommendation. Additional harvest flexibility will motivate landowners to seek management assistance.

The agency disagrees with opposition to the addition of spike-bucks to the antlerless deer control permit program. Buck harvest will be controlled by the biological recommendations in the wildlife management plan.

The agency disagrees with opposition to increasing the bag limit from two pheasants-four in possession to three pheasants-six in possession. Pheasant harvest is not a significant factor in regulating pheasant numbers. Surplus pheasants are available. The agency agrees with input opposing an extension of the pheasant season and withdraws the proposal.

The agency disagrees with opposition to increasing the bag limit from three to four Rio Grande turkeys. Turkey harvest is not a sig-

nificant factor in regulating turkey numbers. Surplus turkeys are available. The agency disagrees with opposition to delaying the opening date of Spring Turkey season from the first Saturday in April to the third Saturday in April. Biological studies have shown that the delay may in the future benefit the population if hunting pressure continues to increase. Because the problem is not severe at this time, the agency agrees with input to delay the opening date of Spring Turkey season from the first Saturday in April to the second Saturday in April. The Commission agrees with input to add Goliad, Calhoun and Aransas counties to the South Texas zone.

The agency disagrees with opposition to closing the spring season for eastern turkey Counties where the season was held are still being stocked with turkey and closing the season may aid in restoration efforts.

The agency disagrees with opposition to restrictions on baiting of eastern turkey. The counties affected by the baiting ban are currently being stocked by the department to increase numbers and baiting of turkeys increases harvest.

Scoping of commercial crab fishermen indicates 64% currently fish 200 crab traps or less. Reducing the number of crab traps that individuals may use will reduce fishing pressure on the crab populations, will allow for better distribution of crabs among fishermen, will reduce user group conflicts in areas of high fishing density, and will reduce navigational hazards.

The Texas Blue Crab Advisory Committee recommended that recreational crabbers be allowed to fish six traps. The agency agreed with this proposal.

The 14-inch minimum size limit on red snapper corresponds to the regulation implemented by the Gulf of Mexico Fishery Management Council in federal waters where most of the red snapper fishery occurs. This would insure consistency in regulation enforcement and reduce confusion among fishermen. In addition, the biomass yield per recruit and spawning success of the over-fished red snapper stocks would be improved.

Stocks of red drum have increased to that point at which a modest allowance for increased harvest is justified. A red drum tag will allow the development of a trophy fishery for this species. In addition the tag would increase the opportunity for harvest and reestablish an important component of the red drum fishery.

Similar to the rationale for the red drum tag a tarpon tag will allow the development of a trophy fishery for this species. In addition the tag would increase the opportunity for harvest and reestablish an important component of the tarpon fishery while minimizing harvest.

The agency disagreed with comments expressed against changing harvest regulations for smallmouth bass on seven reservoirs from a 14-inch minimum length limit and five-fish daily bag to a minimum length limit of 18 inches and three-fish daily bag as this regulation was designed to address problems associated with improving angling for smallmouth

bass. The effectiveness of this regulation will be evaluated by a research study.

Staff agreed with comments that changing harvest regulations for largemouth bass on Lake Granbury to a 16-inch minimum length limit and five-fish daily bag would provide some additional protection from harvest for bass as is desired by staff.

The amendments are adopted under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with authority to establish wildlife resource regulations for this state.

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

Agent-A person who is named in the application for antlerless permits or antlerless deer control permits by the landowner to act on behalf of the landowner for purposes of the wildlife management plan, LAMPS recommendation or wildlife habitat and harvest annual recommendation.

Antlerless deer-A deer having no hardened antler protruding through the skin.

Antlerless and Spike-Buck Deer Control Permit-Permits that when attached to an antlerless or spike-buck white-tailed deer legally harvested under a wildlife management plan (see §65.26(3) of this title (relating to Antlerless Deer Harvest Systems)) allow the carcass to be possessed without the hunting license white-tailed deer tag attached.

Antlerless Deer Permit-A permit issued by the department under the provisions of a Wildlife Habitat and Harvest Annual Recommendation that allows the taking of one antlerless deer.

Automatic firearm or fully-automatic firearm-Any firearm that is capable of firing more than one cartridge in succession by a single pull or function of the trigger.

Bait-Something used to lure aquatic animal life.

Baited area-Any area where shelled, shucked or unshucked corn, wheat, or other grain, salt, or other feed is distributed so as to constitute for eastern turkeys, a lure, attraction or enticement to, on, or over any area where hunters are taking or attempting to take eastern turkeys.

Baiting for eastern turkey-the placing, exposing, depositing, distributing, or scattering, of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for eastern turkeys, a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take eastern turkeys.

Bearded hen-A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

Bow—A bow includes the longbow, recurved bow, or compound bow that is hand-held and hand-drawn, and that has no mechanical device built into, or attached to, that will enable the archer to lock the bow at full or partial draw. Other than energy stored by the hand-held, hand-drawn bow, no device to propel the arrow will be permitted.

Buck deer—A deer having a hardened antler protruding through the skin.

Cast net—A net which can be thrown or cast to drop over an area.

Chartered vessel (saltwater)—A boat or vessel whose captain or operator is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers fish for a fee.

Chumming—To deposit into the water any fish, parts of fish, or other substances containing fish or fish parts that are not attached to a hook and line and used to attract fish or stimulate fish feeding activity.

Coastal waters boundary—For purposes of Texas Parks and Wildlife Code, Chapters 61 and 66, all public waters east and south of the following boundary are considered coastal waters: Beginning at the International Toll Bridge in Brownsville, thence northward along U.S. Highway 77 to the junction of Paredes Lines Road (F.M. Road 1847) in Brownsville, thence northward along F.M. Road 1847 to the junction of F.M. Road 106 east of Rio Hondo, thence westward along F.M. Road 106 to the junction of F.M. Road 508 in Rio Hondo, thence northward along F.M. Road 508 to the junction of F.M. Road 1420, thence northward along F.M. Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. High-

way 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of F.M. Road 774 in Refugio, thence eastward along F.M. Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northwestward along State Highway 185 to the junction of F.M. Road 616 in Bloomington, thence northeastward along F.M. Road 616 to the junction of State Highway 35 east of Blessing, thence southward along State Highway 35 to the junction of F.M. Road 521 north of Palacios, thence northeastward along F.M. Road 521 to the junction of State Highway 36 south of Brazoria, thence northward along State Highway 36 to the junction of State Highway 332 in Brazoria, thence eastward along State Highway 332 to the junction of F.M. Road 2004 in Lake Jackson, thence northeastward along F.M. Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Interstate Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the junction of State Highway 73 in Winnie, thence eastward along State Highway 73 to the junction of U.S. Highway 287 in Port Arthur, thence northwestward along U.S. Highway 287 to the junction of Interstate Highway 10 in Beaumont, thence eastward along Interstate Highway 10 to the Louisiana State Line. The public waters: north of the dam on Lake Anahuac in Chambers County; north and west of the junction of the north and south forks of the Guadalupe River in Calhoun and Refugio Counties; the waters

of Taylor Bayou and Big Hill Bayou inland from the saltwater locks on Taylor Bayou in Jefferson County; the Galveston County Reservoir on State Highway 146 in Galveston County; Lakeview City Park Lake in Corpus Christi; Lake Burke-Crenshaw in Pasadena; Galveston County Reservoir in Galveston County; Galveston State Park ponds Numbers 1-7 in Galveston County; Lake Nassau in Harris County; Fort Brown Resaca in Cameron County; Resaca de la Guerra in Cameron County; Resaca de la Palma in Cameron County; Resaca de los Cuates in Cameron County; Resaca de los Fresnos in Cameron County; Resaca Rancho Viejo in Cameron County; and Town Resaca in Cameron County, are not considered coastal waters for purposes of this proclamation.

Crab line—A baited line with no hook or pole attached.

Crab measurements—Blue crabs are measured across the widest point of the body from tip of spine to tip of spine. Stone crab claws are measured by the propodus length which is that distance from the tip of the immovable claw finger to the first joint behind the claw.

Daily bag limit—The quantity of a species of game that may be taken in one day (Texas Parks and Wildlife Code, §61.005(5)).

Day—As used in daily bag limit is that period of time that begins at midnight and ends at midnight.

Deer Management Plan—A written document provided to the landowner or agent and approved by a department biologist after an investigation is completed on a tract of land.

Designated urban lakes—for purposes of Texas Parks and Wildlife Code, Chapters 61 and 66, the following public waters are considered designated urban lakes

COUNTY - Location

BELL

Sammon's Park

BEXAR

Hi-Lions

Live Oak City

Millers

San Antonio River -

Within boundaries of

Brackenridge and

Espada Parks

BOWIE

Spring Lake Park

BRAZOS

Cy Miller Park

Gabbards Park

CAMERON

Dixieland

Ft. Brown Resaca

Harlingen City

Harlingen Sports Complex

COLLIN

Bethany Park A

Bethany Park B

Bethany Park C

COUNTY - Location

COLLIN (Cont.)

Bob Woodruff

Shawnee Park

Towne

DALLAS

Kid Springs Park

Lakeside (Duncanville)

Mesquite City

Northwest Park

(Irving)

O'Bannon (Garland)

Palos Verdes

Samuel Farm Pond A

Samuel Farm Pond #1

Samuel Farm Pond #4

Samuel Farm Pond #5

DENTON

Flower Mound Rheudasil

North Lake Park (Denton)

South Lake Park (Denton)

FORT BEND

Missouri City American

Legion Park

Missouri City Community

Park

GRAYSON

Pickens

Waterloo

GREGG

Teague Park

HARRIS

Bane Park

Burke-Crenshaw

Burroughs Park

Challenger VII Memorial

Park

Eisenhower City Park

Hermann Park

Tom Bass III

HOPKINS

Sulphur Springs City Park

LUBBOCK

Canyon Lake Project 1

Maxey Park

MONTGOMERY

Albert Sallas County Park

ORANGE

Claiborne West Park

POTTER

Medical Center North

COUNTY - Location

Potter (Cont.)	South Concho River - From
Medical Center South	the dam at Avenue K
RANDALL	downstream to the
Southeast Park	dam
SMITH	at Bell Street in
Bellwood	San
Camp Tyler A	Angelo
Camp Tyler B	TRAVIS
Camp Tyler C	Searight Park Lake #1
TARRANT	VAN ZANDT
Bedford Boys Ranch	Canton City
Como	WICHITA
Echo	Kid's Pond
French	Plum
Hurst Chisolm Park	Williams Park
Oakland	WILLIAMSON
TAYLOR	Round Rock City Park
Nelson Park	Taylor City Lake #1
TOM GREEN	Taylor City Lake #2
North Concho River - From	Taylor City Lake #4
the O.C. Fisher	
Reservoir stilling	
basin downstream	
to the dam at Bell	
Street in San Angelo	

Dip net—A mesh bag suspended from a frame attached to a handle.

Final destination for fish—A place either on the mainland, a peninsula, or barrier island where a fisherman finally lands his catch and does not further transport his fish by boat. Final destination does not include jetties or piers.

Final destination for all other wildlife resources—The permanent residence of the person possessing or receiving the wildlife resource, or a part of the wildlife resource, or a commercial processing plant after the carcass of the wildlife resource has been finally processed.

Fish—

(A) **Game fish**—Blue catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, wahoo, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the above.

(B) **Non-game fish (rough fish and bait fish)**—All species not listed as game fish, except endangered and threatened fish which are defined and regulated under separate proclamations.

Fishing—Taking or attempting to take aquatic animal life by any means.

Fish length—The total length which is that straight-line distance measured perpendicularly from the tip of the snout to the extreme tip of the tail (caudal fin) that is squeezed together or rotated to produce the maximum overall length while the fish is lying on its side with the jaw closed.

Fish species names—The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of "A List of Common and Scientific Names of Fishes of The United States and Canada."

Fly fishing—The use of artificial wet or dry flies as a lure. Wet or dry flies are defined as lures which have a body of either synthetic or natural materials (such as foam, cork, yarn, sponge, chenille, hair, metallic tinsel or feathers) and the fly, main fishing line, or leader do not have attached any devices such as spinners, springs, or beads other than split shot or flat lead attached directly to the main line or leader for weight.

Gaff—Any hand-held pole with a hook attached.

Game animals—Are:

(A) Mule deer, white-tailed deer, pronghorn antelope, desert bighorn

sheep, gray or cat squirrels, fox squirrels or red squirrels, and collared peccary or javelina (Texas Parks and Wildlife Code, §63.001);

(B) In Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher counties only, aoudad sheep are game animals (Texas Parks and Wildlife Code, §63.001);

(C) In Brewster, Culberson, Dallam, Deaf Smith, El Paso, Hartley, Hudspeth, Jeff Davis, Moore, Oldham, Pecos, Potter, Presidio, Reeves, and Terrell counties wild elk are game animals (Texas Parks and Wildlife Code, §63.001).

Game birds—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearns' quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild white-fronted doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes (Texas Parks and Wildlife Code, §64.001).

Gear tag—A tag constructed of material as durable as the device to which it is attached. The gear tag must be legible and contain the name and address of the person using the device and the date the device was set out.

Gig—Any hand held shaft with single or multiple points, barbed or barbless.

Gill net—A single wall of webbing held vertically in the water by a line with weights and a line with floats.

Grabble—To take or attempt to take fish with the hand.

Headboat—A vessel in saltwater that carries seven or more persons who fish for a fee.

Hoop net—A net distended by a series of hoops or frames, covered by non-metallic netting.

Hunt—Includes take, kill, pursue, trap, and the attempt to take, kill, or trap (Texas Parks and Wildlife Code, §61.005(1)).

Jug line—A fishing line with five or less hooks tied to a free-floating device.

LAMPS Annual Recommendation—An evaluation of the deer population and deer habitat on a tract of land derived by data collected by the landowner, provided to the department on a LAMPS application or LAMPS hunter harvest form and reviewed by the department to determine an allowable issuance of LAMPS antlerless deer permits.

LAMPS Antlerless Deer Permit—A permit issued by the department under the provisions of a LAMPS annual recommen-

ation that allows the taking of one antlerless deer.

Migratory game birds—Wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack-snipe, woodcock, mourning doves, white-winged doves, white-tipped (white-fronted) doves, red-billed pigeons, band-tailed pigeons, shorebirds of all varieties, and sandhill cranes (Texas Parks and Wildlife Code, §64.021(1)).

Monofilament—A single synthetic filament.

Muzzleloader—Any firearm that is loaded only through the muzzle using black powder or Pyrodex and separate projectile(s) and is ignited by a flint or percussion mechanism.

Natural bait (saltwater)—A whole or cut-up portion of a fish or shellfish or a whole or cut-up portion of plant material in its natural state, provided that none of these may be altered beyond cutting into portions.

Noodling pole—A length of pole constructed of wood, metal, fiberglass or other material whether hollow or solid, with a hook attached and used to snag or foul hook fish

Per license year—The period of time for which a hunting license is valid whether or not the taking of wildlife is permitted in one or more periods during this time.

Pole and line—A line with hook, attached to a pole. This gear includes rod and reel.

Purse seine (net)—A net with flotation on the corkline adequate to support the net in open water without touching bottom with a rope or wire cable strung through rings attached along the bottom edge to close the bottom of the net.

Possession limit—The maximum number of a species of game, fish, or other animals that may be possessed at one time.

Reservoir boundaries for bag, possession, and length limits—

(A) Caddo Lake in Marion and Harrison counties comprises all impounded waters of Big Cypress Bayou from the Texas-Louisiana border upstream to the State Highway 43 bridge

(B) Cooper Lake in Delta and Hopkins counties comprises all waters within the Corps of Engineers lands on Cooper Lake upstream from State Highway 19/154 and downstream from F.M. Road 71.

(C) Lake O'the Pines in Camp, Marion, Morris, and Upshur counties comprises all impounded waters of Big Cypress Creek from Ferrell's Bridge dam (the Lake O'the Pines dam) upstream to U.S. Highway 259 bridge.

(D) Lake Palestine in Anderson, Cherokee, Henderson, Smith, and Van Zandt counties comprises all impounded waters of the Neches River from the Blackburn Crossing dam (the Lake Palestine dam) upstream to F.M. Road 279 bridge including Kickapoo and Flat Creeks in Henderson county.

Sail line—A type of trotline with one end of the main line fixed on the shore, the other end of the main line attached to a wind-powered floating device or sail.

Seine—A section of non-metallic mesh webbing, the top edge buoyed upwards by a floatline and the bottom edge weighted.

Silencer or sound suppressing device—Any device that reduces the normal noise level created when the firearm is discharged or fired.

Snagging or jerking fish—A method of taking fish with one or more hooks attached to a line or artificial lure used in a manner to foul hook a fish. A fish is foul hooked when caught by a hook in an area other than the fish's mouth.

Spear—Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not include arrows.

Spear gun—Any hand-operated device designed and used for propelling a spear, but does not include the crossbow.

Spike-buck deer—A deer having a hardened antler protruding through the surface of the skin with neither antler having a fork or branching point.

Texas Parks and Wildlife Department or department—As the context requires, the Parks and Wildlife Department, or a specifically authorized employee of the department.

Throwline—A fishing line with five or less hooks and with one end attached to a permanent fixture. Components of a throwline may also include swivels, snaps, rubber and rigid support structures.

Trammel net—A net consisting of three walls of webbing suspended from a float line and attached to a single lead line.

Trap—A rigid device of various designs and dimensions used to entrap aquatic organisms.

Trawl—A bag-shaped net which is dragged along the bottom or through the water to catch fish or other aquatic organisms.

Trotline—A nonmetallic main fishing line with more than five hooks attached and with each end attached to a fixture.

Umbrella net—A non-metallic mesh net that is suspended horizontally in the water by multiple lines attached to a rigid frame.

Upstream boundary of Sam Rayburn Reservoir on the Angelina River—The Texas Eastern Transmission Company pipeline.

Wildlife Habitat and Harvest Annual Recommendation—A written document pro-

vided to the landowner or landowner's agent and approved by a department biologist after an on-site evaluation is made of the deer population and deer habitat on a tract of land

Wildlife Management Plan—A written document provided to the landowner or landowner's agent and approved by a department biologist of at least a CS VI level following an evaluation of wildlife habitat and populations

Wildlife resources—All game animals, game birds, marine animals, fish, and other aquatic life (Texas Parks and Wildlife Code, §61 005(2))

Wounded deer—A deer leaving a blood trail.

§65.32. Mandatory Deer Check Stations.

(a) The department may establish deer check stations in any county of the state for the purpose of collecting biologic information on all deer taken in that county

(b) The entire carcass, with head and hide attached, except that internal and sexual organs may be removed (field-dressed), of all deer taken in a county in which mandatory check stations have been established must be presented

(1) To a designated check station agent within 24 hours of take,

(2) By the person, or legal guardian of the person, who killed the deer.

(c) Deer check stations shall be under the direction of an agent designated by the department Agents shall:

(1) register each deer presented at a check station;

(2) issue a special possession tag, provided by the department, for each deer presented at a check station;

(3) maintain records as prescribed in the record book supplied by the department; and

(4) allow inspection of all deer check station records upon request of the department during normal working hours

(d) Except during the 24-hour period immediately following time of kill, it is a violation to possess a deer taken in Hopkins and Hunt counties unless the deer has been checked and tagged by a designated deer check station agent.

(e) A person who fails or refuses to comply with this section commits an offense and is in violation of these rules.

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 June 9, 1994

TRD-9442060

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Proposed date: September 1, 1994

Proposal publication date: April 12, 1994

For further information, please call: 1-800-792-1112, Ext. 4433 or (512) 389-4433

• 31 TAC §65.80

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held May 19, 1994, adopted the repeal of 31 TAC §65.80, concerning the regulation of freshwater mussels. The repeal was adopted without changes to the proposed text as published in the February 18, 1994, issue of the *Texas Register* (19 TexReg 1195)

Statutory authority for regulation of mussels and clams was transferred from Parks and Wildlife Code Chapter 61 to a new Chapter 78 by the 73rd Texas Legislature Parks and Wildlife Code Chapter 78 directs the Commission to regulate by proclamation the taking, possession, purchase and sale of mussels and clams Existing 31 TAC §65 80 lacked statutory authority and is therefore repealed New 31 TAC §§57 156-57 158 will provide regulations for mussels and clams

The rules are designed to prevent depletion or waste, to simplify regulations for law enforcement, to provide harvest opportunity of fisheries and wildlife resources consistent with acknowledged fisheries and wildlife tenets

There were no public comments regarding adoption of the repeal

The repeals are adopted are under the Parks and Wildlife Code, Chapter 78, Mussels and Clams, which provides the Parks and Wildlife Commission with authority to establish regulations for management of this fishery resource.

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 June 16, 1994

TRD-9442641

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date July 8, 1994

Proposal publication date February 18, 1994

For further information, please call 1-800-792-1112, Ext 4433 or (512) 389-4433

Part X. Texas Water Development Board

Chapter 353. Introductory Provisions

General Provisions

• 31 TAC §353.11

The Texas Water Development Board (board) adopts the repeal of §353.11 and new §353.11, concerning charges for public records. New §353.11 is adopted with changes to the proposed text as published in the February 11, 1994, issue of the *Texas Register* (19 TexReg 1025).

The new section concerns the adoption of rules for the board's charges for providing copies of public information as required by Chapter 428, Acts, 73rd Legislature, Regular Session (1993). The rules will specify the charges for copies, faxes, computer time and other information. The rates for the various charges are based on the actual cost to the board. The current version of §353.11 is repealed to allow the new charges to be implemented.

No comments were received regarding the repeal and the adoption of the new section. Changes were made to §353.11(a)(2) and (f)(2) to reflect a change in the General Services Commission rules for the definition of "readily available."

The repeal is adopted pursuant to Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out its powers and duties, and Chapter 428, Acts, 73rd Legislature, 1993, which requires state agencies to adopt rules that specify the charges that the agency will make for copies of public records.

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 June 16, 1994

TRD-9442521 Suzanne Schwartz
Executive Administrator
Texas Water Development Board

Effective date July 7, 1994

Proposal publication date February 11, 1994

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

The new section is adopted pursuant to Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out its powers and duties, and Chapter 428, Acts, 73rd Legislature, 1993, which requires state agencies to adopt rules that specify the charges that the agency will make for copies of public records.

§353.11 Charges for Public Records.

(a) Definitions. The following words and terms, when used in this section,

shall have the following meanings, unless the context clearly indicates otherwise:

(1) Nonstandard-size—Anything other than 8.5 inches by 11 inches or 8.5 inches by 14 inches.

(2) Readily available information—Information that already exists in printed form, or information that is stored electronically and is ready to be printed or copied without requiring any programming, or information that already exists on microfiche or microfilm, but not information that requires more than a substantial amount of time to locate or prepare for release.

(3) Standard-size—8.5 inches by 11 inches or 8.5 inches by 14 inches.

(4) TNRIS—The Texas Natural Resources Information System.

(b) Copy charge

(1) The charge for standard-size reproductions, non-certified, readily available will be \$.10 per page for 50 pages or less and \$.85 for first page and \$.15 for each additional page for more than 50 pages, unless the public performs the copying and then the rate will be \$.10 per page.

(2) The charge for standard-size reproductions, non-certified, not readily available will be \$.70 for the first page and \$.15 per page for subsequent pages plus labor costs of \$18.50 per hour incurred.

(3) Certification of copies will add \$1.00 to the total invoice.

(c) Fax charge

(1) The charge for a local fax is \$.10 per page.

(2) The charge for a long distance fax in the same area code is \$.50 per page and \$1.00 for a different area code.

(d) Nonstandard-size reproductions.

(1) The charge for TNRIS maps is \$.50 per map.

(2) The charge for audio tapes is \$.50 per tape.

(3) The charge for microfilm and xerographic reproduction of 11 inches by 17 inches or larger is \$2.50 per page.

(e) Computer time. The charge for computer time is \$71 per hour plus \$18.50 per hour for staff time but there is no charge for five minutes or less of computer time.

(f) TNRIS Cost Recovery Charges.

(1) The charge for census tract maps is \$36.25.

(2) The charge for copying data to a nine-track tape is \$72.50, which includes staff time, computer time, and a blank tape.

(3) The charge for census block maps is \$.50 plus \$18.50 per hour for staff time.

(4) The charge for printouts is \$15 per page plus \$18.50 per hour staff time plus \$71 per hour computer time.

(5) The charge for diskette reproduction is \$5.00 per diskette and an additional labor charge of \$18.50 per hour if the reproduction involves extensive staff time or complex data manipulation.

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 June 16, 1994

TRD-9442520 Suzanne Schwartz
Executive Administrator
Texas Water Development Board

Effective date July 7, 1994

Proposal publication date February 11, 1994

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

Relationship Between the Board and Private Organizations or Donors

• 31 TAC §§353.80-353.93

The Texas Water Development Board (board) adopts new §§353.80-353.93, concerning the relationship between the board and private organizations or donors, without changes to the proposed text as published in the May 6, 1994 issue of the *Texas Register* (19 TexReg 3420).

New §§353.80-353.93 are adopted to conform with requirements of Government Code, Chapter 2255, §2255.001, Government Code, which requires that state agencies authorized to accept money from a private donor or for which a private organization exists that is designed to further the purposes and duties of the agency, shall adopt rules governing the relationship between donor or organization and state agency. The new section will enable the board to establish procedures and standards of conduct for the acceptance of private donations made to the board in the furtherance of the purposes and duties of the board.

No comments were received regarding adoption of the new sections. A technical correction was made to section 353.80 to change the word chapter to section.

The new sections are adopted pursuant to the Texas Water Code, §6.101, which authorizes the board to adopt rules necessary to carry out its powers and duties and §6.1912 which authorizes the executive administrator of the board to accept money and other assistance from any source to carry out the powers and duties of the board.

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 June 16, 1994

Effective date July 7, 1994

Proposal publication date May 6, 1994

For further information, please call (512)
463-7981◆ ◆ ◆
**Chapter 379. Advisory
Committees**◆ ◆ ◆
• 31 TAC §379.4The Texas Water Development Board (board) adopts an amendment to 31 TAC §379.4, concerning Advisory Committees, without changes to the proposed text as published in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3633).

The amendment to §379.4 will expand the authority of the Economically Distressed Areas Program (EDAP) Innovative and Alternative Technology Committee to allow this committee to review and report on non-EDAP projects. This broadening of committee authority will significantly increase the contribution that can be made in advancing innovative and alternative technology for cost effective projects.

No comments were received on the the proposed section. A technical correction is made to replace a line which was inadvertently deleted in the proposed publication.

The amendment is adopted under the authority of the Texas Water Code, §6.101 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the code and laws of the state, and Texas Civil Statutes, Article 6252-33, which requires the board to adopt rules for advisory committees to the board.

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 June 16, 1994

TRD-9442522 Suzanne Schwartz
Executive Administrator
Texas Water Development
Board

Effective date July 7, 1994

Proposal publication date February 11, 1994

For further information, please call (512)
463-7981**TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS****Part IX. Commission on
Jail Standards****Chapter 259. New Construction
Rules**The Texas Commission on Jail Standards adopts repeals of §§259.660, 259.156, 259.243, 259.349, concerning New Construction Rules, without changes to the proposed text as published in the May 10, 1994 issue of the *Texas Register* (19 TexReg 3570).

Repeal of these rules will allow for adoption of new rules regarding the emergency operation of doors.

The repeals function to allow adoption of new rules eliminating the requirement for a third means of emergency door release.

No comments were received regarding adoption of the repeals.

**New Jail Design, Construction
and Furnishing Requirements**◆ ◆ ◆
• 37 TAC §259.60

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

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 June 14, 1994

TRD-9442316 Jack E. Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512)
463-5505◆ ◆ ◆
The Texas Commission on Jail Standards adopts new rules §§259.60, 259.156, 259.243 and 259.349, concerning New Construction Rules, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3570).

Adoption of these rules will provide effective jail standards relating to the emergency operation of doors to save counties money.

The rules function to eliminate the requirement for a third means of emergency door release.

No comments were received regarding adoption of the new sections.

◆ ◆ ◆
• 37 TAC §259.60

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

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 June 14, 1994

TRD-9442312 Jack E. Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512)
463-5505◆ ◆ ◆
**New Lockup Design, Con-
struction and Furnishing Re-
quirements**◆ ◆ ◆
• 37 TAC §259.156

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

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 June 14, 1994

TRD-9442317 Jack E. Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512)
463-5505◆ ◆ ◆
The new section is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing standards for the construction, equipment, maintenance and operation of county jails.

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 June 14, 1994

TRD-9442313 Jack E. Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512) 463 5505

◆ ◆ ◆
New Low-Risk and Medium-Risk Design, Construction and Furnishing Requirements
• 37 TAC §259.243

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

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 June 14, 1994

TRD-9442318 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512) 463 5505

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

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 June 14, 1994

TRD 9442314 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

For further information, please call (512) 463 5505

◆ ◆ ◆
Podular/Direct Supervision Design, Construction and Furnishing Requirements

• 37 TAC §259.349

The repeal is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and proce-

dures establishing standards for the construction, equipment, maintenance and operation of county jails.

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 June 14, 1994.

TRD-9442319 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date: July 5, 1994

Proposal publication date: May 10, 1994

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

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

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 June 14, 1994

TRD-9442315 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

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

◆ ◆ ◆
Chapter 260. County Correctional Centers

CCC Design, Construction and Furnishing Requirements

• 37 TAC §260.63

The Texas Commission on Jail Standards adopts repeal of §260.63, concerning County Correctional Centers, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3571)

Repeal of this rule will allow for adoption of new rules regarding the emergency operation of doors

The repeal functions to allow adoption of new rules eliminating the requirement for a third means of emergency door release

No comments were received regarding adoption of the repeal

The repeal is adopted under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and proce-

dures establishing standards for the construction, equipment, maintenance and operation of county jails.

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 June 14, 1994.

TRD-9442320 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date: July 5, 1994

Proposal publication date: May 10, 1994

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

◆ ◆ ◆
The Texas Commission on Jail Standards adopts new §260.63, concerning County Correctional Centers, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3571)

Adoption of this rule provides effective jail standards relating to the emergency operation of doors to save counties money

The rule functions to eliminate the requirement for a third means of emergency door release

No comments were received regarding adoption of the new section.

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

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 June 14, 1994.

TRD-9442311 Jack E. Crump
Executive Director
Commission on Jail Standards

Effective date July 5, 1994

Proposal publication date: May 10, 1994

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

◆ ◆ ◆
Chapter 261. Existing Construction Rules

The Texas Commission on Jail Standards adopts repeals of §§261.49, 261.145, and 261.232, concerning Existing Construction Rules, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3572).

Repeal of these rules allows for adoption of new rules regarding the emergency operation of doors.

The repeals function to allow adoption of new rules eliminating the requirement for a third means of emergency door release.

No comments were received regarding adoption of the repeals.

Existing Jail Design, Construction and Furnishing Requirements

• 37 TAC §261.49

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

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 June 14, 1994

TRD-9442321 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

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

The Texas Commission on Jail Standards adopts new §§261.49, 261.145, and 261.232, concerning Existing Construction Rules, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3572)

Adoption of these rules provides effective jail standards relating to the emergency operation of doors to save counties money

The rules function to eliminate the requirement for a third means of emergency door release

No comments were received regarding adoption of the new sections

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

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 June 14, 1994

TRD-9442324 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date: July 5, 1994

Proposal publication date May 10, 1994

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

Existing Lockup Design, Construction and Furnishing Requirements

• 37 TAC §261.145

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

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 June 14, 1994

TRD-9442322 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

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

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

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 June 14, 1994

TRD 9442325 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

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

Existing Low-Risk Design, Construction and Furnishing Requirements

• 37 TAC §261.232

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

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 June 14, 1994.

TRD-9442323 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date: May 10, 1994

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

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

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 June 14, 1994.

TRD-9442326 Jack E Crump
Executive Director
Commission on Jail
Standards

Effective date July 5, 1994

Proposal publication date May 10, 1994

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter F. Budget and Payment Plans

• 40 TAC §15.502, §15.503

The Texas Department of Human Services (DHS) adopts amendments to §15.502 and §15.503, concerning deductions of incurred medical expenses and protection of spousal income and resources in its Medicaid Eligibility rule chapter, without changes to the proposed text as published in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3639)

The justification for the amendments is to eliminate oxygen as an allowed incurred medical expense, specify additional deductions from applied income for home maintenance and guardian fees; and eliminate unlimited burial funds as an exclusion for resource assessment and initial eligibility de-

termination under spousal impoverishment provisions. The amendments will function by clarifying policy regarding allowable deductions from applied income; ensuring clients who need guardians will be able to pay for those services; and ensuring that federal and state rules regarding spousal income are consistent.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with

the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds

The amendments implement the Human Resources Code §§22.001-22.024 and §§32.001-32.042.

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 June 17, 1994

TRD-9442695

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

Effective date: August 1, 1994

Proposal publication date: May 13, 1994

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



OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department on Aging

Monday, June 27, 1994

1949 South IH-35, Third Floor, Large Conference Room

Austin

According to the complete agenda, the Planning Committee will consider and possibly act on: call to order; minutes of April 5, 1994 meeting; 1996-1997 Legislative appropriations request; second quarter administration on aging Report; discretionary grants reports; and adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727

Filed: June 17, 1994, 8:51 a.m.

TRD-9442534

Texas Commission on Alcohol and Drug Abuse

Tuesday, June 28, 1994, 9:00 a.m.

710 Brazos Street

Austin

According to the complete agenda, the Offender Credentialing Committee will call to order; review applications for the Licensed Chemical Dependency Counselor; and adjourn.

Contact: Emelda Mendoza, 710 Brazos Street, Austin, Texas 78701-2576, (512) 867-8720 or Fax (512) 867-8115

Filed: June 20, 1994, 3:14 p.m.

TRD-9442778

Texas Alcoholic Beverage Commission

Monday, June 27, 1994, 9:30 a.m.

5806 Mesa Drive, Suite 180

Austin

According to the agenda summary, the Texas Alcoholic Beverage Commission will discuss approval of minutes of May 27, 1994, meeting; recognition of TABC employees with 20 and above years of service; administrator's report; consideration and possible adoption of proposed agency rules; public comment; executive session, and take action, including a vote, if appropriate, on topics listed for discussion under executive session

Contact: Doyné Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: June 17, 1994, 8:52 a.m.

TRD-9442536

State Banking Board

Thursday, June 30, 1994, 2:00 p.m.

2601 North Lamar Boulevard

Austin

According to the agenda summary, the Board will review and approval of minutes of previous meeting, consideration of interim charter applications, consideration of change of domicile application; review of discontinuance of unmanned teller machine; consideration of final adoption of rules; review of the status of other pending applications, and the Board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of the Texas Banking Code

Contact: Lynda A. Drake, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300

Filed: June 20, 1994, 4:22 p.m.

TRD-9442783

The State Bar of Texas

Thursday-Friday, June 22-23, 1994, 10:00 a.m. and 8:30 a.m., respectively.

The Austin Convention Center, Mezzanine I
Austin

Emergency Revised Agenda

According to the complete agenda, the Commission for Lawyer Discipline added the case of Woodrow Epperson to the litigation docket under Item Numbers 14 and 18 for discussion and possible action.

Reason for emergency. This case required action prior to the next meeting of the Commission.

Contact: Anne McKenna, P.O. Box 12487,
Austin, Texas 78711, (800) 204-2222

Filed: June 16, 1994, 4:11 p.m.

TRD-9442529

Thursday-Friday, June 22-23, 1994,
10:00 a.m. and 8:30 a.m. respectively.

The Austin Convention Center, Mezzanine I
Austin

Emergency Revised Agenda

According to the complete agenda, the Commission for Lawyer Discipline added the following cases to the Appellate Docket under Item Numbers 14 and 18 for discussion and possible action: Leslie Thacker, Robert Connor, and William Kershner, and the case of Albert Huerta to the Special Counsel Docket under Item Numbers 14 and 18.

Reason for emergency: These cases required action prior to the next scheduled meeting of the Commission.

Contact: Anne McKenna, P.O. Box 12487,
Austin, Texas 78711, (800) 204-2222

Filed: June 17, 1994, 3:42 p.m.

TRD-9442685

◆ ◆ ◆
Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Tuesday, June 28, 1994, 9:00 a.m.

Texas Rehabilitation Commission, Brown-Healy Building, 4900 North Lamar Boulevard, Room 6302

Austin

According to the agenda summary, the Work Session will welcome and opening statement; review and discussion of Customer/Community Rehabilitation Program (CRP) Survey; discussion and action on motions adopted by the House Appropriations Subcommittee on Health and Human Services; review and discussion of the Open Meetings Act, discussion and action on operation of the Rules Subcommittee, discussion of ways to increase "Community Integrated Employment" through use of CRPs, discussion of 50/50 ratio in set aside contracts; discussion of Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons' (Texas Committee) operating procedures; discussion of specific measurable expectations for Texas Industries for the Blind and Handicapped (TIBH); discussion of specific budget-related information to be requested of TIBH; discussion of Texas Committee's role in simplifying and enhancing set aside procedures; discussion of Texas Commit-

tee's views on operation of a temporary services placement effort; discussion of equal opportunity employment policies of TIBH; and discussion of how TIBH selects work centers that produce products and services.

Contact: Hollis Pinyan, P.O. Box 12866,
Austin, Texas 78711, (903) 561-8146

Filed: June 16, 1994, 11:46 a.m.

TRD-9442491

◆ ◆ ◆
Coastal Coordination Council

Tuesday, June 28, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 118

Austin

According to the complete agenda, the Coastal Coordination Council will call to order and opening remarks, introduction of new council members, approval of minutes of the March 3, 1994, meeting, discussion and approval of revised Coastal Management Program proposed rules for publication in the *Texas Register*, discussion of Memorandum of Agreement on maintenance dredging; public comment period, and adjournment

Contact: Janet L. Fatheree, 1700 North Congress Avenue, Room 617, Austin, Texas 78701, (512) 463-5285

Filed: June 17, 1994, 3:06 p.m.

TRD-9442673

◆ ◆ ◆
Texas Commission for the Deaf and Hearing Impaired

Saturday, June 25, 1994, 9:00 a.m.

TSD, 1102 South Congress Avenue, Building T-2

Austin

Rescheduled From June 11, 1994

According to the complete agenda, the Board for Evaluation of Interpreters (BEI) will call to order, approval of April 30, 1994 minutes, public comments, chairperson's report, BEI report, TSID report, calendar update, preparation for evaluator training, executive session; review of applicant test materials; certification, recertification, revocation, old business, new business, and adjournment

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: June 17, 1994, 8:51 a.m.

TRD-9442533

Texas State Board of Dental Examiners

Friday-Saturday, June 24-25, 1994, 8:00 a.m.

Austin Stouffer Hotel, 9721 Arboretum Boulevard, San Antonio Room

Austin

Emergency Revised Agenda

According to the agenda summary, the Board will add an emergency item to the agenda, discussion, consideration and nominations to Specialty Advisory Committee--Oral and Maxillofacial Surgery.

Reason for emergency: Information has just been received in the TSBDE office that needs the full board to vote on immediately prior to administering a specialty examination by the Specialty Advisory Committee.

Contact: C. Thomas Camp, 333 Guadalupe, Tower Three, Suite 3800, Austin, Texas 78701, (512) 463-6400.

Filed: June 17, 1994, 9:27 a.m.

TRD-9442566

◆ ◆ ◆
Texas Education Agency (TEA)

Wednesday, June 29, 1994, 1:00 p.m.

Room B, Region XX Education Service Center, 1314 Hines Avenue

San Antonio

According to the agenda summary, the Investment Advisory Committee on the Permanent School Fund will review the proposed long-term strategic asset allocation plan, and other ancillary recommendations for the operation of the Permanent School Fund. The strategic plan focuses on an analysis of the current investment status, and incorporates necessary re-allocation of assets to optimize the investment portfolio.

The State Board of Education will be requested to take action on these items. The recommendations included therein encompass the component issues of the strategic asset allocation plan, along with the ancillary recommendations.

Contact: Carlos Resendez, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9169.

Filed: June 20, 1994, 8:32 a.m.

TRD-9442698

◆ ◆ ◆
State Employee Charitable Campaign

Thursday, June 23, 1994, 9:00 a.m.

815 Market, (Seventh Floor Board Room)
Galveston

According to the complete agenda, the Local Employee Committee-Galveston called to order; heard results of appeals and began planning for local campaign; welcome; report of SECC Meeting-June 18, 1994; discussion of local campaign a.) schedule, b.) materials, c.) budget; and scheduled next meeting.

Contact: Frank W. Jackson, P.O. Box 2250, Galveston, Texas 77553-2550, (409) 762-4357.

Filed: June 20, 1994, 11:37 a.m.

TRD-9442763

Tuesday, June 28, 1994, 5:15 p.m.

1212 North Velasco

Angleton

According to the complete agenda, the Local Employee Committee-Brazoria County will approve fiscal agreements; review statewide and local campaign materials; discuss plans for campaign kickoff; and discuss and approve local goal.

Contact: Lupe Olivares, 1027 South Velasco, Angleton, Texas 77515, (409) 849-8680.

Filed: June 21, 1994, 8:47 a.m.

TRD-9442788

General Services Commission

Tuesday, June 28, 1994, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

According to the agenda summary, the General Services Commission will discuss consideration of adoption of amendments to §§113.81-113.87, concerning the cooperative purchasing program; consideration of adoption of amendment to §113.73, concerning the sale of surplus firearms; consideration of adoption of amendments to §113.19, concerning catalogue purchase procedures; consideration of amendment to Lease Number 302-7277-E7C-Austin to provide an option to purchase/lease purchase; consideration of proposed change orders-various construction projects; consideration and approval of the General Services Commission's 1995 operating budget; discussion of 1996-1997 Legislative Appropriations Request; approval of the strategic plan; briefing on the Master Facilities Plan/Statewide Report; division issues; executive session to consider personnel matters; executive session to receive a report from counsel concerning the status of pending litigation; and executive session to consider the status of the purchase of real

property pursuant to the provisions of Texas Civil Statutes, Article 601b

Contact: Rose-Michael Mungula, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3960.

Filed: June 17, 1994, 11:19 a.m.

TRD-9442616

Office of the Governor- Criminal Justice Division

Wednesday, June 29, 1994, 9:00 a.m.

300 East 11th Street-Room 310

Austin

According to the complete agenda, the Texas Crime Stoppers Advisory Council will call to order; council members roll call; introductions of new board members and guests; election of officers; welcome-Adan Munoz, Criminal Justice Director; approval of minutes; status of Texas Department of Criminal Justice-Prison Program, Bernie Cobb; status of crime stoppers assistance fund; 1994 conference chairperson report; appointment of 1995 committee chairperson; crime stoppers 1994-1995 training, crime stoppers international membership, status report on current operations of crime stoppers; schedule crime stoppers workshops; and adjourn.

Contact: Paula Alvarez-Crampton, P.O. Box 12428, Austin, Texas 78701, (512) 463-1784.

Filed: June 20, 1994, 10:14 a.m.

TRD-9442753

Texas Department of Health

Friday, June 24, 1994, 9:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Texas Board of Health, Health Financing Committee will discuss approval of the minutes from the May 27, 1994 meeting, and discuss and possibly act on recommendations to the State Medicaid Director proposed rules (concerning insulin syringes and needles, and purchased health services rules to add licensed professional counselors and advanced clinical practitioners as Medicaid providers); final adoption of rules (disproportionate share hospital program, LoneSTAR select contracting program process for hospital inpatient services, and inpatient hospital utilization review); and update concerning county indigent health care program.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T D D (512) 458-7708 at least two days prior to the meeting.

Filed: June 16, 1994, 4:11 p.m.

TRD-9442528

Friday, June 24, 1994, 9:45 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Texas Board of Health, Strategic Management Committee will discuss approval of the minutes of the May 26, 1994 meeting; and discuss and possibly act on final adoption of rule concerning a memorandum of understanding between the Texas Department of Health and the Texas Funeral Commission; general revenue transfers; approval of internal audit plan and staffing requirements for the health care financing associateship; fiscal year 1995 operating budget and fiscal year 1996-1997 legislative appropriations request, monthly budget report, update on national health reform, update on border health issues, and update on Texas homeless network

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T D D (512) 458-7708 at least two days prior to the meeting

Filed: June 16, 1994, 4:11 p.m.

TRD-9442527

Friday, June 24, 1994, 1:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

According to the agenda summary, the Texas Board of Health will discuss approval of minutes of the May 27, 1994 meeting, and discuss and possibly act on commissioner's report, recognition, resolutions, proposed rules (surveillance and control of birth defects, midwives, advisory committees (children's vision, speech-language and hearing, and special health care needs, family planning advisory council), special healthcare facility waste, and licensure of wholesale device distributors), adoption of rules (MOU between the Texas Department of Health (TDH) and the Texas Funeral Commission, fees for clinical services, relationship between TDH and private donors and organizations, and public restroom facilities), emergency and proposed rules for the Texas HIV medication formulary and eligibility criteria, recommendations to the State Medicaid Director (proposed rules

concerning insulin syringes and needles; and Medicaid providers; adoption of rules concerning disproportionate share hospitals, LoneSTAR select contracting program, and inpatient hospital utilization review); committee reports; strategic management (general revenue transfers; and internal audit plan and staffing requirements); health financing; health and clinical services (recommendation by Chronically Ill and Disabled Children's Services (CIBC) to postpone site visits, recommendation to repeal §36.015 of the Health and Safety Code, and CIBC budget issues for fiscal years 1995-1997), human resources (continuation and consolidation of the CIBC health service systems and the CIBC community advisory committees, and appointment to Maternal and Child Health Advisory Committee); Regulatory Committee, and announcement and comments not requiring board action, and meeting date for August, 1994

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7484 For ADA assistance, call Richard Butler, (512) 458-7695 or TDD (512) 458-7708 at least two days prior to the meeting

Contact: June 16, 1994, 4:10 p.m.
TRD-9442526

◆ ◆ ◆
Health and Human Services Commission

Tuesday, June 28, 1994, 10:00 p.m.

4900 North Lamar Boulevard, Public Hearing Room
Austin

According to the complete agenda, the Long-Term Care Task Force will review and approval of minutes from previous meeting, discussion of potential agreements, and development of consensus recommendations on issues other than organizational structure, presentation and discussion regarding Senate Health and Human Services Committee and state agency work on Medicaid, lunch, Steering Committee presentation of organizational structure options, and development of consensus recommendations regarding organizational structure, and next steps

Please inform the Commission if you will need interpreter services. The commission's phone number is (512) 502-3200. The Texas Relay number is 1 (800) 735-2989. Interpreters will be available throughout the morning; they will stay for the entire meeting if their services are needed.

Contact: Sonica Lieou, 4807 Spicewood Springs Road, Building 4, Austin, Texas 78759, (512) 502-3200

Filed: June 20, 1994, 4:41 p.m.
TRD-9442785

◆ ◆ ◆
Texas Department of Human Services

Thursday, June 30, 1994, 10:00 a.m.

701 West 51st Street, First Floor, Public Hearing Room
Austin

According to the complete agenda, the Aged and Disabled Advisory Committee will consider opening comments; deputy commissioner's comments, approval of the minutes; federal legislative update report, proceedings of the subcommittee on services to persons with disabilities report, addition of family care as optional services for PHC providers, changes to rules regarding adult day care, combining nursing facility licensure standards and certification requirements in the nursing facility requirements, proposed amendment to licensure application rules in Chapter 90, changes to licensure rules for nurse aides and medication aides, trusts and transfers of assets; support and maintenance policy, rule changes to CLASS program, change in copayment schedule for IH/FSP services, notification of APS investigation in adult foster homes, adding RN delegation of health-related tasks to community care program, revision to licensing requirement rule of PHC program, addition of licensing requirement rule in client managed program, addition of licensing requirement rule for special services to persons with disabilities 24-hour attendant care program, and cost determination rules for certain long term care programs

Contact: Anthony Venza, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4943

Filed: June 20, 1994, 9:29 a.m.
TRD-9442725

◆ ◆ ◆
Texas Commission on Human Rights

Monday, June 27, 1994, 10:00 a.m.

Office of Texas Commission on Human Rights, Conference Room, 8100 Cameron Road, Building B, Suite 525
Austin

According to the agenda summary, the Texas Commission on Human Rights will call to order, roll call, recess into executive session, reconvene in open session to take necessary action as necessary or required, and adjournment.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534

Filed: June 17, 1994, 2:07 p.m.
TRD-9442669

◆ ◆ ◆
Texas Department of Insurance

Wednesday, June 29, 1994, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502
Austin

According to the complete agenda, the Texas Department of Insurance will discuss request by Dr. James J. Scheiner of a hearing on the discount and penalty assessed for the 1993 policy-association appeal

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527

Filed: June 16, 1994, 11:33 a.m.
TRD-9442489

Friday, July 1, 1994, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502
Austin

According to the complete agenda, the Texas Department of Insurance will discuss request by Crossroad Personnel for a hearing regarding employee classifications assigned 1993-1994 policy applicable to Workers' Compensation Insurance-Facility Appeal

Contact: June 16, 1994, 11:33 a.m.
TRD-9442488

◆ ◆ ◆
Joint Interim Committee on Telecommunications and the Public Utility Commission

Wednesday, July 6, 1994, 10:00 a.m.

204 East Fourth Street, American Institution for Learning
Austin

According to the agenda summary, the Commission will meet with Southwestern Bell, in conjunction with the American Institution for Learning, Texas Telemedical Project, and the Texas Environmental Center, will demonstrate "distance learning" and "telemedicine" techniques now available through modern telecommunications technology.

Contact: Kelsi Reeves, P.O. Box 12068, Austin, Texas 78711, (512) 463-8880

Filed: June 20, 1994, 1:06 p.m.

TRD-9442765

◆ ◆ ◆
**Texas Juvenile Probation
Commission**

Friday, July 1, 1994, 9:45 a.m.

6400 Delta Drive

El Paso

According to the complete agenda, the Joint Task Force will call to order; approval of minutes; review and approval of Model Policy Guidelines; OJJDP training-school administrators for effective police, prosecution and probation operations leading to improved Children and Youth Services Training Program-(SAFE Polity); truancy; Texas Education Code; other legislative issues; discussion of scheduling Task Force meeting in September and November (Full Board Meeting), public comment; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13457, Austin, Texas 78711, (512) 443-2001

Filed: June 20, 1994, 4.45 p.m.

TRD-9442787

◆ ◆ ◆
Lamar University System

Monday, June 20, 1994, 5:00 p.m.

John Gray Institute, 855 Florida

Beaumont

According to the complete agenda, the Building and Grounds/Finance and Audit Committee called to order-chair's report, Item 1016-considered approval of expenditure of funds for additional foundation support for new Multi-Purpose Building at Lamar University-Port Arthur, and adjourned

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: June 17, 1994, 3.53 p.m.

TRD-9442687

◆ ◆ ◆
**Texas Department of Licens-
ing and Regulation**

Thursday, June 30, 1994, 9:00 a.m.

920 Colorado, E.O. Thompson Building,
Room 1012

Austin

According to the complete agenda, the Manufactured Housing Inspections and In-

vestigations Committee will hold an administrative hearing to consider the application for a title to a mobile home for Greentree Financial in accordance with the Texas Civil Statutes, Article 5221f, §19(c), Article 9100, 16 TAC §69.208, and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: June 20, 1994, 11:36 a.m.

TRD-9442757

Thursday, June 30, 1994, 11:00 a.m.

920 Colorado, E.O. Thompson Building,
Room 1012

Austin

Rescheduled From: May 17, 1994

According to the complete agenda, the Air Conditioning Inspections and Investigations Committee will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Christopher Klein doing business as Klein A/C and Heating for violation of the Texas Civil Statutes, Article 8861, §5(a), Article 9100, 16 TAC §75.40(e) and §75.70(i), and the Texas Government Code, Chapter 2001

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: June 20, 1994, 11:36 a m

TRD-9442760

Tuesday, July 12, 1994, 9:00 a.m.

920 Colorado, E.O. Thompson Building,
Third Floor

Austin

According to the complete agenda, the Air Conditioning Inspections and Investigations Committee will hold an administrative hearing to consider possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Bert Seden doing business as A. M. Services for violation of the Texas Revised Statutes, Article 8861, §8, Article 9100, 16 TAC §75.90(f), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: June 20, 1994, 11:36 a.m

TRD-9442758

Tuesday, July 12, 1994, 10:30 a.m.

920 Colorado, E.O. Thompson Building,
Third Floor

Austin

According to the complete agenda, the Air Conditioning Inspections and Investigations Committee will hold an administrative hearing to consider possible assessment of an

administrative penalty and denial, suspension, or revocation of the license for Mitch Miller doing business as Pro-Tech Air and Heat for violation of the Texas Civil Statutes, Article 8861, §5(a), Article 9100, and the Texas Government Code, Chapter 2001

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: June 20, 1994, 11 36 a m.

TRD-9442759

◆ ◆ ◆
**Texas Life, Accident, Health
and Hospital Service In-
surance Guaranty Associa-
tion**

Monday, June 27, 1994, 2:00 p.m.

301 Congress Avenue, Suite 500, Board
Room

Austin

According to the agenda summary, the Audit Committee will discuss consideration and possible action on approval of minutes, selection of independent auditor for year ending December 31, 1994, internal control audit, recommendations and resolutions for presentation to the Board of Directors, and next meeting

Some or all of the committee members may participate by telephone conference. This meeting is open to the public and those interested in attending should appear at the stated time, at the above location, which has teleconferencing facilities

Contact: C S LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101

Filed: June 16, 1994, 1 35 p m

TRD-9442504

◆ ◆ ◆
Texas Lottery Commission

Monday, June 27, 1994, 10:00 a.m.

6937 North III-35, American Founders
Building, First Floor Auditorium

Austin

According to the complete agenda, the Texas Lottery Commission will call the meeting to order, approval of minutes of the May 25, 1994 meeting, consideration and possible approval of Strategic Plan, consideration and possible approval of an amendment to the Advertising Services contract between GSD&M and the Texas Lottery Commission, consideration and possible approval of consent orders for partial payment agreement for bingo and lottery licenses including consideration of delegation of authority to sign such orders, consideration

and possible action on a determination regarding the legal characterization of lottery and bingo proceeds, commission may meet in executive session with attorneys to receive legal advice pursuant to §551.071(2) of the Texas Government Code; report by the executive director and possible discussion of financial report, and ADA compliance report of lottery licensees and applicants, report by the executive director and possible discussion and possible action on the status of agency contracts; consideration and possible action on Motion for Rehearing in Docket Number 458093-427 In the matter of Capital Bingo, Inc., may meet in executive session on any items listed above as authorized by the Open Meetings Act, and adjournment.

For ADA assistance, call Michelle Guerrero at (512) 323-3791 at least two days prior to the meeting.

Contact: Michelle Guerrero, 6937 North IH-35, Austin, Texas 78758, (512) 323-3791

Filed: June 17, 1994, 10:36 a.m.

TRD-9442604

◆ ◆ ◆
Texas State Board of Medical Examiners

Monday, June 20, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

According to the agenda summary, the Reciprocal Endorsement Committee, in addition to the previously posted agenda, reviewed additional applicants referred to committee by executive director

Reason for emergency: Information came to the attention of the agency and required prompt consideration

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402

Filed: June 17, 1994, 4:46 p.m.

TRD-9442694

Monday, June 20, 1994, 8:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

According to the agenda summary, the Examination Committee, in addition to previously posted agenda, discussed a request for extension of institutional permit.

Reason for emergency: Information came to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: June 17, 1994, 4:46 p.m.

TRD-9442693

Monday-Wednesday, June 20-22, 1994, 11:00 a.m. (Monday), 10:00 a.m. (Tuesday), and 9:30 a.m. (Wednesday).

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

According to the agenda summary, the Texas State Board of Medical Examiners, in addition to previously posted agenda, considered approval of additional agreed orders, held a public hearing for consideration of adoption of proposed rules related to acupuncture, and approved reappointments to the disciplinary panel.

Reason for emergency: Information came to the attention of the agency and required prompt attention.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: June 17, 1994, 4:46 p.m.

TRD-9442692

Wednesday, June 22, 1994, 8:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

According to the agenda summary, the Standing Orders Committee, in addition to previously posted agenda, discussed approval to extend physician assistant permits which will expire August 1, 1994 to November 1, 1994.

Reason for emergency: Information came to the attention of the agency and required prompt attention

Contact: Pat Wood, Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: June 17, 1994, 4:41 p.m.

TRD-9442690

Friday, June 24, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the agenda summary, the Texas State Board of Acupuncture Examiners, Education Committee will consider discussion and possible action on applying NACSCAOM as the standard for Texas acupuncture schools, use of tutorial program for Texas students, use of University of Texas as the sole standard for determining appropriateness of the required 48 hours of college courses, identification of and contact with Texas acupuncture schools for the purpose of making the schools and stu-

dents aware of the Texas State Board of Acupuncture Examiners and the licensing statute, and citizen communication regarding education requirements.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: June 16, 1994, 12:49 p.m.

TRD-9442497

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Wednesday, June 29, 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 consider approving the following matters: awards; new water quality permit; permit renewal; Class 2 modification; district matters, water utility matters; contract; settled hearings; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8.30 a.m. until 9:00 a.m.)

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905

Filed: June 20, 1994, 10:32 a.m.

TRD-9442754

Wednesday, June 29, 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 consider approving the following matters: water quality enforcement; petroleum storage tank enforcement; district matters, enforcement reports, air quality enforcement; rules; hearing examiner matters, executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date and time.

(Registration begins at 8:30 a.m. until 9:00 a.m.)

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: June 20, 1994, 11:36 a.m.

TRD-9442756

Thursday, July 7, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application for sale, transfer, or merger of Lake Vista Village Water Works by Lakeshore Utility Company, Inc. and to transfer a portion of Certificate of Convenience and Necessity (CCN) Number 10838 from the City of Eustace in Henderson County, Texas. CCN Number 10838 authorizes water utility service to Lake Vista Village Subdivision in Henderson County, approximately four miles south of downtown Eustace and generally bounded on the south by Cedar Creek Lake, on the east by Texas State Highway 2329, and on the north and west by county roads. Docket Number 30393-S

Contact: Tommy Broyles, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442655

Tuesday, July 12, 1994, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an appeal to a water rate increase charged to out-of-city ratepayers by the City of Murphy. Ratepayers have filed a petition appealing the rate increase, in the form of a monthly surcharge for water service, to out-of-city customers. Docket Number 30424-A.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:58 p.m.

TRD-9442649

Thursday, July 14, 1994, 10:00 a.m.

William B. Travis State Office Building, Room 1-111, 1701 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on a water and sewer rate increase by Windmere

Utility Company, Inc. in Travis County, Texas. Docket Number 30379-R.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:58 p.m.

TRD-9442650

Monday, July 18, 1994, 10:00 a.m.

Building B, Room 201A, 12124 Park 35 Circle

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on a water and sewer rate increase by Earl Williams doing business as Cypress Bayou, Inc in Orange County, Texas. Docket Number 30335-G.

Contact: Tommy Broyles, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442651

Monday, July 18, 1994, 10:00 a.m.

Building E, Room 254S, 12118 Interstate Highway 35

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application for a Certificate of Convenience and Necessity by Javid Jabbarnezhad doing business as Destiny Ranch to provide water utility service in Collin County, Texas. The applicant also proposes decertification of a portion of the City of Parker's CCN Number 10207. The proposed service area is located approximately ten miles south of downtown McKinney, Texas, and generally bounded on the east by Lewis Lane, on the south by FM 2514 (Parker Road), on the west by FM 2551 (Dillehay Drive), and on the north by Curtis Drive. The area requested includes approximately 10.75 acres and no current customers. Docket Number 30364-C.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442656

Wednesday, July 20, 1994, 10:00 a.m.

Denton County Courthouse, Commissioner's Court, Courthouse-on-the-Square, 110 West Hickory Street

Denton

According to the agenda summary, the Office of Hearings Examiners will meet before a hearings examiner on a sewer rate increase by Vacation Village Water Supply System, Inc in Denton County, Texas. Docket Number 30414-R.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442653

Thursday, July 21, 1994, 10:00 a.m.

Kent County Courthouse, Highway 70

Jayton

According to the agenda summary, the Office of Hearings Examiners will meet before a hearings examiner on an application for Proposed Permit Number 13698-01 to authorize the disposal of treated domestic sewage effluent by irrigation of 30 acres of pasture land by Kent County. The disposal volume is not to exceed an average of 101,500 gallons per day, and application rates for the irrigated land are not to exceed 3.79 acre-feet/acre/year. The facility and irrigation site are approximately 1,200 feet south of FM 1228 and approximately 7,500 feet west of the intersection of FM 1228 and State Highway 70 in Kent County, Texas.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442657

Friday, July 22, 1994, 10:00 a.m.

Building D, Room 100-13N, 12118 Interstate Highway 35

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on a sewer rate increase by Vern Norman doing business as Somersetshire Estates System in Brazoria County, Texas. Docket Number 30382-G.

Contact: Sylvia McClellan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442654

Tuesday, July 26, 1994, 10:00 a.m.

Angleton Public Library, the Meeting Room, 401 East Cedar

Angleton

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on applications made by Waste Water, Inc. for Proposed Permit Numbers HW50325 and WDW167 to authorize operation of a commercial hazardous waste management facility. The facility is to be comprised of an injection well and surface facilities consisting of eleven tanks and five filters. The facility is located at 19834 Brazoria County Road Number 647 in Guy, Brazoria

County, Texas. The hearing is to be held to determine whether the facility is eligible to operate under interim status under state hazardous waste regulations or whether it is considered a new commercial hazardous waste management facility for the purposes of applying the requirements of Senate Bill 1099.

Contact: Elizabeth Todd, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442658

Wednesday, July 27, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

(Rescheduled from July 13, 1994)

According to the agenda summary, the Commission will consider the Union Pacific Railroad Company's application for approval of plans for construction of an embankment project in the 100-year floodplain of Las Raices Creek, tributary of the Nueces River, Nueces River Basin, pursuant to §16.236 of the Texas Water Code. The existing project is located approximately 2.1 miles south of the town Artesia Wells in La Salle County, Texas. Docket Number RE-0292.

Contact: James Mirabal, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8185.

Filed: June 20, 1994, 2:58 p.m.

TRD-9442777

Friday, July 29, 1994, 10:00 a.m.

Building E, Room 201S, 12118 Interstate Highway 35

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on a water rate increase by Mohawk Water Company in Johnson and Tarrant Counties, Texas. Docket Number 30345-R.

Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: June 17, 1994, 1:59 p.m.

TRD-9442652

Board of Vocational Nurse Examiners

Tuesday, June 21, 1994, 11:40 a.m.

Courtyard Marriott, 5660 North IH-35

Austin

Emergency Revised Agenda

According to the complete agenda, the Board discussed new business: appeal of rule §235.11 by Vanessa Hall, GN.

Reason for Emergency: Typographical error—did read rule §235.5, should be §235.11.

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

Filed: June 21, 1994, 9:35 a.m.

TRD-9442793

Texas Board of Pardons and Paroles

Monday-Friday, June 27-July 1, 1994, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will meet to receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 16, 1994, 1:07 p.m.

TRD-9442502

Monday-Wednesday, June 27-29, 1994, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will meet to receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407

Filed: June 16, 1994, 1:05 p.m.

TRD-9442499

Monday-Friday, June 27-July 1, 1994, 1:30 p.m.

2503 Laké Road, Suite #2

Huntsville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will meet to receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 16, 1994, 1:06 p.m.

TRD-9442500

Thursday-Friday, June 30-July 1, 1994, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will meet to receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 16, 1994, 1:05 p.m.

TRD-9442498

Thursday-Friday, June 30-July 1, 1994, 1:00 p.m. and 9:00 a.m., respectively.

Route 5, Box 258-A

Gatesville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will meet to receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 16, 1994, 1:06 p.m.

TRD-9442501

Texas Parks and Wildlife Department

Tuesday, June 28, 1994, 6:30 p.m.

The Paggi House, 200 Lee Barton Drive
Austin

According to the agenda summary, the Texas Parks and Wildlife Commission members will plan to have dinner at 6:30 p.m., June 28, 1994. Although this function is primarily a social event and no formal action is planned, the Commission may discuss items on the public hearing agenda scheduled for 2:00 p. m., June 29, 1994.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: June 20, 1994, 1:31 p.m.

TRD-9442766

Wednesday, June 29, 1994, 9:00 a.m.

Parks and Wildlife Headquarters-Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Policy and Planning Committee and Regulations Committee (Joint Meeting), Texas Parks and Wildlife Commission will discuss approval of committee minutes for the May 18, 1994 meetings; briefing-public lands classification system; action-proposed 1994-1995 early season migratory proclamation; action-proposed 1994-1995 late season migratory regulations. Note: Policy and Planning Committee and Regulations Committee-Joint Meeting.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: June 20, 1994, 1:31 p.m.

TRD-9442767

Wednesday, June 29, 1994, 10:30 a.m.

Parks and Wildlife Headquarters-Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Capital Projects Committee and Finance Committee (Joint Meeting), Texas Parks and Wildlife Commission will discuss approval of committee minutes from May 18, 1994 meeting; briefing-response to Legislative Budget Board request for comments on potential funding reductions; briefing-review of budget issues for the Fiscal 1995 Operating Budget and Fiscal 1995 Capital Budget; and other business. Note: Capital Projects Committee and Finance Committee-Joint Meeting.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: June 20, 1994, 1:32 p.m.

TRD-9442768

Wednesday, June 29, 1994, Noon

Parks and Wildlife Headquarters-Executive Office Conference Room, 4200 Smith School Road

Austin

According to the agenda summary, the Texas Parks and Wildlife Commission members will plan to have lunch at Noon, June 29, 1994. Although this function is primarily a social event and no formal action is planned, the Commission may discuss items on the public hearing agenda scheduled for 2:00 p.m., June 29, 1994.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: June 20, 1994, 1:32 p.m.

TRD-9442769

Wednesday, June 29, 1994, 2:00 p.m.

Parks and Wildlife Headquarters Complex-Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Texas Parks and Wildlife Commission will approve minutes from May 19, 1994 meeting; presentation of retirement certificates and service awards; presentation-Texas Department of Transportation; presentation-Outstanding achievement award to Dexter C. Harris; recognition-Game Warden Willie Gonzalez and Deputy Sheriff Curt Tisdell; recognition-Lieutenant Ewel "Mokey" McCrary and Game Warden Audie Hamm; recognition-foundation grant from Phillip Morris; action-early season migratory game bird proclamation, 1994-1995.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: June 20, 1994, 1:33 p.m.

TRD-9442770

Public Utility Commission of Texas

Monday, June 27, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 13109-application of Magic Valley Electric Cooperative, Inc. for authority to change rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 16, 1994, 3:11 p.m.

TRD-9442523

Monday, August 22, 1994, 10:00 a.m.,

7800 Shoal Creek Boulevard

Austin

Rescheduled from July 26, 1994, 10:00 a.m.

According to the complete agenda, the Hearings Division will hold a hearing in Docket Number 12855-application of Southwestern Electric Power Company to reconcile fuel costs and request for accounting order.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 20, 1994, 2:21 p.m.

TRD-9442772

Texas Racing Commission

Monday, June 27, 1994, 10:00 a.m.

John H. Reagan Building, Room 101, 105 West 15th Street

Austin

According to the complete agenda, the Texas Racing Commission will call to order; roll call; vote to propose and adopt the following amendments or the repeals: §§303.202, 305.43, 311.1, 311.2, 311.4-311.6, 311.8-311.11, 303.9, 305.62, 305.301, 321.118, 309.152, 311.157, 313.1, 313.2, 313.41, 321.234, 309.200, 313.103, 313.308, 313.409, 319.111, and 319.112; consideration of and action on the following: change of ownership in Valley Greyhound Park; Trinity Meadows request for exemptions to §309.102 and §309.103, relating to racetrack size; request by Texas Arabian Breeders Association for approval of amendment to Texas-Bred Program; contract between Sam Houston Race Park and Texas Horsemen's Benevolent and Protective Association; request by Lubbock Downs, Inc. for approval of change of location; request by Retama Park for approval of simulcasting; presentation by Thomas J. Stovall, licensed farrier, regarding Sam Houston Race Park policies on farriers; old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78701, (512) 794-8461.

Filed: June 17, 1994, 4:41 p.m.

TRD-9442689

Railroad Commission of Texas

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the division director's report on budget, personnel, and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: June 17, 1994, 11:12 a.m.

TRD-9442609

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The commission will consider and act on the Information Resource Manager's report on information resource planning documents.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: June 17, 1994, 11:12 a.m.

TRD-9442610

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: June 17, 1994, 11:13 a.m.

TRD-9442611

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: June 17, 1994, 11:13 a.m.

TRD-9442612

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the Personnel Division director's report on division administrations, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline, and/or dismissal of personnel. The following matters will be taken up for consideration and/or decision by the commission. commission budget, fiscal, administrative or procedural matters, strategic planning; personnel and staffing, including restructuring or transferring the Oil Field Theft Division.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

Filed: June 17, 1994, 11:13 a.m.

TRD-9442613

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will consider and act on the agency budget, fiscal and administrative matters, and the Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: June 17, 1994, 11:13 a.m.

TRD-9442614

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the agenda summary, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: June 17, 1994, 11:13 a.m.

TRD-9442615

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

Revised Agenda

According to the complete agenda, the Railroad Commission of Texas will add on agenda: consideration of pipeline safety realignment.

Contact: Jerry Martin, P.O. Box 12967, Austin, Texas 78711, (512) 463-7001.

Filed: June 17, 1994, 3:56 p.m.

TRD-9442752

Monday, June 27, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

Emergency Meeting

According to the complete agenda, the Railroad Commission of Texas will consider a motion for rehearing for Docket Number 0204362, application of Samson Resources Company for an exception to Statewide Rule 37, for its Flowers Lease, Well Number 339, Hemphill (Granite Wash) and Wildcat Fields, Hemphill County, Texas

Reason for Emergency. Action on the Motion for Rehearing is required at the next regularly scheduled meeting, June 27, 1994, otherwise the Motion for Rehearing will be overruled by operation of law.

Contact: Dwight Martin, P.O. Box 12967, Austin, Texas 78711, (512) 463-6924.

Filed: June 20, 1994, 1:05 p.m.

TRD-9442764

Friday, July 22, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Railroad Commission of Texas will hear oral argument in Oil and Gas Docket Number 8-98,524; request for a determination under Rule 34(i) as to the status of takes from Clajon Gas Company, L.P.

Contact: Jim McDougal, P.O. Box 12967, Austin, Texas 78711, (512) 463-6924.

Filed: June 17, 1994, 11:12 a.m.

TRD-9442608



Texas Guaranteed Student Loan Corporation

Friday, June 24, 1994, 9:30 a.m.

13809 North Highway 183

Austin

Rescheduled From June 10, 1994

According to the agenda summary, the Budget/Finance/Audit Committee will discuss approval of minutes of November 30, 1993; fiscal year 1993 auditor presentation; internal audit report; contract execution resolution discussion; review of project year end financials; budget transfers request; and adjourn.

Contact: Peggy Irby, 13809 North Highway 183, Suite 400, Austin, Texas 78750, (512) 219-5700.

Filed: June 16, 1994, 3:17 p.m.

TRD-9442524

Friday, June 24, 1994, 11:00 a.m.

13809 North Highway 183

Austin

Rescheduled From June 10, 1994

According to the agenda summary, the Executive Committee will discuss approval of minutes of April 14, 1994; reengineering update; guarantee fee cap; Budget/Finance/Audit Committee report; contract execution resolution approval; budget transfers approval; executive session: compensation and attorney's report on pending and potential litigation, and adjourn.

Contact: Peggy Irby, 13809 North Highway 183, Suite 400, Austin, Texas 78750, (512) 219-5700.

Filed: June 16, 1994, 3:17 p.m.

TRD-9442525

University of Houston System

Wednesday, June 22, 1994, 8:00 a.m.

Shamrock Room, Conrad Hilton College Hotel, University of Houston, 4800 Calhoun

Houston

According to the agenda summary, the Board of Regents discussed and/or approved the following: minutes, executive session: dual employment requests; Master of Business Administration Degree; faculty emeritus appointments; various reports; right-of-way agreement; abrogation and release of restrictions; land acquisition; renovations of a portion of Law Hall; athletic/alumni change order; athletics/alumni furniture contract, contract for cold storage

system; capital projects; various purchase order renewals; consulting contracts; various extension of contracts; operating budget, legislative appropriations request; write-off of accounts and notes receivable; closure of bank account; consent docket; and appointment of Nominating Committee.

Contact: Peggy Cervenka, 1600 Smith, #3400, Houston, Texas 77002, (713) 754-7442.

Filed: June 16, 1994, 2:37 p.m.

TRD-9442516

University of Texas, M.D. Anderson Cancer Center

Tuesday, June 21, 1994, 9:00 a.m.

Seventh Floor, 1515 Holcombe Boulevard, M.D. Anderson Cancer Center, Conference Room AW7.707

Houston

According to the agenda summary, the Institutional Animal Care and Use Committee discussed review of protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, Ph.D., 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: June 16, 1994, 3:02 p.m.

TRD-9442518

Texas Workers' Compensation Commission

Friday, June 24, 1994, 9:30 a.m.

4000 South IH-35, Rooms 910-911, Southfield Building

Austin

According to the agenda summary, the Medical Advisory Committee will call to order, review and approval of May 20, 1994 minutes; discussion of public hearing on medical issues; discussion, review, and possible approval of treatment guidelines; discussion of probable spinal surgery process; discussion of impairment ratings and designated doctor pool; establish draft agenda; establish next meeting date; and adjournment.

Contact: Todd K Brown, 4000 South IH-35, Southfield Building, Austin, Texas 78704, (512) 448-7963.

Filed: June 20, 1994, 4:22 p.m.

TRD-9442782

Regional Meetings

Meetings Filed June 16, 1994

The Alamo Council of Governments Board of Directors met at the Menger Hotel, 204 Alamo Plaza, San Antonio, June 21, 1994, at 3:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9442490.

The Deep East Texas Council of Governments Board of Directors met at 1936 North Street, Stephen F. Austin State University (University Center, President's Suite "B"), Nacogdoches, June 23, 1994, at 1:00 p.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9442506.

The Education Service Center Region XV Board of Directors met at the ESC Region XV, 612 South Irene Street, Conference Room #1, San Angelo, June 23, 1994, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9442495.

The Garza County Appraisal District (Revised agenda.) Appraisal Review Board will meet at the Appraisal District Office, 124 East Main, Post, June 29, 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-9442507.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, June 21, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9442530

The Jasper County Appraisal District Jasper County Appraisal Review Board met at the Jasper County Appraisal District, 137 North Main, Jasper, June 22-23, 1994, at 9:00 a.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9442493

The Jasper County Appraisal District Jasper County Appraisal Review Board will meet at the Jasper County Appraisal District, 137 North Main, Jasper, July 13-14, 1994, at 9:00 a.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9442494

The Jasper County Appraisal District Jasper County Appraisal Review Board will meet at the Jasper County Appraisal District, 137 North Main, Jasper, July 20-22, 1994, at 9:00 a.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9442492.

The Johnson County Rural Water Supply Corporation Tariff Committee met at the JCRWSC Office, Highway 171 South, Cleburne, June 21, 1994, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9442513.

The Johnson County Rural Water Supply Corporation Vehicle Cover Committee met at the JCRWSC Office, Highway 171 South, Cleburne, June 21, 1994, at 5:45 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9442512.

The Johnson County Rural Water Supply Corporation Regular Board Meeting met at the JCRWSC Office, Highway 171 South, Cleburne, June 21, 1994, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9442514.

The Kendall County Appraisal District Appraisal Review Board met at 121 South Main Street, Conference Room, Boerne, June 20, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442496.

The Leon County Central Appraisal District Appraisal Review Board met at the Leon County Central Appraisal District Office, Gresham Building, Corner Highway 7 and 75, Centerville, June 22-23, 1994, at 9:00 a.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9442503.

The MHMR Authority of Brazos Valley Board of Trustees met at 804 Texas Avenue, Conference Room A, Bryan, June 23, 1994, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9442531.

The Texas Council on Offenders with Mental Impairments Executive Committee will meet at the TDCJ-Pardons and Paroles Building, Board Room, 8610 Shoal Creek Boulevard, Austin, June 24, 1994, at 9:30 a.m. Information may be obtained from Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406. TRD-9442532.

The Rusk County Appraisal District Board of Directors met at the Administrative Office, 107 North Van Buren, Henderson, June 21, 1994, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (903) 657-3578. TRD-9442505.

The West Central Texas Council of Governments Executive Committee met at 1025 East North Tenth Street, Abilene, June 22, 1994, at 12:45 p.m. Information may

be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9442515.

The West Central Texas Council of Governments Regional Review Committee will meet at the WCTCOG Office, 1205 East North Tenth Street, Abilene, July 12, 1994, at 10:00 a.m. Information may be obtained from Jim Compton, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9442517.

Meetings Filed June 17, 1994

The Alamo Council of Governments Area Judges met at the Menger Hotel, 204 Alamo Plaza, San Antonio, June 21, 1994, at 2:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9442568.

The Atascosa County Appraisal District Appraisal Review Board met at Fourth and Avenue J, Poteet, June 23, 1994, at 8:00 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9442605.

The Austin-Travis County MHMR Center Finance and Control Committee met at 1430 Collier Street, Austin, June 21, 1994, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9442617.

The Austin-Travis County MHMR Center Finance and Control Committee met at 1430 Collier Street, Austin, June 21, 1994, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9442622.

The Austin-Travis County MHMR Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, June 23, 1994, at 9:30 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9442691.

The Capital Area Rural Transportation System (CARTS) CARTS Board of Directors met at 2010 East Sixth Street, Austin, June 23, 1994, at 9:00 a.m. Information may be obtained from Edna M. Burroughs, P.O. Box 6050, Austin, Texas 78702, (512) 389-1011. TRD-9442620.

The Coastal Bend Council of Governments Membership will meet at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, June 24, 1994, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9442678.

The Comal Appraisal District Board of Directors met at 178 East Mill Street, New Braunfels, June 20, 1994, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9442564.

The Dallas Area Rapid Transit Audit Committee met in Conference Room "B", 1401 Pacific Avenue, Dallas, June 21, 1994, at 11:00 a.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9442680.

The Dallas Area Rapid Transit Committee-of-the-Whole met in Conference Room "C", 1401 Pacific Avenue, Dallas, June 21, 1994, at 1:00 p.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9442681.

The Dallas Area Rapid Transit Board of Directors Construction Tour will meet in Conference Room "C", 1401 Pacific Avenue, Dallas, June 25, 1994, at 3:00 p.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9442683.

The Deep East Texas Regional MHMR Services Board of Trustees will meet at 1201 Frank Street, Lufkin, June 28, 1994, at 11:30 a.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9442639.

The Deep East Texas Regional MHMR Services Board of Trustees will meet at 4101 South Medford Drive, Lufkin, June 28, 1994, at 2:30 p.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9442638.

The Education Service Center, Region II Board of Directors met at the Education Service Center, Region II (Board Room), 209 North Water, Corpus Christi, June 23, 1994, at 6:30 p.m. Information may be obtained from Dr. Ernest Zamora, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288, Ext. 2200. TRD-9442637.

The Education Service Center, Region III Board of Directors met at 1905 Leary Lane, Victoria, June 20, 1994, at 1:30 p.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9442619.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, June 20, 1994, at 9:00 a.m. Information may be obtained from Dorothy J. Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 938-3552. TRD-9442535.

The Fisher County Appraisal District Fisher County Appraisal District Board of Directors will meet at the Fisher County Courthouse/Court Room, Roby, July 12, 1994, at 6:00 p.m. Information may be obtained from Betty Mize, Route 1, Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9442684.

The Golden Crescent Private Industry Council met at 2401 Houston Highway, Victoria, June 22, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9442565.

The Gonzales County Appraisal District (Revised agenda.) Appraisal Review Board met at 928 St. Paul Street, Gonzales, June 21, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9442618.

The Harris County Appraisal District Board of Directors met at 2800 North Loop West, Eighth Floor, Houston, June 22, 1994, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291. TRD-9442607.

The Jack County Appraisal District Board of Directors met at 210 North Church Street, Jacksboro, June 21, 1994, at 7:00 p.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9442623.

The Kempner Water Supply Corporation Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, June 23, 1994, at 7:00 p.m. Information may be obtained from Doug Lavender, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9442688.

The Kendall County Appraisal District Appraisal Review Board met at 121 South Main Street, Conference Room, Boerne, June 20, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442665.

The Kendall County Appraisal District Appraisal Review Board met at 121 South Main Street, Conference Room, Boerne, June 21, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442666.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, June 27, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442667.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, June 28, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442668.

The Lamb County Appraisal District Appraisal Review Board will meet at 331 LFD Drive, Littlefield, July 12, 1994, at 8:00 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950, (806) 385-6474. TRD-9442606.

The Lower Colorado River Authority Ad Hoc Committee on Community Resources and Development met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, June 21, 1994, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442636.

The Lower Colorado River Authority Ad Hoc Committee on General Manager's Evaluation met at 3701 Lake Austin Boulevard, Hancock Building, General Manager's Conference Room, Austin, June 21, 1994, at Noon. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442635.

The Lower Colorado River Authority Committees on Planning and Public Policy and Natural Resources met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 21, 1994, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442633.

The Lower Colorado River Authority Natural Resources Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 21, 1994, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442634.

The Lower Colorado River Authority Ad Hoc Committee on Community Resources and Development met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442624.

The Lower Colorado River Authority Audit Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be ob-

tained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442625.

The Lower Colorado River Authority Finance and Administration Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442626.

The Lower Colorado River Authority Conservation and Environmental Protection Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442627.

The Lower Colorado River Authority Natural Resources Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442628.

The Lower Colorado River Authority Energy Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442629.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442630.

The Lower Colorado River Authority Board of Directors met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, June 22, 1994, at 9:00 a.m., and reconvening, if necessary at 9:00 a.m. on June 23, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9442631.

The Lower Colorado River Authority Ad Hoc Committee for LCRA's 60th Anniversary Celebration met at 3701 Lake Austin Boulevard, Hancock Building, General Manager's Conference Room, H115, Austin, June 23, 1994, at Noon. Information may be obtained from Glen E. Taylor, P.O.

Box 220, Austin, Texas 78767, (512) 473-3287 TRD-9442632

The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization met at the 1xDOT District Office, 600 West Expressway U.S. 83, Pharr, June 23, 1994, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 4900 North 23rd Street, McAllen, Texas, (213) 682-3481 TRD-9442621

The Montague County Tax Appraisal District Montague County Appraisal Review Board met in the Montague County Tax Appraisal District Meeting Room, Montague, June 22-23, 1994, at 9:00 a.m. Information may be obtained from Wanda Russell, 312 Rusk Street, Montague, Texas 76251, (817) 894-2081 TRD-9442688

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee will meet at the International Conference Center of the Convention, Center Complex, San Antonio, June 27, 1994, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651 TRD-9442567

The Scurry County Appraisal District Board of Directors will meet at 2612 College Avenue, Snyder, June 24, 1994, at 8:00 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549 TRD-9442672

The South Texas Private Industry Council, Inc. met at the Zapata County Public Library, Zapata, June 23, 1994, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546 TRD-9442670

The TML Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool will meet at Hawthorn Suites Central, Austin, June 24, 1994, at 8:00 a.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521 TRD-9442671

The Upshur County Appraisal District Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, June 23, 1994, at 8:00 a.m. Information may be obtained from Louise Stracener, P.O. Box 250, Gilmer, Texas 75644-0280, (903) 843-3041 TRD-9442679

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Meetings Filed June 20, 1994

The Bastrop Central Appraisal District Appraisal Review Board will meet at 1200

Cedar Street, Bastrop, June 24, 1994, at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925 TRD-9442700

The Bosque County Central Appraisal District Board of Directors met at 202 South Highway 6, Meridian, June 23, 1994, at 8:00 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304 TRD-9442779

The Central Appraisal District of Johnson County Appraisal Review Board met at 109 North Main, Suite 201, Room 202, Cleburne, June 21-23, 1994, at 9:00 a.m. Information may be obtained from Jim Hudspeth, 109 North Main, Cleburne, Texas 76031, (817) 645-3986 TRD-9442734

The Central Appraisal District of Johnson County Appraisal Review Board will meet at 109 North Main, Suite 201, Room 202, Cleburne, June 28-July 1, 1994, at 9:00 a.m. Information may be obtained from Jim Hudspeth, 109 North Main, Cleburne, Texas 76031 (817) 645-3986 TRD-9442735

The Central Appraisal District of Johnson County Appraisal Review Board will meet at 109 North Main, Suite 201, Room 202, Cleburne, July 6-7, 1994, at 9:00 a.m. Information may be obtained from Jim Hudspeth, 109 North Main, Cleburne, Texas 76031, (817) 645-3986 TRD-9442747

The Central Appraisal District of Johnson County Appraisal Review Board will meet at 109 North Main, Suite 201, Room 202, Cleburne, July 12-15, 1994, at 9:00 a.m. Information may be obtained from Jim Hudspeth, 109 North Main, Cleburne, Texas 76031, (817) 645-3986 TRD-9442736

The Central Appraisal District of Johnson County Appraisal Review Board will meet at 109 North Main, Suite 201, Room 202, Cleburne, July 19-21, 1994, at 9:00 a.m. Information may be obtained from Jim Hudspeth, 109 North Main, Cleburne, Texas 76031, (817) 645-3986 TRD-9442737

The Eastland County Appraisal District Appraisal Review Board will meet at the Eastland High School, 900 West Plummer, Eastland, June 30, 1994, at 10:00 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597 TRD-9442741

The Edwards Central Appraisal District Board of Directors met at the New County Annex Building, Rocksprings, June 23, 1994, at 10:00 a.m. Information may be obtained from Natalie Pruitt, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189 TRD-9442743

The Guadalupe-Blanco River Authority Legal Committee will meet at the First Lockhart National Bank, 111 South Main Street Lockhart, June 27, 1994, at 1:00 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822 TRD-9442714

The Jack County Appraisal District Appraisal Review Board will meet at 819 West Belknap, Jacksboro ISD Agriculture Science and Technology Building, Jacksboro, June 24, 1994, at 8:30 a.m. Information may be obtained from Vicky L. Easter or Gary L. Zeitler, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301 TRD-9442784

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, June 29, 1994, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618 TRD-9442755

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, July 7, 1994, at 9:00 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722 TRD-9442762

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, July 14, 1994, at 9:00 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722 TRD-9442761

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Conference Center, Lake Sam Rayburn, June 29, 1994, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011 TRD-9442740

The Martin County Appraisal District Appraisal Review Board will meet at the Junior High School Cafeteria, 100 North Gray Street, Stanton, June 27, 1994, at 9:00 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823 TRD-9442739

The Martin County Appraisal District Appraisal Review Board will meet at the Appraisal Office, 308 North St. Peter, Stanton, June 28, 1994, at 9:00 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823 TRD-9442738

The Middle Rio Grande Development Council Board of Directors will meet in the Sage Room, Holiday Inn, 920 East Main, Uvalde, June 29, 1994, at 1:00 p.m. Infor-

information may be obtained from Leodore Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-442781.

The Middle Rio Grande Development Council will meet in the Sage Room, Holiday Inn, 920 East Main, Uvalde, June 29, 1994, at 3:30 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9442780.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, June 27, 1994, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9442746.

The Permian Basin Regional Planning Commission Private Industry Council met at the UTPB-CEED, FM 1788 and 191, Midland, June 22, 1994, at 10:00 a.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9442701.

The San Jacinto River Authority Board of Directors will meet at the Lake Conroe Office Building, Conference Room, Highway 105 West/Dam Site Road, Conroe, June 29, 1994, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9442742.

The Swisher County Appraisal District Appraisal Review Board will meet at 130 North Armstrong, Tulia, June 24, 1994, at 9:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118. TRD-9442773.

The Upper Leon River Municipal Water District Board of Directors met at the General Office of the Filter Plant, Lake Proctor, June 23, 1994, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9442771.

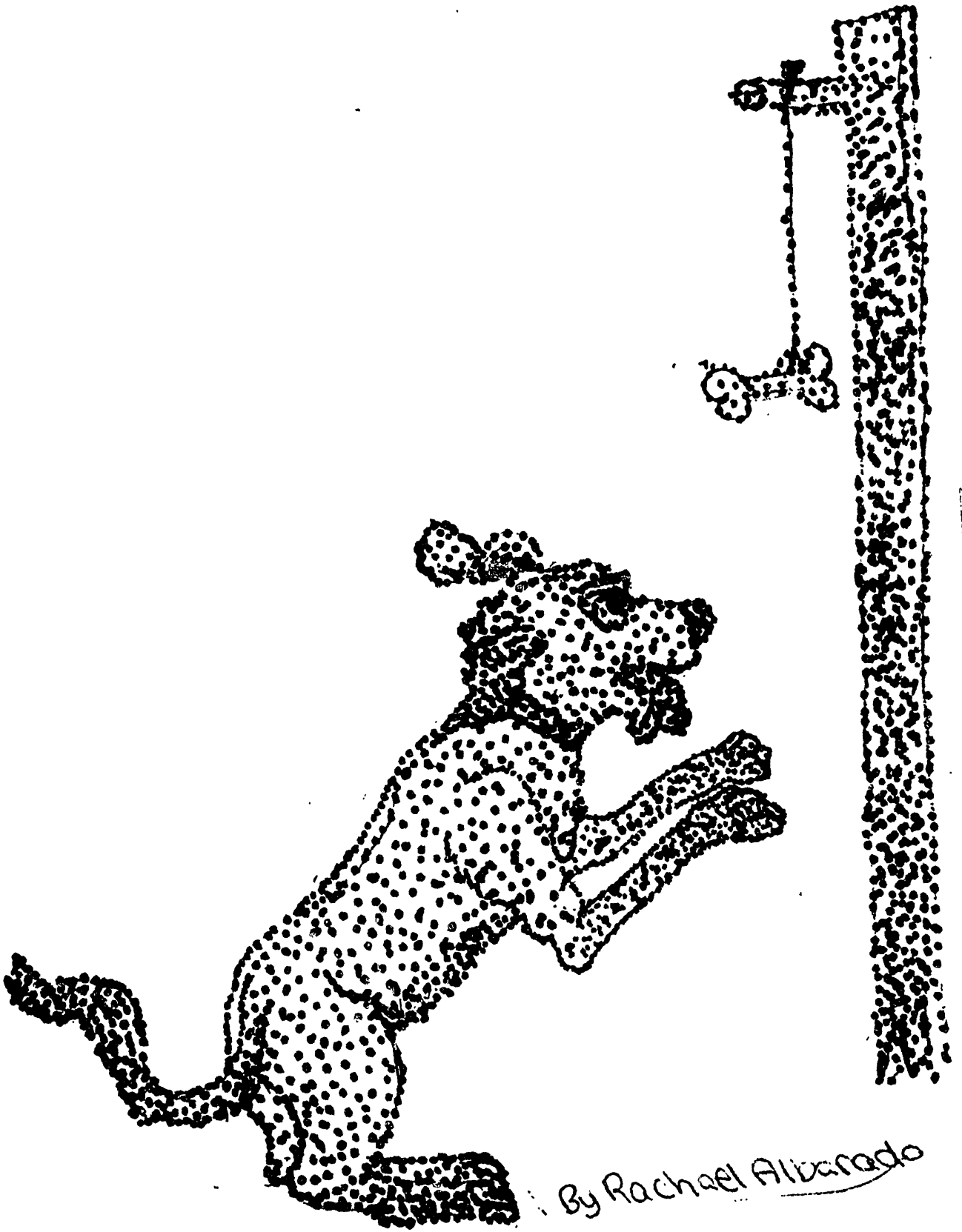
The Wheeler County Appraisal District Appraisal Review Board will meet at the District's Office, County Courthouse Square, Wheeler, July 7-8, 1994, at 9:30

a.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9442745.

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Meetings Filed June 21, 1994

The Erath County Appraisal District (Emergency meeting.) Appraisal Review Board met at 1390 Harbin Drive, Stephenville, June 21-23, 1994, at 9:00 a.m. The emergency meeting was necessary because the agency could not get agenda faxed to state: too late to mail. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434, Fax (817) 965-5633 TRD-9442789.

The Erath County Appraisal District Appraisal Review Board will meet at 1390 Harbin Drive, Stephenville, June 28-30, 1994, at 9:00 a.m. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434, Fax (817) 965-5633. TRD-9442790.



By Rachael Albarado

IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Alcoholic Beverage Commission Correction of Errors

The Texas Alcoholic Beverage Commission proposed the repeal of §45.141, concerning metric sizes of liquor (distilled spirits and wines). The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3888).

Due to a typographical error the heading was incorrect. It should read:

Metric System

The Texas Alcoholic Beverage Commission proposed an amendment to §45.21, concerning the standards of fill for distilled spirits, which will combine all rules sections regarding distilled spirits sizes into one section. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3878).

Due to an inputting error §45.21(a) was worded incorrectly. It should read "(a) Authorized standards of fill. The standards of fill for all distilled spirits, whether domestically manufactured, domestically bottled, or imported, subject to the tolerances allowed in this section, shall be as follows:"

The Texas Alcoholic Beverage Commission proposed an amendment to §45.73, concerning labels for malt beverages. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3879).

Due to a publishing error the word "license" in §45.73(c) fourth line should read "licensee".

The Texas Alcoholic Beverage Commission proposed new §45.20, concerning the timely filing of all excise reports. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3874).

Section 41.20 should read: "41.20. *Timely Filing of Reports.* With respect to all tax reports required under Chapter 201 of the Texas Alcoholic Beverage Code or Title 16, Texas Administrative Code, Chapter 41, a person filing a report or making a tax payment complies with the

filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised..."

The Texas Alcoholic Beverage Commission proposed new §50.5, concerning the denial, revocation or suspension of program approval. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3893).

Section 50.5(c)(3), fourth line should read "...sensation and three years have not passed..."

The Texas Alcoholic Beverage Commission proposed new §50.8, concerning the certification of trainees who have successfully completed an approved seller training program. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3894).

Section 50.8(a), second line should read "...port the administration shall issue an appro-..."

The Texas Alcoholic Beverage Commission proposed new §45.109, concerning the restocking and rotation of alcoholic beverages in retail licensed premises. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3883).

Section 45.109(c)(1), should read "(1) place brands sold by him on a retailer's shelves, coolers, or displays in space allocated to his brands by the retailer;"

The Texas Alcoholic Beverage Commission proposed an amendment to §45.49, concerning authorized container sizes for wines. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3878).

In §45.49(c), in the fifth, sixth, and 11th line the word "quarter" should be "quart".

The Texas Alcoholic Beverage Commission proposed an amendment to §35.11, concerning possession of bottle-capping devices not being per se illegal. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3873).

In the heading it reads "Prohibited Equipment" it should read "Chapter 35. Enforcement".

In §35.11, third column, line four, the word "bottle" should read "bottles".



The Texas Alcoholic Beverage Commission proposed new §45.111, concerning outdoor advertising in dry areas. Proposed amendment to §45.112, concerning use of brand names and insignias of beer. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3885).

New rule 16 TAC §45.111 and the amendment to 16 TAC §45.112 pose a problem as published.

As published: §45.111 reads "All Beverages". It should read: "Subchapter D. Advertising and Promotion-All Beverages". As published §45.112 has no heading. It should read: "Subchapter E. Advertising and Promotion-Malt Beverages".



The Texas Alcoholic Beverage Commission proposed new §50.9, concerning the exemption from administrative action that a licensee/permittee may receive as a result of requiring their employees to attend a commission-approved seller training program. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3895).

Section 50.9 should read "§50.9. Licensee Permittee Exemption from Administrative Action."



The Texas Alcoholic Beverage Commission proposed new §45.4, concerning the standards of identity for distilled spirits, to include certain lower-alcohol distilled beverages. The rule appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3874).

In §45.4(B)(2) should read "(2) Class 2-whiskey. "Whiskey..."

In §45.4(12)(A) should read "(A) Geographical names for distinctive types of distilled spirits (other than names found by the administrator under subparagraph (B) of this paragraph to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name unless:"



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	06/20/94-06/26/94	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on June 13, 1994.

TRD-9442448 Al Endsley
Consumer Credit Commissioner

Filed: June 15, 1994



Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Houston	William Marsh Rice University	L04744	Houston	0	06/06/94
San Antonio	MPI Pharmacy Services, Inc.	L04764	San Antonio	0	06/01/94
Throughout Texas	International Radiography & Inspection Services	L04769	Wichita Falls	0	06/08/94
Throughout Texas	SOLOCO, Inc.	L04708	Metairie, LA	0	06/08/94

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Amarillo	Syncor International Corporation	L03398	Amarillo	16	06/02/94
Amarillo	High Plains Baptist Hospital	L01259	Amarillo	44	06/06/94
Austin	Syncor International Corporation	L02117	Austin	52	06/02/94
Austin	Austin Radiological Association	L00545	Austin	70	06/03/94
Beaumont	Syncor International Corporation	L02987	Beaumont	25	06/02/94
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	70	05/27/94
Corpus Christi	Syncor International Corporation	L04043	Corpus Christi	12	06/02/94
Dallas	Syncor International Corporation	L02048	Dallas	77	06/02/94
Dallas	Syncor International Corporation	L04576	Dallas	4	06/02/94
El Paso	Syncor International Corporation	L01999	El Paso	79	06/02/94
Fort Worth	Syncor International Corporation	L02905	Fort Worth	36	06/02/94
Houston	Solus Schall, U.S.A.	L04463	Houston	5	06/01/94
Houston	Syncor International Corporation	L01911	Houston	87	06/02/94
Houston	Mallinckrodt Medical, Inc.	L03008	Houston	36	06/03/94
Houston	Sam Houston Memorial Hospital	L01878	Houston	26	05/17/94
Houston	St. Luke's Episcopal Hospital & Texas Heart Institute	L00581	Houston	50	05/27/94
Houston	University of Texas M.D. Anderson Cancer Center	L00466	Houston	56	06/10/94
Houston	Southern Petroleum Laboratories, Inc.	L04276	Houston	3	06/14/94
Lubbock	Syncor International Corporation	L02737	Lubbock	36	06/02/94
Lubbock	Methodist Diagnostic Imaging	L03948	Lubbock	16	06/02/94
Lufkin	Woodland Heights Medical Center	L01842	Lufkin	25	06/09/94
Pasadena	Medical Diagnosis Imaging Centers	L04346	Pasadena	6	05/31/94
Pittsburg	East Texas Medical Center - Pittsburg	L03106	Pittsburg	10	05/25/94
Plano	HCA Medical Center Plano	L02032	Plano	26	06/09/94

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Port Lavaca	Union Carbide Chemicals & Plastics Company Inc.	LC0051	Port Lavaca	59	06/08/94
San Antonio	Syncor International Corporation	L02033	San Antonio	68	06/02/94
San Antonio	Genelabs Technologies, Inc. (San Antonio)	L04352	San Antonio	1	06/03/94
San Antonio	Village Drive Imaging	L03460	San Antonio	8	06/03/94
San Antonio	Alfred L. Burden, Jr., M.D.	L01025	San Antonio	16	06/10/94
Taylor	Johns Community Hospital	L03657	Taylor	15	05/27/94
Throughout Texas	Aztec Manufacturing Partnership, Ltd.	L03791	Crowley	3	06/02/94
Throughout Texas	TERRA-MAR, INC.	L03157	Houston	20	06/02/94
Throughout Texas	MQS Inspection Incorporated	L00087	Houston	60	05/31/94
Throughout Texas	Texas Department of Transportation	L00197	Austin	69	05/31/94
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	35	05/31/94
Throughout Texas	Southern Services, Inc.	L02683	Lake Jackson	45	06/03/94
Throughout Texas	BIX Testing Laboratories	L02143	Baytown	61	06/07/94
Throughout Texas	Conam Inspection, Inc.	L00478	Houston	66	06/07/94
Throughout Texas	Via MDT Engineering and Testing	L04322	Channelview	21	06/07/94
Throughout Texas	Black Warrior Wireline Corp.	L04473	Columbus, MS	3	06/07/94
Throughout Texas	Reinhart and Associates, Inc.	L03189	Austin	23	06/06/94
Throughout Texas	Guardian MDT Services, Inc.	L04099	Corpus Christi	27	05/27/94
Throughout Texas	Gilbert Texas Construction Corp.	L04569	Fort Worth	3	05/19/94
Throughout Texas	Professional Service Industries, Inc.	L00931	Lombard, Illinois	100	06/09/94
Throughout Texas	Adams Brothers, Inc.	L04771	Athens	1	06/08/94
Throughout Texas	SOLOCO, Inc.	L04708	Metairie, LA	1	06/10/94
Throughout Texas	Henley-Johnston & Associates, Inc.	L00286	Dallas	24	06/13/94
Throughout Texas	Cardinal Surveys Company	L00065	Odessa	67	06/08/94
Throughout Texas	Collin County Courthouse	L04019	McKinney	6	06/10/94
Throughout Texas	W. H. Henken Industries, Inc.	L00967	Arlington	32	06/09/94
Victoria	Citizens Medical Center	L00283	Victoria	50	06/10/94

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Abilene	Abilene Cardiology Consultants, P.A.	L04315	Abilene	8	06/13/94
Calvert	Texas-New Mexico Power Company	L04280	Bremond	2	06/03/94
Dumas	Memorial Hospital	L03540	Dumas	10	06/10/94
Greenville	Mohiudin A. Zeb, M.D.	L04154	Greenville	1	06/08/94
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	34	06/09/94
Throughout Texas	Enprotec, Inc.	L04266	Abilene	4	05/25/94
Throughout Texas	Freese and Nichols, Inc.	L04301	Fort Worth	3	06/09/94
Throughout Texas	Coastal Wireline Services, Inc.	L04239	Pearland	4	06/09/94

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Fairfield	Texas Utilities Mining Company	L02074	Fairfield	13	06/06/94
Plano	James K. Burks, M.D.	L03191	Plano	5	05/31/94
Throughout Texas	AnAid, Inc.	L03171	Dickinson	34	06/10/94

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 3407 Wall Street, Austin, Texas from 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays)

Issued in Austin, Texas, on June 17, 1994.

TRD-9442744 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: June 20, 1994

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**Public Hearings on Proposed Grants for
HIV Education Programs**

The Texas Department of Health will hold public hearings at each of the department's public health regions regarding proposed grants that are available for HIV education programs. A request for proposal was published in the *Texas Register* May 6, 1994, concerning the availability of funds for grants to support HIV education/prevention projects. The HIV Services Act, Texas Civil Statutes, Article 4419b-4 (Chapter 1194, Acts of the 71st Legislature, Regular Session, 1989) (Senate Bill No. 959) requires the Texas Department of Health to hold hearings in each Public Health Region to allow the public to comment on specific HIV education proposals for state funding.

The public hearings are scheduled as follows:

9:00 a.m.-12:00 p.m., Wednesday, August 3, 1994, at the Texas Department of Health, Public Health Region 1, 1109 Kemper Street, Large Conference Room, Lubbock, Texas (Billie Ray-phone (806) 744-3577 Ext. 299);

10:00 a.m.-12:00 p.m., Thursday, August 4, 1994, at the Amarillo Hospital District, Public Health Services, 411 South Austin Street, Amarillo, Texas (Billie Ray-phone (806) 371-1100);

8:00 a.m.-4:00 p.m. Wednesday, September 7, 1994, at the Texas Department of Health, Public Health Regions 2 and 3, 2561 Matlock Road, Room 75, Arlington, Texas (Deborah Springer-phone (817) 792-7213);

10:00 a.m.-12:00 p.m., Wednesday, August 10, 1994, at the Texas Department of Health, Public Health Regions 4 & 5, 1517 West Front Street, Room 257, Tyler, Texas (Toni Kelley-(903) 595-3585 Ext. 330);

9:00 a.m., Wednesday, August 3, 1994, at the Texas Department of Health, Public Health Region 6, 10500 Forum Place Drive, Conference Room 4, Houston, Texas (Judy Spong-phone (713) 414-6260),

9:00 a.m.-12:00 p.m., Wednesday, August 3, 1994, at the Texas Department of Health, Public Health Region 7, 1100 West 49th Street, Service Building, Classroom B, Austin, Texas (Tracy Collins -(512) 458-7111 Ext. 2754);

9:00 a.m.-12:00 p.m., Friday, August 5, 1994, at the Texas Department of Health, Public Health Region 8 Headquarters, 1015 Jackson-Keller Road, 2nd Floor Conference Room, San Antonio, Texas (Mary Martinez-(210) 534-8857);

9:00 a.m., Tuesday, August 16, 1994, at the Texas Department of Health, Public Health Regions 9 and 10, 2301 North Big Springs, Suite #300, Midland, Texas (Sarana Savage-(915) 683-9492),

9:00 a.m., Thursday, August 18, 1994, at the Texas Department of Health Regional office, 6070 Gateway East, Suite 401, El Paso, Texas (Sarana Savage-(915) 774-6200); and

8:30 a.m.-12:00 p.m., Wednesday, September 7, 1994, at the Texas Department of Health, Public Health Region 11, 601 West Sesame Drive, Harlingen, Texas (Griselda Puell-Mata-phone (210) 423-0130).

Issued in Austin, Texas, on June 20, 1994

TRD-9442732 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: June 20, 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 94-02, Amendment Number 431.

The amendment deletes the experimental pediatric care reimbursement class as an experimental class. The amendment is effective January 1, 1994.

In addition information is needed, please contact Kathy Hall, at (512) 450-3702.

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

TRD-9442509 Tim Graves
Deputy Commissioner
Texas Health and Human Services
Commission

Filed: June 16, 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 94-04, Amendment Number 433.

The amendment deletes the Nursing Facility (NF) 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 April 1, 1994.

In addition information is needed, please contact Kathy Hall, at (512) 450-3702.

Issued in Austin, Texas, on June 13, 1994.

TRD-9442510 Tim Graves
Deputy Commissioner
Texas Health and Human Services
Commission

Filed June 16, 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 92-03, Amendment Number 342.

The amendment addresses the requirements for paying employer-based group health insurance premiums, in accordance §4402 Omnibus Budget Reconciliation Act. The amendment is effective September 1, 1994.

In addition information is needed, please contact Terry Cottrell, at (512) 338-6518.

Issued in Austin, Texas, on June 16, 1994

TRD-9442508 Tim Graves
Deputy Commissioner
Texas Health and Human Services
Commission

Filed June 16, 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 94-11, Amendment Number 440.

The amendment identifies payment rates for obstetric services in accordance with Section 1926 of the Social Security Act. The amendment is effective July 1, 1994

In addition information is needed, please contact Genie DeKneef, at (512) 338 6509.

Issued in Austin, Texas, on June 13, 1994.

TRD-9442511 Tim Graves
Deputy Commissioner
Texas Health and Human Services
Commission

Filed: June 16, 1994



Texas Historical Commission Request for Bid

Notice is given to the public of the intent to file Request for Bids from qualified contractors for the Restoration/Renovation of the Christianson Leberman Building. All potential general contractors will be required to complete a Qualifications Form provided by the Texas Historical Commission which must be submitted with the bid. This historic building is located at 1304 Colorado Street, Austin, Texas, and is listed on the National Register of Historic Places. Qualification Forms are currently available and will be accepted prior to picking up bid documents. Information is to be used to document a General Contractor's Qualification requirements for this project and to determine if a general contractor is qualified to receive a contract award for the project. All Historically Underutilized Businesses are encouraged to submit a Bid Proposal

Bid Packages will also be available at the following locations. ABC (Associates Builders and Contractors), 1033 La Posada, #145, Austin, Texas 78752, (512) 458-3166; AGC (Associated General Contractors), 609 South Lamar Boulevard, Austin, Texas 78704, (512) 442-7887; DODGE Reports (F. W. Dodge Corporation), 505 East Huntland, Suite 310, Austin, Texas 78752, (512) 458-5692; Austin Black Contractors Association, 924 East 11th Street, Austin, Texas 78702, (512) 474-5328; Austin Minority Purchasing Council, 221 East Ninth Street, Suite 203, Austin, Texas 78701, (512) 476-7502; Builder's Exchange, 121 Interpark, Suite 104, San Antonio, Texas 78216, (210) 491-6900.

Bid proposals will be evaluated on: contractor's background and experience; technical proposals; and cost proposal.

Bid documents will be on file at the Texas Historical Commission, Main Street Program Office located at the Gethsemane Church, 1510 Congress Avenue, Austin, Texas 78701, (512) 463-6092 on July 11, 1994, and are open for public inspection. Copies for all General Contractors may be obtained from the Main Street Program Department upon deposit of \$100 for each set. Check should be made out to the "Texas Historical Commission." The deposit will be refunded upon return of all documents in good condition within 72 hours after the opening of bids.

Sealed Bids will be received by the Texas Historical Commission (THC), Austin, Texas on August 11, until 2:00 p.m. Central Daylight Savings Time. Any Bid received after the closing time will be returned unopened. Bids will be received at the office of Betty Bedford, in The Carrington-Covert House located at 1511 Colorado Street, Austin, Texas 78701, and then opened and read aloud, at the Main Street Program Department, located in the Gethsemane Church, 1510 Congress Avenue, Austin, Texas 78701.

A Bid Bond in the amount of 5.0% of the total amount bid will be required.

Payments will be made for completed work by check in progressive payments with the State retaining 10% of each payment until final acceptance of the project.

Performance and Payment Bonds are required in the amount of 100% of the contract amount.

A Mandatory Pre-Bid Conference will be conducted at The Christianson Leberman Building, 1304 Colorado Street, Austin, Texas 78701, at 2:00 p m on July 18, 1994

Questions pertaining to this project should be addressed to Mary Alice Torres-MacDonald (if unavailable, contact Dick Ryan or Doris Howard), at (512) 463-6092, P O Box 12276, Austin, Texas 78711.

Issued in Austin, Texas, on June 16, 1994

TRD 9442697 Cindy Laguna Dally
Administrative Assistant
Texas Historical Commission

Filed: June 17, 1994

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Texas Department of Housing Notice of Amendment to the 1994 Final Statement

The Texas Department of Housing and Community Affairs (TDHCA) announces an amendment to the State of Texas' federal fiscal year 1994 final statement which governs expenditure of 1994 Texas Community Development Program Funds. The final statement is being amended as follows.

Under PART I, INELIGIBLE ACTIVITIES, the use of the Texas Capital Fund for relocation of a business from one community to another is further clarified. The last sentence of the last paragraph has been changed to read as follows: The Texas Capital Fund may not be used to financially assist/facilitate the relocation of a business unless a ten percent (10%) net gain of jobs will occur.

Under PART II, DEFINITION OF FUNDS, #3 *Texas Capital Fund* activity (1) is revised after the semicolon to read as follows: except that funding will not be provided as a grant for infrastructure improvements on private property. In addition, activity (2) is revised after the semicolon to include the following: including grants to units of local government to provide loans for infrastructure improvements on private property.

Under PART III, PROJECT LENGTH, this section has been revised to establish a three year Texas Capital Fund contract period and require a repayment plan for those communities that have not completed the project within the three year contract period and/or jobs have not been created/retained, as stated in the TCF contract. The paragraph has been re-written as follows:

Projects must be completed within two years from the execution date of the contract agreement. The only exceptions are colonia demonstration projects and TCF projects which must be completed within three years from the execution date of the contract agreement. Waivers to this requirement will only be granted (except for the Texas Capital Fund contracts) when a waiver request is submitted in writing to TDHCA, and TDHCA finds compelling circumstances exist outside the control of the local govern-

ment that justify the approval of such a waiver. Communities that have not completed a TCF project within the three year contract period or the jobs have not been created or retained as specified in the TCF contract, may be required to establish a repayment plan for a prorated share of Texas Capital Fund Program funds expended, may be required to accelerate the pay back or raise interest rates for those projects that involve loans made to businesses under the Texas Capital Fund, and/or may be subject to other sanctions as deemed appropriate by the Texas Department of Housing and Community Affairs.

Under PART III, CONTRACT AWARDS, the Real Estate Grant and Infrastructure Grant contract award limits are changed to delete the provision specified as (***) that may increase the maximum grant amount up to \$2,500,000 under certain conditions. In addition, the Infrastructure Grant Program is changed to the Infrastructure Grant/Loan Program, and the Small and Minority Business Loan Program is changed to establish the maximum contract award limit from \$100,000 to \$120,000.

Under PART IV, TEXAS CAPITAL FUND ADVISORY COMMITTEE-the Composition and Role section is changed to delete the Texas Capital Fund Advisory Committee, change the title and otherwise revise the paragraph as follows:

TEXAS CAPITAL FUND REVIEW PROCESS

The Texas Capital Fund applications will be reviewed and scored by Texas Department of Commerce (TDOC) staff. For the Main Street Program, applications will be reviewed and scored by a committee composed of TDHCA and TDOC staff as assigned by the TDHCA Director of Community Development and the Executive Director of TDOC. The Executive Director of the Texas Department of Commerce will make recommendations to the TDHCA Executive Director for final award of all TCF contract awards.

Under PART IV, PERFORMANCE REQUIREMENTS, number 8, the language is amended to delete the requirement that communities can only have two Texas Capital Fund open contracts at any one time. The language is amended as follows:

PERFORMANCE REQUIREMENTS

8 For the Texas Capital Fund contracts-Expend all but the audit funds for any Texas Capital Fund contract that has been in effect for three years (36 months) and submit to TDHCA the close-out documents required by the most recent edition of the Texas Community Development Program Project Implementation Manual prior to submitting an application for the 1994 Texas Capital Fund.

Under PART IV, PROJECT SELECTION CRITERIA, the eighth paragraph that describes the review process for the Main Street Improvements Program is deleted since it has been addressed in Part IV, Texas Capital Fund Review Process.

Under SELECTION CRITERIA, TEXAS CAPITAL FUND, LOAN, REAL ESTATE GRANT, INFRASTRUCTURE GRANT, the Leverage Ratio and Cost Per Job Ratio scoring factors are revised to include the loans for improvements on private property as follows:

(2) LEVERAGE RATIO-30 Points (Maximum)

Points will be awarded by dividing all other funds exclusive of Texas Capital Funds by the TCF grant amount.

requested less administration according to the following scale.

1.25 1 (100%)-10

1.50 1 (150%)-15

2.00 1 (200%)-20

2.50 1 (250%)-25

3.00 1 (300%)-30

COST PER JOB-20 Points (Maximum)

Defined as Texas Capital Funds requested divided by number of full-time job equivalents to be created or retained.

\$8,000 or less -20

\$13,000-\$8,001-15

\$18,000-\$13,001-10

\$22,000-\$18,001-5

Under SELECTION CRITERIA, TEXAS CAPITAL FUND, MAIN STREET IMPROVEMENTS PROGRAM, the Leverage ratio scoring factor is revised as follows.

(3) LEVERAGE RATIO-30 Points (Maximum)

Under 5,000 Population

50 1 (50%)-15

1.0 1 (100%)-20

1.5 1 (150%)-25

2.0 1 (200%)-30

5,000 Population or Above

1.5 1 (150%)-15

2.0 1 (200%)-20

2.5 1 (250%)-25

3.0 1 (300%)-30

A copy of the final statement as amended is available for review at Texas Department of Housing and Community Affairs, Texas Community Development Office, 811 Barton Springs Road, Suite 740, Austin. Written comments concerning this amendment will be accepted through July 5, 1994, and should be submitted to Anne Paddock, Deputy General Counsel, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-39411

Issued in Austin, Texas, on June 15, 1994

TRD-9442472

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed June 16, 1994

Texas Department of Insurance Correction of Error

The Texas Department of Insurance submitted a notice of meeting, which appeared in the June 17, 1994, issue of the *Texas Register* (19 TexReg 4742).

Due to a typographical error in submitting the notice the meeting date should have been July 18, 1994 at 9:00 a.m.,

in room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas.

Texas Department of Insurance Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2105 on July 12, 1994, at 1:30 p.m. at the Gainesville Civic Center, 311 South Weaver, Gainesville, Texas, to discuss problems encountered by residents and small business in the immediate and surrounding areas in the purchase of insurance coverage.

The meeting will conclude when all witnesses have had an opportunity to speak. Those wishing to present testimony are requested to complete a witness card which will be available at the meeting site prior to the hearing.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442702

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

Filed June 20, 1994

Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2106, on July 18, 1994, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider comments on new 28 TAC §1.88 and §1.89 concerning entry of appearance and failure to enter an appearance or failure to appear at a contested case hearing.

The proposed new section was published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2608). The purpose of the hearing is to afford all interested persons an opportunity to appear and testify orally or in writing either in support of or in opposition to the proposed new section.

The statutory authority for the new section is cited in the April 12, 1994 issue of the *Texas Register* (19 TexReg 2608).

Issued in Austin, Texas, on June 20, 1994.

TRD-9442701

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

Filed June 20, 1994

Texas Natural Resource Conservation Commission Enforcement Orders

An Order Nunc Pro Tunc was entered June 2, 1994 regarding Earl Hertel (Enforcement I.D. Number E10025). The Order corrects an agreed order issued February 2, 1992. Administrative penalties assessed in the February 2, 1992 order were in the amount of \$1,470. The order is now amended to assess administrative penalties in the amount of \$1,410.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

dition of the District, including assets, liabilities and sources of revenues. The Commission may authorize the District to proceed in bankruptcy if the Commission determines that the District cannot (through the full exercise of its rights and powers under the laws of this state) reasonably expect to meet its debt and other obligations as they mature.

No Public Hearing will be held on this application unless an affected person has requested a public hearing. Any person wishing to protest the application of the District is requested to file the protest in written form within 30 days of the issuance of the notice. The protest should contain: the name, mailing address, and phone number of the person making the request, and a brief statement of the person's interest in the application and the reasons for the protest. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Written protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Susan Walton. A copy of the protest must also be furnished to the District.

Information concerning this application may be obtained by writing the Texas Natural Resource Conservation Commission at the previously-mentioned address or by calling (512) 239-6170.

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

TRD-9442645 Gloria A Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed June 17, 1994

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**Notice of Application for Waste Disposal
Permits**

Attached are Notices of Application for waste disposal permits. These notices were issued during the period of June 10-17, 1994

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you or the persons you represent, would be adversely affected by the granting of the application, a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will

forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908

James R. Adamoli; the Northwoods Mobile Home Park Wastewater Treatment Facilities; the facilities are at 7115 Fairview Drive which is approximately 750 feet northwest of the intersection of FM Road 529 (Spencer Road) and Fairview Drive in Harris County, Texas, renewal; 12811-01

City of Bonham, the wastewater treatment plant; is approximately 0.5 mile east of the City of Bonham on Seven Oaks Road in Fannin County, Texas; amendment, 10070-01

Richard Clark; the Pinedale Mobile Home Park Wastewater Treatment Facilities, the plant site is approximately 2.3 miles southeast of the intersection of FM Road 1774 and FM Road 149, and approximately 600 feet west of the crossing of Decker Branch by State Highway 249 in Montgomery County, Texas; renewal; 12851-01

City of Emory; the City of Emory Wastewater Treatment Facilities, the facilities are on the west side of Willow Springs Road, approximately 0.5 mile south of the intersection of U.S. Highway 69 and State Highway 19 in Rains County, Texas; renewal, 10082-01.

City of Fayetteville; the wastewater treatment plant; is approximately 0.5 mile east of the intersection of State Highway 159 and FM 1291 in the City of Fayetteville in Fayette County, Texas, renewal; 10840-01.

City of Houston, the Northbelt Wastewater Treatment Facilities; the plant site is approximately 1.0 mile southeast of the intersection of U.S. Highway 59 and Northbelt (Beltway 8) in Harris County, Texas; renewal, 10495-122

Huntsville Greenhouse Corporation; the greenhouse, is approximately five miles northwest of the City of Huntsville, adjacent to Wire Road, near Highway 75 and near Crabbs Prairie, Walker County, Texas; renewal, 02212.

City of Gainesville, the wastewater treatment plant, is on the east of the Elm Fork of the Trinity River and approximately 1.5 miles south of the intersection of Interstate Highway 35 and FM Road 51 in Cooke County, Texas; renewal; 10726-01

Georgia-Pacific Corporation, the gypsum quarry at its Acme Plant; the plant site is on the banks of South Groesbeck Creek immediately north of State Loop 285 and approximately five miles west of the City of Quanah, Hardeman County, Texas, amendment; 01610.

International Estate Corporation; the wastewater treatment facility will serve a small apartment complex, an office building and a recreational park, the plant site is approximately 650 feet south of the intersection of State Highway 105 and Lake Meadows Drive, and approximately 2,000

feet west of the intersection of McCaleb Road and State Highway 105 in Montgomery County, Texas, new; 13714-01.

City of Lubbock, Lybbock Power and Light; a steam electric station; the Lubbock Power and Light Number 2 Steam Electric Station is on municipal property bounded by U.S. Highway 87, the North Fork Double Mountain Fork of the Brazos River, Yellow House Canyon, the P&SF Railway and McKenzie State Park, northeast of the downtown business district of the City of Lubbock, Lubbock County, Texas; new; 03668.

City of Nocona; the West Wastewater Treatment Facilities; the plant site is on the north side of Locust Street, approximately 0.75 mile northwest of the intersection of U.S. Highway 82, State Highway 175 and FM Road 103 in Montague County, Texas, renewal; 10355-02, and the South Wastewater Treatment Facilities, the plant site is approximately 0.3 mile east of State Highway 175 (Montague Street), approximately 0.7 mile south of the intersection of U.S. Highway 82 and State Highway 175 in Montague County, Texas, renewal, 10355-03

City of Pflugerville, the Upper Gilleland Central Wastewater Treatment Facilities, the facilities are approximately 1.7 miles southeast of the City of Pflugerville and approximately 1.0 mile southeast of the intersection of Dessau Road and FM Road 1825 on the east bank of Gilleland Creek in Travis County, Texas; renewal, 11845-02

City of Plains; the wastewater treatment facility and disposal site (i.e. Plains Sewage Treatment Plant), are approximately one mile east of State Highway 214 and 1.5 miles north of U.S. Highway 380 in Yoakum County, Texas; amendment, 10114-01

QBN Corporation, the wastewater treatment facilities, are on the west right-of-way of U.S. Highway 59, approximately 2,500 feet south-southwest of the intersection of Northbelt and U.S. Highway 59 in Harris County, Texas, renewal; 12766-01

Quest Separation Technologies, a polyethylene wax refining facility, the plant site is at 12500 Bay Area Boulevard in the City of LaPorte, Harris County, Texas, new, 03686.

Rexene Corporation; their petrochemical complex; the plant site is immediately south of Interstate Highway 20 between South Grandview and South Dixie Streets in the City of Odessa, Ector County, Texas, renewal; 01304

Robert L. Bernstein and Edmund A. Perwien, the Addicks 10 Business Park Wastewater Treatment Facilities, the facilities are at 14520 Old Katy Road, approximately 1,850 feet east-northeast of the intersection of State Highway 6 and Interstate Highway 10 (Katy Freeway) in Harris County, Texas, renewal; 12657-01

City of Rocksprings; the wastewater treatment plant, is approximately 4,000 feet northwest of the intersection of U.S. Highway 377 and State Highway 55 in Edwards County, Texas, renewal, 13490-01

Rose Metal Recycling, Inc., a junkyard facility, the plant site is at 2902 Center Street in the City of Houston, Harris County, Texas; renewal, 02998

Sid Richardson Carbon, Ltd., the Borger Steam Electric Station, the plant site is immediately west of FM Road 1559 about 0.5 mile north of the intersection of FM 1559 and State Highway 136 and west of the City of Borger, Hutchinson County, Texas, renewal; 00810

Sky Property Management, A Co-Partnership; the wastewater treatment facility will serve the apartment complex at 3557 Frick Road, approximately 1.7 miles west on the intersection of Frick Road and Stuebner Airline Road in Harris County, Texas; new; 13709-01

City of Smithville, the wastewater treatment plant; is southwest of the intersection of North Second Street and Royston Street (on the east side of Gazley Creek) in the City of Smithville, Bastrop County, Texas; renewal; 10286-01.

Southwestern Refining Company, Inc.; the Corpus Christi Petroleum Refinery, is at 1700 Nueces Bay Boulevard between Ebony Street and the Corpus Christi Inner Harbor on the north side of the City of Corpus Christi, Nueces County, Texas; renewal; 00457

Dan C and Harriett Stringer and Roy F Sutton; the wastewater treatment facility will serve a mobile home park, the plant site is north of State Highway 64, approximately 1.3 miles west on State Highway 64 from the entrance to Tyler Pounds Field Airport, approximately 4.5 miles west of the intersection of State Highway 64 and West Loop 323 in Smith County, Texas; new, 13712-01.

Tejas Financial Corporation; the wastewater treatment facility will serve the residential development of Port Adventure which includes a recreational vehicle park and day user sites, the Port Adventure Wastewater Treatment Facilities are approximately 1,500 feet north of FM Road 356, approximately 1.5 miles east of the intersection of FM Road 356 and FM Road 355 in Trinity County, Texas; new, 12324-02.

Texas Department of Criminal Justice-Institutional Division, the Pack II Unit Wastewater Treatment Facilities; the facilities are approximately 1.5 miles southwest of the intersection of FM Road 2 and State Highway 6, approximately 1.0 mile southeast of the City of Courtney in Grimes County, Texas, renewal; 12458-02.

Texas Department of Transportation, the Victoria County (Northbound U.S. Highway 59) Rest Area Wastewater Treatment Facilities; the facilities are on the right-of-way of U.S. Highway 59 at a point approximately 0.6 mile west of the City of Inez in Victoria County, Texas; renewal; 12008-01

United States Department of the Air Force and Lockheed Corporation, an aircraft manufacturing plant with scientific research and development activities, the plant site is on the south shore of Lake Worth, approximately seven miles west of downtown Fort Worth, bordered on the east by Carswell Air Force Base, and on the south and west by the City of White Settlement, Tarrant County, Texas; renewal, 01764.

City of Venus, the Venus the Wastewater Treatment Facilities, the facilities are approximately 0.5 mile northwest of the City of Venus at a point approximately 500 feet north of U.S. Highway 67 and approximately 200 feet west of FM Road 157 in Johnson County, Texas; renewal; 10883-01

Victoria County Water Control and Improvement District Number 2, the Placedo Wastewater Treatment Facilities; the facilities are approximately 3,000 feet north-northeast of the intersection of U.S. Highway 87 and FM Road 616, southeast of the intersection of Grand Street and Preston Street in the City of Placedo in Victoria County, Texas; renewal; 12743-01

Webb County; the primary treatment facility and the proposed irrigation site, are northeast of Laredo, approximately one mile northeast of the San Ygnacio Road Crossing of Chacon Creek in Webb County, Texas, amendment; 12271-01.

Waste Control Specialists, Inc. (WCS), a commercial storage, processing and disposal facility for the management of hazardous and non-hazardous industrial solid waste received from off-site generators and wastes generated on-site; the wastes managed at the facility will include ignitable, toxic, corrosive, reactive, toxicity characteristic, and acute hazardous wastes, polychlorinated biphenyl (PCB) contaminated wastes and non-hazardous industrial solid wastes; the facility is located on a 1,338-acre tract of land one mile north of Texas Highway 175 and 400 feet east of the New Mexico state line, approximately 30 miles west of the City of Andrews in Andrews County, Texas, new, HW60358; 45 days

Issued in Austin, Texas, on June 17, 1994

TRD-9442643

Gloria A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: June 17, 1994

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**Notice of Opportunity to Comment on
Permitting Actions**

The following applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number, the permit number or other recognizable reference to this application, the statement "I/we request a public hearing", a brief description of how you or the persons you represent, would be adversely affected by the granting of the application, a description of the location of your property relative to the applicant's operations, and your proposed conditions which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875

Application by the Woodlands Corporation for an Extension Time to Commence and Complete Construction under

Permit Number 5408, as Amended, Pursuant to the Texas Water Code, §11.145. For Executive Director's Consideration. Applicant seeks authorization for an extension of time to begin and complete construction of Decker Reservoir. The proposed construction date is June 26, 1996 with the completion date being June 26, 1997. Permit Number 5408, as amended, was issued on June 26, 1992, and established the time for construction and completion of Decker Reservoir for June 26, 1994 and June 26, 1995 respectively. Permit Number 5408, as amended, includes authorization to construct a dam and reservoir on the unnamed tributary of Decker Branch, tributary of Mill Creek, tributary of Spring Creek, tributary of the West Fork San Jacinto River, tributary of the San Jacinto River, San Jacinto River Basin in Montgomery County, Texas, and impound therein not to exceed 92 acre-feet of water for in-place recreational use.

Application to Transfer Water CCN Number 11737 and Sewer CCN Number 20587 to Buffalo Creek Utility, Inc. in Rockwall County, Texas (Application Number 30342-S)

Application by First Colony Municipal Utility District Number 8 of Fort Bend County for Approval of \$33 Million Unlimited Tax Bonds, Sixth Issue, 6.74% Net Effective Interest Rate Series 1994 and Approval of the Use of \$220,000 of Surplus Funds \$2,360,000 Bond Issue Approved September 18, 1991. For Commission consideration. The District's application requests Commission approval of a bond issue and use of surplus funds to finance master utility district connection charges, and water, wastewater and drainage facilities for Lakefield §2, Plantation Bend §3A and §3B, and Magnolia Plantation §2.

Application Number 4025B by Capitol Aggregates, Inc. to amend Water Use Permit Number 3732, as amended. For Executive Director Consideration. Applicant seeks to amend Permit Number 3732A, which includes authorization to divert and use not to exceed 1,200 acre-feet of water per annum for mining use from underflow of the Medina River, San Antonio River Basin in Bexar County, by moving the diversion point and place of use approximately one-half mile downstream.

Issued in Austin, Texas, on June 17, 1994.

TRD-9442686

Gloria A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed June 17, 1994

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**Notice of Receipt on a Municipal Solid
Waste Proposed Permit, MSW2215**

Attached is a Notice of Receipt of Application and Declaration of Administrative Completeness for a municipal solid waste permit issued during the period of June 6-10, 1994.

This application has been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that the application is subject to change based on such evaluation.

Notices are issued pursuant to the Texas Health and Safety Code, §361.0665. Any person who may be affected by the facility is entitled to request a hearing from the Commis-

sion. The Commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning permit applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Darrell Dickey, Inc.; Huntsville; Type I; approximately eight miles east of Huntsville and 3/4 miles south of U.S. Highway 190, eight miles east of Huntsville, in Walker County, Texas; new; MSW2215.

Issued in Austin, Texas, on June 10, 1994.

TRD-8442647 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: June 17, 1994

Public Hearing Notice

The Texas Natural Resource Conservation Commission will conduct a public hearing beginning at 5:00 p.m., August 17, 1994, City of Paris, City Hall, Second Floor, City Council Chambers, 135 First Street SE, Paris, Texas.

This hearing is scheduled to receive testimony concerning the waste load evaluation report for Dissolved Oxygen in the Red River Below Lake Texoma in the Red River Basin (Segment 0202). 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 Charles Marshall, TNRCC, Watershed Management Division, P.O. Box 13087, Austin, Texas 78711, or call (512) 463-8476.

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 Charles Marshall at the above 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 publica-

tion 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 20, 1994

TRD-9442733 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: June 20, 1994

North Central Texas Council of Governments

Request for Consultant Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

NCTCOG is requesting proposals from consultants with both general and specific experience to perform revealed preference (RP) and stated preference (SP) elements of a household survey in the Dallas-Fort Worth Metropolitan area. In conjunction with major external, workplace, and transit surveys, the information collected from the household survey will serve primarily to improve the transportation planning process in the Dallas-Fort Worth Metropolitan Area.

The consultant's schedule should assume a Notice to Proceed on September 6, 1994, and an overall time frame of 11 months (September 1994 to August 1995). Pilot surveys and final survey design should be completed in the fall of 1994, with the actual surveys performed in the spring of 1995 (starting in late January). Proposers should base their scope of services and schedule on a budget of \$750,000 to \$850,000.

Contract Award Procedures The firm selected to perform this study will be recommended by the Project Review Committee. The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposal(s). The NCTCOG Executive Board will review the PRC's recommendation and, if found acceptable, will issue an award of contract.

Regulations. NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code, §2000d to §2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby, notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

Due Date Proposals must be submitted no later than 1 00 p.m., Friday, July 22, 1994, to Ken Cervenka, P.E., Senior Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P.O. Box 5888, Arlington, Texas 76005-5888. For more infor-

mation and copies of the Request for Proposals, contact Shirley Henry, (817) 695-9243.

Issued in Arlington, Texas, on June 13, 1994.

TRD-9442479 Mike Eastland
Executive Director
North Central Texas Council of
Governments

Filed June 16, 1994

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Public Utility Commission of Texas
Notice of Application to Decrease Rates
Pursuant to Public Utility Commission
Substantive Rule 23.23(c)

Notice is given to the public that Lamar County Electric Cooperative Association filed an application on June 1, 1994 to reduce its rates by \$496, 716, or 5.0%, over actual test-year revenues, pursuant to the expedited procedure established in Public Utility Commission Substantive Rule 23.23(c). The proposed rate decrease will affect all customer classes.

The docket style and number assigned to this application is Application of Lamar County Electric Cooperative Association for Authority to Change Rates Pursuant to Public Utility Commission Substantive Rule 23.23(c), Docket Number 13089.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before July 18, 1994.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442721 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed June 20, 1994

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Notice of Application to Locate and
Maintain Records Outside the State of
Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application for a waiver of Public Utility Commission Substantive Rule 23.14, which requires public utilities to keep all records necessary for regulation within the State of Texas.

Docket Title and Number Application of Arkansas Electric Cooperative, Inc. for Authority to Locate and Maintain Records Outside the State of Texas Docket Number 13103

The Application Arkansas Electric Cooperative, Inc. is requesting approval to maintain customer records and finance and accounting records in Texarkana, Arkansas.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512)

458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before June 29, 1994.

Issued in Austin, Texas, on June 20, 1994

TRD-9442722 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed June 20, 1994

◆ ◆ ◆
Notice is given to the public of the filing with the Public Utility Commission of Texas of an application for a waiver of Public Utility Commission Substantive Rule 23.14, which requires public utilities to keep all records necessary for regulation within the State of Texas.

Docket Title and Number Application of DeWitt County Electric Cooperative, Inc. for Authority to Locate and Maintain Records Outside the State of Texas Docket Number 13104

The Application DeWitt County Electric Cooperative, Inc. is requesting approval to maintain customer records and finance and accounting records in St. Peters, Missouri.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before June 29, 1994.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442723 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed June 20, 1994

◆ ◆ ◆
Notice of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of six new customer-specific PLEXAR-Custom Services for NationsBanc Services, Inc. in Austin, Dallas, Fort Worth, Houston, San Antonio, and Tyler, Texas.

Docket Title and Number Application of Southwestern Bell Telephone Company for Approval of a 6 New Plexar-Custom Services for NationsBanc Services, Inc. pursuant to Public Utility Commission Substantive Rule 23.27 Docket Number 120

The Application Southwestern Bell Telephone Company is requesting approval of 6 New Plexar-Custom Services for NationsBanc Services, Inc. The geographic service market for this specific service is the Austin, Dallas, Fort Worth, Houston, San Antonio, and Tyler, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442724

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

Filed: June 20, 1994

◆ ◆ ◆
**Texas Low-Level Radioactive Waste
Disposa! Authority**
Consultant Proposal Request

This request for consulting services is filed under the provisions of Texas Civil Statutes, Government Code, Chapter 2254

The Texas Low Level Radioactive Waste Disposal Authority is charged with the responsibility of siting and constructing a facility for the disposal of low-level radioactive waste. The Authority is required by law to cooperate with local governments and interested parties in appropriate evaluation activities. In particular, the Authority is interested in working with the community of Sierra Blanca, the community nearest the proposed disposal site, to assist them in dealing with potential local socioeconomic impacts. Included among the potential impacts, both positive and negative, is the allocation of substantial payments of money to local political subdivisions. The purpose of this contract is to assist the Authority by working with persons in the community of Sierra Blanca and with residents of Hudspeth County to develop appropriate mechanisms, rules, and procedures to handle local socioeconomic impacts, including training, education, leadership development, and infrastructure improvements.

Further information may be obtained from Lawrence R. Jacobi, Jr., P.E., General Manager, at the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, or by calling (512) 451-5292.

This RFP will close on July 25, 1994, at 5:00 p.m.

These services have been previously performed by Program Development Associates, San Antonio, Texas. The Authority intends to continue with and to award the contract for consulting services to Program Development Associates for fiscal year 1994 unless a better proposal is submitted in response to this request.

Proposals received in response to this request will be evaluated according to the following criteria: prior experience of the firm and staff in working with state and local governments and programs, demonstrated competence and qualifications of staff directly related to community development, organization, size and structure of the firm, the firms understanding of the work to be performed, and reasonableness of the fee for services.

The Authority reserves the right to accept or reject any or all proposals submitted. The Authority is under no legal requirement to execute a consultant contract on the basis of this notice. The Authority intends the material herein only as a general description of the services desired. The proposal should be for a period of one year, but the Authority will retain the option of extending the contract for an additional year

Three copies of the proposal are requested. They should be sent by mail, or delivered in person marked "Proposal for Community Development Services" addressed to Law-

rence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals shall be received at this address not later than 5:00 p.m. August 20, 1993. The proposal should be typed, preferably double spaced and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

Issued in Austin, Texas, on July 26, 1993.

TRD-9442456

Lee H Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: June 15, 1994

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Texas Savings and Loan Department
**Notice of Application to Establish
Remote Service Unit**

Notice is hereby given that application has been filed with the Savings and Loan Commissioner of Texas by Horizon Savings Association, Austin, Texas, for approval to establish and operate a remote service unit at the following location: Barton Creek Square Mall, Austin, Travis County, 2901 Capital of Texas Highway

The applicant association asserts that the security of the association's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public

Anyone desiring to protest the above application must file a written protest with the Commissioner within ten days following publication. The Commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 of the Rules of the Texas Savings and Loan Department. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas.

Issued in Austin, Texas, on June 20, 1994

TRD-9442731

James L Pledger
Commissioner
Texas Savings and Loan Department

Filed: June 20, 1994

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**The Texas A&M University System,
Board of Regents**
Public Notice

Pursuant to Texas Civil Statutes, Article 6252-17a, §3(a)(23), the following candidates are the finalists for the position of President of Prairie View A&M University and upon the expiration of 21 days, final action is to be taken by the Board of Regents of The Texas A&M University System

- (1) Dr. Harold S. Bonner
- (2) Dr. Ashland O. Brown
- (3) Dr. William L. Lester
- (4) Dr. Maxine F. Moore

TRD-9442569

Vickie Running
Secretary of the Board of Regents
The Texas A&M University System, Board
of Regents

Filed: June 17, 1994



University of Houston System

**Extension of Deadline for Request for
Proposal for Providing Project
Management Services for the
University of Houston-Downtown
Academic/Student Service Building and
Student Life Building**

The deadline for submission for proposals for Providing Project Management Services for the University of Houston-Downtown Academic/Student Service Building and Student Life Building, published in the May 31, 1994, issue of the *Texas Register* (19 TexReg 4287), has been extended to June 30, 1994, no later than 5:00 p.m.

Issued in Austin, Texas, on June 15, 1994.

TRD-9442682

James R. Berry
Associate Vice Chancellor
University of Houston System

Filed: June 17, 1994

