

TEXAS REGISTER

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How to Use the Texas Register

Information Available: The 11 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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

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, publishes on an annual basis.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals).

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

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

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

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

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

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

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

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

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

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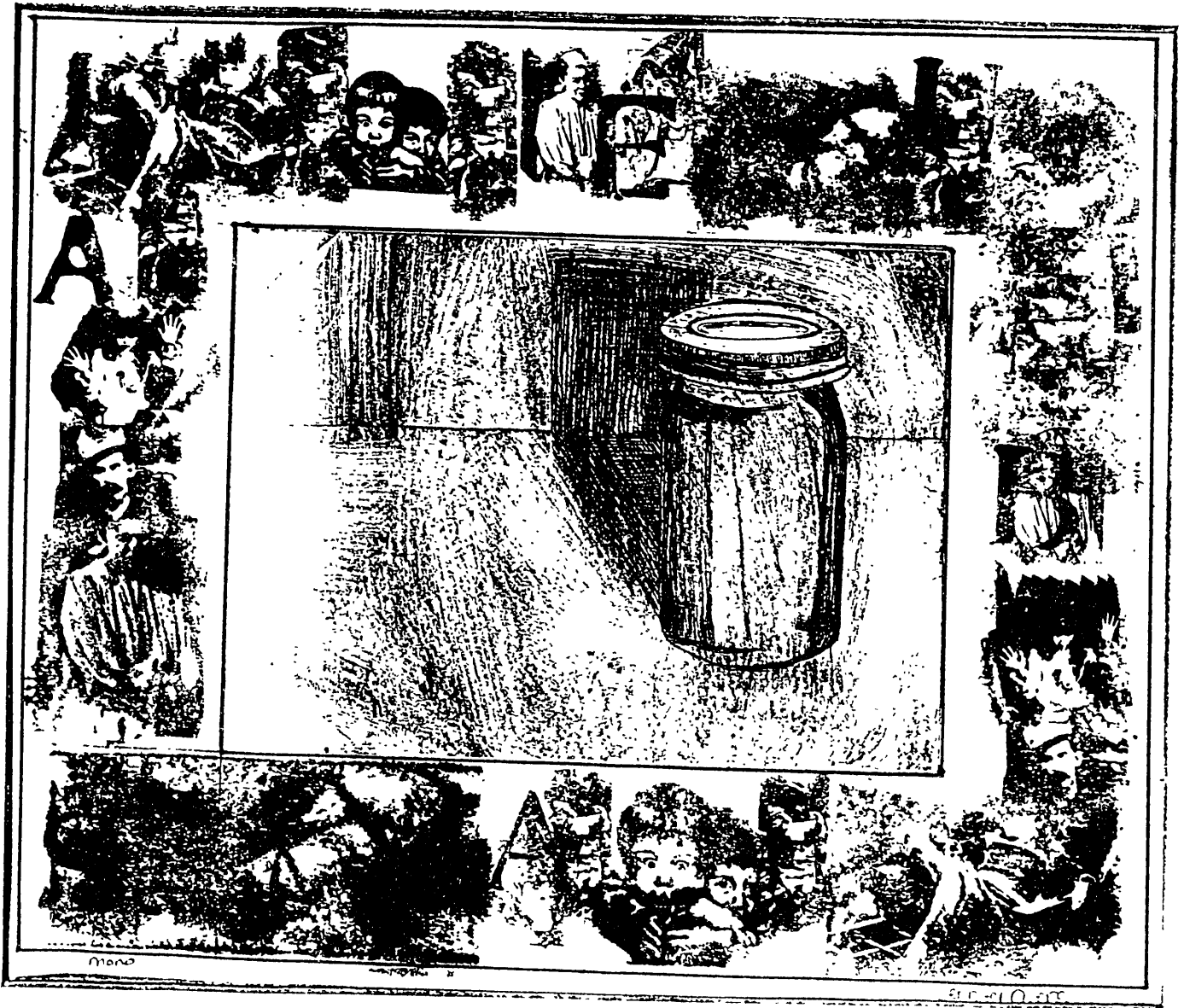
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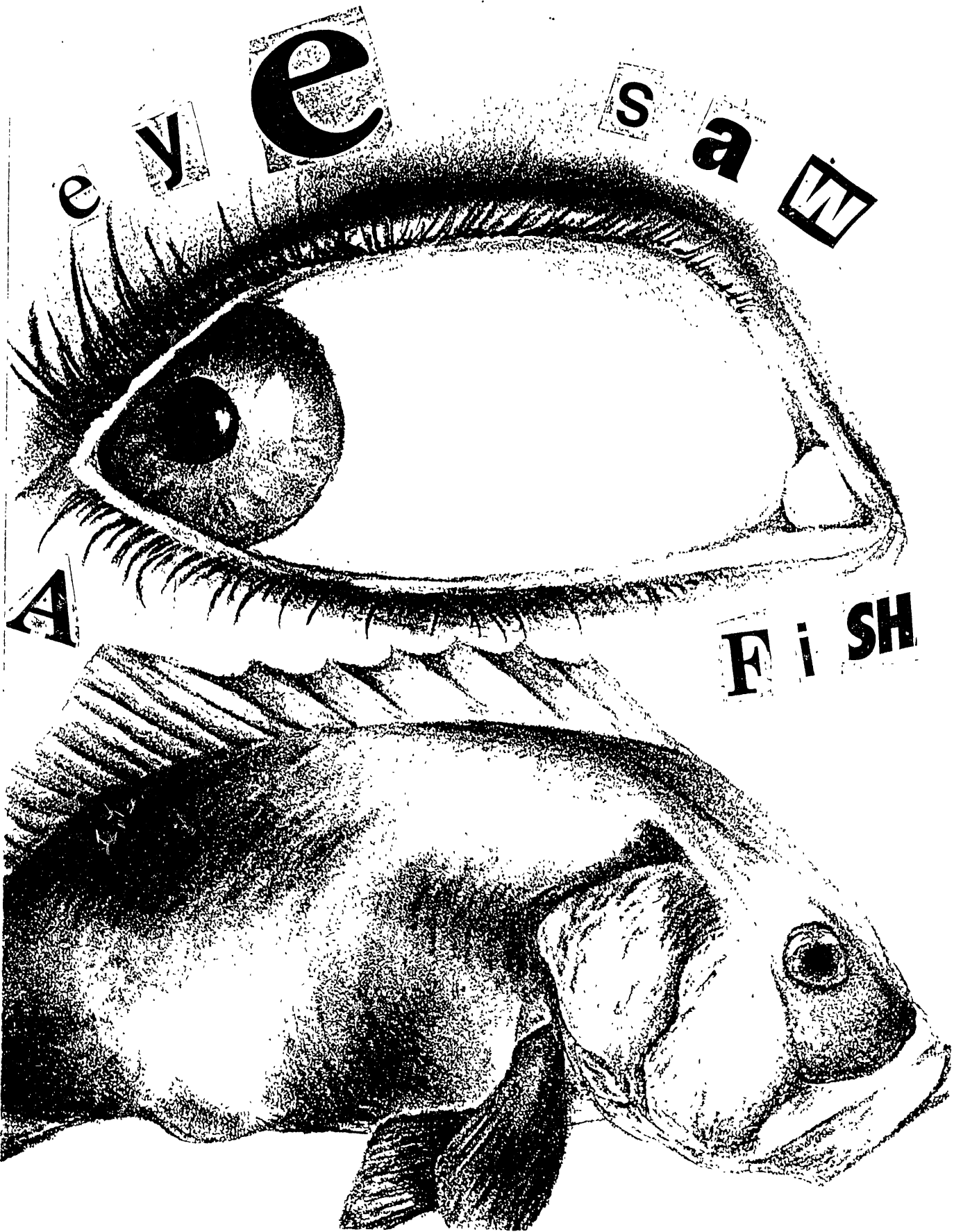
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THE GOVERNOR

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

Appointments Made July 11, 1994

To be a member of the Texas Growth Fund Board of Trustees for a term to expire February 1, 1997: Rebecca Bronson, 2725 Madrones, Austin, Texas 78746. Ms. Bronson will be filling the unexpired term of Matrice Ellis-Kirk of Dallas who resigned.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Sue Evans, 6 Red Bud Trail, Round Rock, Texas 78664. Ms. Evans is being reappointed.

To be a member of the Texas Committee of Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Hollis F. Pinyan, 416 Dartmouth, Tyler, Texas 75704. Mr. Pinyan is being reappointed.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Lewis Leon Evans, 47 Sawmill Grove, The Woodlands, Texas 77380. Mr. Evans will be replacing Norine Jaloway of Galveston whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Karen Allison, 1321 Frostwood Drive, Tyler, Texas 75703. Ms. Allison is being reappointed.

To be a member of the Governor's Commission for Women for a term to expire February 1, 1995: Pearl Garza Fracchia, 1224 Middle Cove Drive, Plano, Texas 75023. Ms. Fracchia is being appointed to a new position pursuant to Executive Order AWR 93-9.

To be a member of the Rio Grande Regional Review Committee for a term to expire January 1, 1996: The Honorable Val Clark Beard, Brewster County Judge, P.O. Drawer 1630, Alpine, Texas 79831. Judge Beard will be replacing Paul Weyerts of Alpine who is no longer eligible.

To be a member of the Alamo Area Regional Review Committee for a term to expire January 1, 1996: The Honorable Cristina Zamora, 125 South Waterlane,

New Braunfels, Texas 78130. Commissioner Zamora will be replacing Carter Casteel of New Braunfels who resigned.

To be a member of the Deep East Texas Regional Review Committee for a term to expire January 1, 1995: The Honorable Bertis L. Matlock, 1010 Jack Lock Street, Nacogdoches, Texas 75964. Mayor Pro Tem Matlock will be replacing C. L. Simon of Nacogdoches whose term expired.

Appointments Made July 12, 1994

Please be advised that the appointment of Byron Wayne Mitchell of Austin to the Texas State Board of Examiners of Professional Counselors on June 25, 1993, is hereby withdrawn.

To be a member of the Texas Diabetes Council for a term to expire February 1, 1998: Rosa M. Valenzuela, 1989 Dana Bree Drive, El Paso, Texas 79936. Ms. Valenzuela will be replacing Leonardo de la Garza of El Paso who resigned.

Appointments Made July 13, 1994

To be a member of the Board of Pilot Commissioners for the Ports of Galveston County for a term to expire February 1, 1995: Robert C. Williams, 6629 Highway 6, Hitchcock, Texas 77563. Mr. Williams will be filling the unexpired term of Robert Higgins of Texas City who is deceased.

To be a member of the Board of Pilot Commissioners for the Ports of Galveston County for a term to expire February 1, 1998: Elisa Vasquez, 4217 Avenue T 1/2, Galveston, Texas 77550. Ms. Vasquez will be replacing Diane Peck of League City whose term expired.

To be a member of the Texas Academy of Mathematics and Science Advisory Board for a term to expire May 2, 2000: Glenda P. Rhyne, 3410 Day Star Cove, Austin, Texas 78746. Ms. Rhyne will be replacing Dr. John Horn of Mesquite whose term expired.

Judge Royce Lee of Robert is being designated as chair of the Concho Valley Regional Review Committee for a term at the pleasure of the Governor. Judge Lee will be replacing Robert Post of Tom Green County who is no longer in office.

To be a member of the South Plains Regional Review Committee for a term to

expire January 1, 1996: The Honorable Thurman Lewis, Lamb County Commissioner, Box 603, Earth, Texas 79031. Commissioner Lewis will be replacing Dee Ann Thornton of Levelland who is no longer eligible.

To be a member of the Deep East Texas Regional Review Committee for a term to expire January 1, 1996: The Honorable Jerry Nobles, Mayor of Kirbyville, 703 Woodland, Kirbyville, Texas 75956. Mayor Nobles will be replacing Jean McDaniel of Kirbyville who resigned.

To be a member of the Middle Rio Grande Regional Review Committee for a term to expire January 1, 1995: The Honorable Roberto R. Chavira, 200 East Bean Street, Del Rio, Texas 78840. Councilman Chavira of Del Rio will be replacing Ramon Vasquez of Del Rio who is no longer eligible.

To be a member of the Capital Area Regional Review Committee for a term to expire January 1, 1996: The Honorable Dock Lee Jackson, Jr., P.O. Drawer X, Bastrop, Texas 78602. Councilmember Jackson will be replacing Clinton Wright of Smithville whose term expired.

To be a member of the East Texas Regional Review Committee for a term to expire January 1, 1995: The Honorable Gaddis Lindsey, Route 1, Box 38AA, Gilmer, Texas 75644. Commissioner Lindsey will be replacing Victor Perot of Jefferson whose term expired.

To be a member of the Ark-Tex Regional Review Committee for a term to expire January 1, 1995: The Honorable Aubrey Earl Washington, 416 East Russ, Sulphur Springs, Texas 75482. Councilman Washington will be replacing Lydia Bryant of Sulphur Springs whose term expired.

To be a member of the Middle Rio Grande Regional Review Committee for a term to expire January 1, 1996: The Honorable Maria Mendiola, Mayor of Carrizo Springs, 308 West Pena, Carrizo Springs, Texas 78834. Mayor Mendiola will be replacing Rufus Lozano, Jr of Dimmitt who is no longer eligible.

Issued in Austin, Texas, on July 15, 1994

TRD-9445081

Ann W Richards
Governor of Texas



PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

Part XV. Texas Health and Human Services Commission

Chapter 351. Coordinated Planning and Delivery of Health and Human Services

• 1 TAC §351.7

The Health and Human Services Commission (HHSC) proposes new §351.7, concerning the commission's authority to require the submission of component agency strategic plans, biennial updates and biennial legislative appropriations requests on a date specified by the commission in rule. The purpose of this rule is to ensure that the commission has timely access to agency information necessary to produce the coordinated strategic plan and consolidated budget. The proposed rule describes the timing of submissions of these documents.

David Knight, associate commissioner for Budget and Support, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Knight also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule is a more efficient, coordinated and cost effective service delivery system for health and human services. There will be no effect on small businesses. There is no anticipated economic cost to component agencies required to comply with the proposed rule.

Comments on the proposal may be submitted to Kathleen Hamilton, Associate Commissioner for Planning and Evaluation, Health and Human Services Commission, 4807 Spicewood Springs Road, Building 4, Austin, Texas 78759, (512) 502-3200. All written comments must be received by the commission within 30 days of publication in the *Texas Register*.

The new rule is proposed under Texas Civil Statutes, Article 4413(502) §10, which provide the commission with authority to require the health and human services agencies to

submit strategic plans and biennial updates to the commission, on a date to be determined by commission rule; and §13, which provides the commission with authority to require the health and human services agencies to submit to the commission, a biennial legislative appropriations request on a date to be determined by commission rule.

§351.7. Agency Submission of Strategic Plans and Legislative Appropriations Requests to Health and Human Services Commission.

(a) Purpose. This rule implements the Health and Human Services Commission (HHSC) authority to require the health and human services agencies listed in Texas Civil Statutes, Article 4413(502) §19, to submit agency strategic plans and budgets to the HHSC for use in the Health and Human Services Coordinated Strategic Plan and Consolidated Budget.

(b) Requirement to Submit. HHSC requires the component agencies to submit agency strategic plans and Legislative Appropriations Requests (LARs) to the commission on the same date the agency strategic plans and LARs are due to the governor and the Legislative Budget Board. From time to time, as the governor's and Legislative Budget Board's due dates are announced, HHSC will announce the dates on which it requires the component agencies to submit draft strategic plans and LARs and explanatory material to it.

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 July 18, 1994.

TRD-9445187

Debby Gardner
General Counsel
Texas Health and Human
Services Commission

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 502-3200

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TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 15. Consumer Services Division

Liquefied Petroleum Gas (LPG) Meters

• 4 TAC §§15.151-15.163

The Texas Department of Agriculture proposes new §§15.151-15.163, concerning the licensing of private individuals to inspect and test liquefied petroleum gas (LPG) meters. The purpose of these regulations is to implement the new LPG meters testing and inspection program authorized in the Texas Agriculture Code, §§13.301-13.308. Proposed §15.151 will define the terms used in the new undesignated head. Proposed §15.152 will specify the general requirements for licensing and the expiration and renewal of licensees. Proposed §15.153 will require a late fee for persons who fail to submit a license renewal fee. Proposed §15.154 will clarify who are licensee's representatives and the requirements for their registration and renewal. Proposed §15.155 will set forth the minimum equipment and equipment specifications. Proposed §15.156 will specify insurance requirements. Proposed §15.157 will explain the authority and responsibilities of the licensees and their representatives to inspect or test an LPG meter, to seal an LPG meter, or to place an LPG meter out of service. Proposed §15.158 will require that all standards and test equipment be submitted to the department, at least annually, for examination and certification. Proposed §15.159 will specify that the department may inspect the licensee's procedures, facilities, and equipment. Proposed §15.160 will clarify the department's authority to deny, suspend, or revoke a license. Proposed §§15.161-15.163 will clarify the department's authority to file for administrative, civil or criminal penalties.

James H. Eskew, coordinator, weights and measures program, has determined that for the first five-year period the proposed new sections are in effect, there will be fiscal implications for state government as a result of enforcing or administering the sections. For the first five-year period the sections are in effect, there will be an estimated savings of

\$53,510 per year for state government. There will be no fiscal implications for local government. The effect on each LPG meter owner is an estimated \$225 cost over a five-year period.

Mr. Eskew 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 improved LPG meter inspections and tests in the state. The effect on small and large businesses will be a more timely inspection of LPG meters. The anticipated economic cost to persons who are required to comply with the sections as proposed will be \$100 per year in the form of a new license fee. Additional economic costs for training, additional or better equipment, or professional publications may be incurred by persons whose training, equipment or information resources do not meet the standards established by the proposed regulation.

Comments may be submitted to James H. Eskew, Coordinator, Weights and Measures Program, Texas Department of Agriculture, 119 Cumberland Road, Austin, Texas 78704. Comments must be received no later than 30 days from the date of publication of this proposal in the *Texas Register*.

The new sections are proposed under the Texas Agriculture Code, §13.305, which provides the Texas Department of Agriculture with the authority to adopt rules to inspect and test liquefied petroleum gas meters; and §13.304, which provides the department with the authority to establish by rule a nonrefundable annual license fee for licensing persons to inspect and test liquefied petroleum gas meters.

The code chapter affected by these new sections is the Texas Agriculture Code, Chapter 13

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

Anniversary date—The month and day each year on which the licensee's license expires.

Certification—Official verification of accuracy of a licensee's test equipment.

Department—The Texas Department of Agriculture.

Employee—Any individual who for hire, award, commission, or any other payment of any kind, inspects or tests a LPG meter, including individuals hired on a part-time or temporary basis or on a full-time or permanent basis, and an owner-employee.

Inspection—To determine the LPG meter's compliance with specifications and other requirements pertaining to design, installation, and operation, as stated in National Institute of Standards and Technology Handbook 44.

Licensee—Any person, partnership, firm, corporation, association, sole proprietorship or any other business entity who for hire, award, commission, or any other

payment of any kind, inspects or tests a LPG meter, and who has applied for and been granted the authority to inspect or test LPG meters by the department.

LPG Meter—A device which is used for the measurement of liquefied petroleum gas in a liquid state, whether the device is installed in a permanent location or mounted on a vehicle.

NIST—The National Institute of Standards and Technology of the United States Department of Commerce.

Person—Any individual, partnership, firm, corporation, association, other business entity or licensee.

Representative—An individual registered with the department who is authorized to perform the functions of a designated licensee.

Test—The official field examination of an LPG meter to determine compliance with performance requirements, as stated in NIST Handbook 44.

Test equipment or standards—Certified weights or measures used in the test of an LPG meter.

§15.152. Licensed Device Testers.

(a) **General requirement.** A person may not inspect or test LPG meters unless the person holds a license issued in accordance with these rules.

(1) A license under this section may be an individual or a business entities. If an applicant is a business entity, the applicant shall register an individual as a representative with the department in accordance with §15.154 of this title (relating to Licensee Representatives). If the applicant is a sole proprietorship, the business entity and the representative may be the same individual.

(2) An out-of-state licensee shall designate an agent who resides in Texas on the form provided for this purpose by the department. Any person designated as a resident agent shall meet the following requirements:

(A) be a citizen of this state; and

(B) maintain a permanent address within this state where documents dealing with the administration and enforcement of this law may be served.

(3) An out-of-state licensee shall notify the department in writing within ten days of any change of his resident agent. Failure to give such notice shall be grounds for suspending the licensee's license.

(b) **Application.** Any person desiring to be licensed to inspect LPG meters shall submit to the department an application form prescribed by the department, ac-

companied by a nonrefundable annual license fee of \$100. The application, signed by an individual with authority to bind the applicant, shall demonstrate the applicant's compliance with the following:

(1) passage of a written test administered by the department. The test shall be designed to verify the applicant's knowledge of Texas Weights and Measures Laws (Texas Agriculture Code, §13.001 et seq and this Chapter (relating to Consumer Services Division)), and the most recently published edition of NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," and NIST Publication 12, "Examination Procedures Outlines for Weighing and Measuring Devices;"

(2) possession of a valid Liquefied Petroleum Gas Category A, B, D, E, or O license from the Railroad Commission of Texas;

(3) ownership of test equipment which meets the requirements of §15.155 of this title (relating to Equipment and Standards);

(4) insurance requirements prescribed in §15.156 of this title (relating to Insurance Requirements); and

(5) registration requirements prescribed in §15.154 of this title (relating to Licensee Representatives).

(c) **Expiration and renewal of licenses.** Applicants who meet all requirements will be issued a license for a term of no more than one year. A license issued under this section may be renewed by filing with the department a renewal application form prescribed by the department, accompanied by a nonrefundable annual license renewal fee of \$100, and the recertification of test equipment. Proof of passage of a written test administered by the department shall be submitted with the renewal application every five years from the date of the initial issuance of the license. §15.153. Late Fees. Late fees shall be assessed against a person who fails to submit a license renewal fee as follows:

(1) If at least one but less than 31 days after the expiration date of the license the licensee must pay, in addition to the license renewal fee, a late fee of 20% of the renewal fee.

(2) If at least 31 but less than 91 days after the expiration date of the license the licensee must pay, in addition to the license renewal fee, a late fee of 50% of the renewal fee.

(3) If at least 91 but less than 365 days after the expiration date of the license the licensee must pay, in addition to the license renewal fee, a late fee of 100% of the renewal fee.

(4) A person who fails to pay the renewal fee and applicable late fee within one year after the due date of the renewal fee is not eligible to renew a license. The ineligible person may reapply for an initial license.

§15.154. Licensee Representatives.

(a) Registration of licensee's representatives. A licensee shall register all individuals that are to perform the authorized inspection and testing functions of the licensee. Each individual registered under this section shall be known as a representative. To register a representative, a licensee must submit an application form supplied by the department. The application, signed by an individual with authority to bind the licensee, shall demonstrate compliance with the following minimum requirements for registration:

(1) that the representative is the owner or an employee of the licensee;

(2) that the representative has met the written test requirement of §15.152 of this title (relating to Licensed Device Testers);

(3) that the representative has met all the requirements of the Railroad Commission of Texas, Liquefied Petroleum Gas Regulations, 16 Texas Administrative Code, §§9.1-9.30 (relating to Liquefied Petroleum Gas Division).

(4) that the representative is an employee of and is registered with a holder of a current Railroad Commission of Texas license as required by §15.152 of this title (relating to Licensed Device Testers); and

(5) that the representative is covered by the licensee's insurance policy required by §15.156 of this title (relating to Insurance Requirements).

(b) Written test. A representative's written test results are transferable if the representative changes his or her employing licensee.

(c) Number of representatives. The department reserves the right to limit the number of representatives that a licensee may register to no more than five representatives per 100-gallon LPG test prover.

(d) Registration card. The department shall issue a registration card to each individual who meets all of the requirements for registration under this section. A representative must surrender his or her registration card to his or her designated employing licensee immediately upon termination of employment with the licensee.

(e) Expiration and renewal of representative's registration. A representative's registration shall expire on the licensee's

anniversary date. A licensee may renew the registration of a representative by filing with the department a registration renewal application form prescribed by the department.

§15.155. Equipment and Standards.

(a) An applicant must have available sufficient and currently certified standards and equipment to adequately test LPG meters as set forth in the notes section of each applicable code in the most recently published edition of NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," and in the most recently published edition of NIST Publication 12, "Examination Procedures Outlines for Weighing and Measuring Devices."

(b) Minimum equipment. An applicant/licensee must own and maintain at least the following equipment:

(1) one 100-gallon LPG test prover; and

(2) one copy of the most recently published edition of NIST Handbook 44 and Texas Weights and Measures Laws (Texas Agriculture Code, §13.001 et seq and this Chapter (relating to Consumer Services Division)).

(c) Equipment specifications. Minimum equipment required under this section shall meet all applicable specifications contained in the most recently published edition of NIST Handbook 105-4, "Specifications and Tolerances for LPG Volumetric Field Standards (Draft)".

§15.156. Insurance Requirements.

(a) Proof of financial responsibility. All applicants must have on file with the Texas Railroad Commission proof of insurance as required by the Texas Natural Resources Code (Vernon 1993), Chapter 113, Subchapter D, §§113.097-113.099, as amended. The insurance policy must be issued by an insurance company authorized to do business in Texas or by a surplus lines insurer that meets the requirements of the Texas Insurance Code, Article 1.14-2. A certified copy of the liability insurance policy along with all endorsements and amendments shall accompany the application. No application for license will be deemed complete until the applicant has provided to the department the appropriate proof of financial responsibility.

(b) Amount of coverage. Licensee insurance requirements shall be the same as those required by the Railroad Commission of Texas for Liquefied Petroleum Gas licensees, as follows:

(1) Categories A, B, E, O—General liability, including: premises and opera-

tions coverage and products and completed operations liability coverage: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits; or

(2) Category D—General liability including: premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 aggregate; or \$25,000 combined single limits.

(c) Extent of coverage. The insurance policy must adequately protect persons who may suffer damages or injuries as a result of the operations of the licensee or persons working for the licensee. The coverage must include personal injuries and damages to real or personal property and structures on land being worked on by the licensee. The licensee and each representative must be covered by a form of financial responsibility that complies with this section.

(d) Cancellation or reduction in coverage. The liability insurance policy must include the endorsement approved by the State Board of Insurance for third party notification of cancellation or coverage change or other similar language that the surety or insurance carrier, noted as company on the certificate of insurance, will give the department 30 days written notice before the cancellation of or any material change in the policy.

§15.157. Authority and Responsibilities of LPG Meter Testers.

(a) Each licensee is authorized to inspect or test LPG meters to insure compliance with all specifications and requirements set out in NIST Handbook 44 and to insure that each LPG meter is suitable for the intended use. A licensee may inspect or test the licensee's own LPG meters.

(b) A seal of approval shall be placed on an LPG meter that meets all requirements. The seal must contain the following information and be approved by the department:

(1) the licensee's company name, address and phone number;

(2) the licensee's license number; and

(3) the date of inspection and test.

(c) Any LPG meter that does not meet all requirements shall be placed out of service. A security seal or some other means of rendering the LPG meter inoperable shall be placed on the LPG meter. The licensee shall not repair or replace the LPG meter unless the licensee is also registered as a service person with the department in accordance with §15.9 of this title (relating to Registration of Service Men and Service Agencies).

(d) Within ten days of inspecting or testing an LPG meter, the licensee shall submit to the Texas Department of Agriculture Weights and Measures Program, 119 Cumberland Road, Austin, Texas 78704, a test report, on a form approved by the department. The licensee shall maintain copies of test reports for a period of five years.

(e) It shall be the responsibility of the licensee to notify the department of a representative's termination. The representative's registration card must be surrendered to an officer or owner of the company named in the license application immediately upon termination of employment with that company. Notice of termination of employment of a representative must be given, in writing, to the Texas Department of Agriculture, Weights and Measures Program, 119 Cumberland Road, Austin, Texas 78704, within five working days of termination.

(f) The licensee must cease operations if, at the termination of its representative, there is no other qualified representative of the licensee recorded by the department. The licensee may not resume operation until such time as it has a qualified representative recorded by the department and all requirements for appropriate insurance coverage are satisfied.

(g) A licensee shall notify the department in writing within 30 days of any change of address or change of name of business.

§15.158. Certification of Standards and Testing Equipment. At least annually, a licensee shall submit to the department for examination and certification all standards and testing equipment that are used, or are to be used, in inspecting or testing LPG meters. No licensee may use in inspecting or testing LPG meters in this state any standards or testing equipment that has not been certified by the department or by another state weights and measures laboratory that is certified by NIST. A copy of any certificate of calibration of equipment certified by another state weights and measures laboratory must be on file with the department.

§5.159. Inspection. The department, to verify compliance with the requirements of these rules, may conduct inspections of the licensee's procedures, facilities, and equipment used by the licensee to test, inspect, repair, and calibrate LPG meters.

§15.160. Denial, Suspension and Revocation of Licenses and Registration.

(a) Any applicant for license or license renewal failing to meet the requirements of these rules may be denied the license or license renewal.

(b) The department may suspend or revoke a license at any time if a licensee or representative fails to comply with a provision of the Texas Agriculture Code, Chapter 13, Subchapter F, or rules adopted thereunder, including, but not limited to:

(1) failure to have test equipment or standards certified;

(2) failure to use adequate testing equipment;

(3) failure to inspect or test an LPG meter in accordance with NIST Handbook 44;

(4) failure to maintain proof of insurance;

(5) failure to register representatives; or

(6) failure to maintain a valid LPG license required by the Railroad Commission of Texas.

(c) Before suspending or revoking a license issued under the Texas Agriculture Code, Chapter 13, Subchapter F, the department shall conduct a hearing on the proposed suspension or revocation in accordance with rules prescribed in the Texas Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001, and Chapter 1 of this title (relating to General Practice and Procedure). The decision of the department may be appealed in the same manner as contested cases under the Texas Administrative Procedure Act and Chapter 1 of this title (relating to General Practice and Procedure).

(d) The department may refer to the appropriate prosecuting attorney for prosecution under applicable civil and criminal codes, any person who has violated or is violating any provision of these rules or any provision of the Texas Agriculture Code, Chapter 13.

§15.161. Administrative Penalty. If a person violates Texas Agriculture Code, Chapter 13, Subchapter F, or these rules, the department may assess an administrative penalty against the person as provided by Texas Agriculture Code, §12.020.

§15.162. Civil Penalty; Injunction.

(a) A person who violates Texas Agriculture Code, Chapter 13, Subchapter F, or these rules is liable to the state for a civil penalty of not less than \$250 nor more than \$10,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

(b) On request of the department, the attorney general or the county attorney or district attorney of the county in which

the violation is alleged to have occurred shall file suit to collect the penalty.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund. All civil penalties recovered in suits first instituted by a local government or governments under this section shall be equally divided between the State of Texas and the local government or governments with 50% of the recovery to be paid to the general revenue fund and the other 50% equally to the government or governments first instituting the suit.

(d) The department is entitled to appropriate injunctive relief to prevent or abate a violation of the Texas Agriculture Code, Chapter 13, Subchapter F, or these rules. On request of the department, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.

§15.163. Criminal Penalty. An individual who is required to be licensed under the Texas Agriculture Code, Chapter 13, Subchapter F, or these rules shall be guilty of a class B misdemeanor if that person performs or offers to perform an inspection or test on LPG meters for compensation without a valid license from the department.

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 July 15, 1994.

TRD-9445196

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: August 26, 1994

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Appli- cability and Requirements

• 16 TAC §9.32

The Railroad Commission of Texas proposes new §9.32, concerning the LP-gas advisory committee. Implementing Senate Bill 383,

73rd legislature, 1993, the new section creates the LP-gas advisory committee of the commission and establishes its duration; sets forth the purpose and duties of the committee; prescribes the composition of the committee, the nomination and appointment process, and the membership terms of the committee; and sets forth the mechanisms by which the committee meets, performs its work, and is evaluated.

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the new section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section. The exact impact cannot be determined until the committee appointments are made, but it should be very small, consisting only of travel expense for the state and local government representatives on the committee to attend committee meetings.

Mr. Petru also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more clearly understandable procedure by which the LP-gas advisory committee is created and operates. There is an anticipated economic cost to small businesses and to individuals, but to only those small business owners or individuals who are members of the LP-gas advisory committee; due to the nature of the provisions, the amount of that cost cannot be determined. The anticipated economic cost arises from the provision that the commission will not reimburse advisory committee members for travel or other expenses related to service on the committee. Such expenses are likely to be different for each committee member.

Comments on the proposal may be submitted to Thomas D. Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P. O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public. The new section implements the provisions of Senate Bill 383, 73rd Legislature, 1993, which mandates that state agency advisory committees conform to specific requirements set forth in the act.

The following is the statute, article, or code affected by the proposed new section:

Section 9.32 Texas Natural Resources Code, §§113.051; Senate Bill 383, 73rd Legislature, 1993.

§9.32. LP-Gas Advisory Committee.

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

(1) Commission—The Railroad Commission of Texas.

(2) Committee—The LP-Gas Advisory Committee of the Railroad Commission of Texas.

(3) Consumer representative—A member of the committee who is not engaged in the business of producing, distributing or retailing LP-gas and who is not engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research services or other services, but who is an end user of LP-gas fuel, including but not limited to a consumer of odorized LP-gas as a residential or commercial heating or water-heating fuel, as an automotive or other transportation fuel, or as an agricultural or industrial fuel.

(4) Division—The Liquefied Petroleum Gas Division of the Railroad Commission of Texas.

(5) Fiscal year—September 1 of a year through August 31 of the following year.

(6) Industry representative—A member of the committee who is engaged in the business of producing, distributing or retailing LP-gas or who is engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research or other services.

(7) Local government representative—A member of the committee who is a fire marshal for a city or county.

(8) LP-gas—Liquefied petroleum gas (LPG), as that term is defined in Texas Natural Resources Code, Chapter 113.

(9) Member—An industry representative, a consumer representative, or a representative of local government who serves on the LP-Gas Advisory Committee of the Railroad Commission of Texas.

(10) Presiding officer—The chairman of the LP-Gas Advisory Committee of the Railroad Commission of Texas.

(b) Establishment; Duration. The LP-Gas Advisory Committee of the Railroad Commission of Texas is hereby established effective January 1, 1995. The committee is abolished on December 1, 1998, unless the commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the commission the benefit of the members' collective business, environmental, and technical expertise and experience to help the commission regulate the safe use of LP-gas. The committee's sole duty is to advise the commission. The committee has no executive or administrative powers or duties with respect to the operation of the division.

All such powers and duties rest solely with the commission.

(d) Composition of Committee; Membership Terms. The committee shall be composed of 12 voting members, 11 of whom shall be voting members. The 11 voting members shall include five LP-gas consumers, five members of the LP-gas industry, and one representative from local government, all of whom serve at the pleasure of the commission. The voting members' terms shall be two years. The director of the Liquefied Petroleum Gas Division shall serve as an *ex officio*, non-voting member of the committee.

(e) Nominations for Committee Membership. Any person may nominate a candidate or candidates for membership on the committee. Nominations shall be made in writing and submitted by November 15, 1995, for the initial committee, and by January 1 of each odd-numbered year thereafter. Nominations may be submitted to the commission, a commissioner, or the director of the division for transmission to the commission.

(f) Appointment of Members. All members of the committee are appointed by and serve at the pleasure of the commission. The commission shall appoint members of the first committee by January 1, 1995, and by August 31 of each odd-numbered year thereafter, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise vacates his or her position prior to the end of his or her term, the commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(g) Reimbursement of Members' Expenses. The commission shall not reimburse members for travel or other expenses related to service on the committee.

(h) Presiding Officer; Other Officers. The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the commission. The committee may elect other officers at its pleasure.

(i) Subcommittees. The committee may organize itself into subcommittees. One member of each subcommittee shall serve as the chair of that subcommittee. The subcommittee chairs shall make written reports regarding their subcommittee's work to the presiding officer.

(j) Meetings. The committee shall meet at the call of the presiding officer or the commission. Committee and subcommittee meetings are open to the public.

(k) Committee Records. The division staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The division shall

maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the commission and the committee members.

(l) Evaluation of Committee Costs and Benefits. By October 1 of each year, the division director shall evaluate for the previous fiscal year and report to the commission:

- (1) the committee's work;
- (2) the committee's usefulness;

and

(3) the costs related to the committee's existence, including the cost of commission staff time spent in support of the committee's activities.

(m) Report to Legislative Budget Board. The commission shall biennially report to the Legislative Budget Board the information developed under subsection (l) of this section in evaluating the committee's costs and benefits.

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 July 14, 1994.

TRD-9445075

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

Earliest possible date of adoption: August 28, 1994

For further information, please call: (512) 463-7003

• 16 TAC §9.33

The Railroad Commission of Texas proposes new §9.33, concerning the United States Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee. Implementing Senate Bill 383, 73rd legislature, 1993, the new section creates the United States Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the commission and establishes its duration; sets forth the purpose and duties of the committee; prescribes the composition of the committee, the appointment process, and the membership terms of the committee; and sets forth the mechanisms by which the committee meets, performs its work, and is evaluated.

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the new section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section. The exact impact cannot be determined until the committee appointments are made, but it should be very small, consisting only of travel expense for state and local government repre-

sentatives on the committee to attend committee meetings.

Mr. Petru also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more clearly understandable procedure by which the United States Department of Labor Defense Conversion Adjustment Grant Advisory Committee is created and operates. There is an anticipated economic cost to small businesses and to individuals, but to only those small business owners and individuals who are members of the advisory committee; due to the nature of the provisions, the amount of that cost cannot be determined. The anticipated economic cost arises from the provision that the commission will not reimburse advisory committee members for travel or other expenses related to service on the committee. Such expenses are likely to be different for each committee member.

Comments on the proposal may be submitted to Thomas D. Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public. The new section implements the provisions of Senate Bill 383, 73rd Legislature, 1993, which mandates that state agency advisory committees conform to specific requirements set forth in the act.

The following is the statute, article, or code affected by the proposed new section:

Section 9.33. Texas Natural Resources Code, §113.051; Senate Bill 383, 73rd Legislature, 1993.

§9.33. *United States Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee.*

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

(1) Alternative fuel-Liquefied petroleum gas (LP-gas or LPG), as that term is defined in Texas Natural Resources Code, Chapter 113; compressed natural gas (CNG), and liquefied natural gas (LNG), as those terms are defined in Texas Natural Resources Code, Chapter 116.

(2) Commission-The Railroad Commission of Texas.

(3) Committee-The U.S. Department of Labor Defense Conversion Adjustment Grant Advisory Committee of the Railroad Commission of Texas.

(4) Division-The Liquefied Petroleum Gas Division of the Railroad Commission of Texas.

(5) Educational representative-A member of the committee who is employed as an administrator or instructor at a public post-secondary educational institution.

(6) Industry representative-A member of the committee who is engaged in the business of producing, distributing or retailing LP-gas or CNG, or who is engaged in the business of designing, manufacturing, distributing or retailing LP-gas or CNG equipment or performing LP-gas or CNG related research or other services.

(7) Member-An educational representative, an industry representative, an organized labor representative, a private sector or consumer representative, a Texas Employment Commission representative, a Texas Department of Commerce representative, a Texas Education Agency representative, a Texas Higher Education Coordinating Board representative, or a service delivery area representative who serves on the United States Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the Railroad Commission of Texas.

(8) Organized labor representative-A member of the committee who is affiliated with the Texas AFL/CIO.

(9) Presiding officer-The chairman of the United States Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the Railroad Commission of Texas.

(10) Private sector or consumer representative-A member of the committee who is an end user of an alternative fuel as an automotive or other transportation fuel.

(11) Service delivery area representative-A member of the committee who is the chairman of a private industry council, or program director of a service delivery area under the Job Training Partnership Act (JTPA) in the Dallas, Ft. Worth, or surrounding areas.

(12) Texas Department of Commerce representative-A member of the committee who is the executive director of the Texas Department of Commerce, or that executive director's designee.

(13) Texas Education Agency representative-A member of the committee who is the commissioner of the Texas Education Agency, or that commissioner's designee.

(14) Texas Employment Commission representative-A member of the committee who is a member of the Texas Employment Commission, or that commission's designee.

(15) Texas Higher Education Coordinating Board representative-A mem-

ber of the committee who is the commissioner of the Higher Education Coordinating Board, or that commissioner's designee.

(16) United States (U.S.) Department of Labor (DOL) Defense Conversion Adjustment Grant-A grant in the amount of \$480,979 to the Railroad Commission of Texas from the U.S. DOL for retraining displaced defense workers in the Dallas/Ft. Worth area in alternative fuels technology. The term of the grant is from December 17, 1993, to June 17, 1995.

(b) Establishment; Duration. The U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the Railroad Commission of Texas is hereby established effective November 1, 1994. The committee is abolished on July 1, 1995, unless the commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the commission the benefit of the members' collective business, environmental, and technical expertise and experience to help the commission implement the alternative fuels training program under the U.S. DOL grant; to advise the commission on the development of curriculum; to assist the commission in identifying and securing additional funds for alternative fuels training; and to serve on the evaluation team to measure the success of the program. The committee's sole duty is to advise the commission. The committee has no executive or administrative powers or duties with respect to the operation of the division or administration of the grant. All such powers and duties rest solely with the commission.

(d) Composition of Committee; Membership Terms. The committee shall be composed of 17 voting members, who shall include three private industry or consumer representatives, one for each alternative fuel; two industry representatives; three educational representatives; one representative of organized labor; one Texas Employment Commission representative; one Texas Department of Commerce representative; one Texas Education Agency representative; one Texas Higher Education Coordinating Board representative; and four service delivery area representatives; all of whom serve at the pleasure of the commission. The members' terms shall expire July 1, 1995.

(e) Appointment of Members. All members of the committee are appointed by and serve at the pleasure of the commission. The commission shall appoint members of the committee by November 1, 1994, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise

vacates his or her position prior to the end of his or her term, the commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(f) Reimbursement of Members' Expenses. The commission shall not reimburse members for travel or other expenses related to service on the committee.

(g) Presiding Officer; Other Officers. The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the commission. The committee may elect other officers at its pleasure.

(h) Meetings. The committee shall meet at the call of the presiding officer or the commission. Committee and subcommittee meetings are open to the public.

(i) Committee Records. The division staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The division shall maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the commission and the committee members.

(j) Evaluation of Committee Costs and Benefits. By July 15, 1995, the division director shall evaluate for the period of November 1, 1994, to July 1, 1995, and report to the commission:

- (1) the committee's work;
- (2) the committee's usefulness; and
- (3) the costs related to the committee's existence, including the cost of commission staff time spent in support of the committee's activities.

(k) Report to Legislative Budget Board. The commission shall report to the Legislative Budget Board in October 1995 the information developed under subsection (j) of this section in evaluating the committee's costs and benefits.

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 July 14, 1994.

TRD-9445076

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

Earliest possible date of adoption: August 28, 1994

For further information, please call: (512) 463-7008

Chapter 13. Regulations for Compressed Natural Gas (CNG) Fuel Systems

Liquefied Natural Gas

• 16 TAC §13.2001

The Railroad Commission of Texas proposes new §13.2001, concerning the liquefied natural gas (LNG) advisory committee. Implementing Senate Bill 383, 73rd legislature, 1993, the new section creates the LNG advisory committee of the commission and establishes its duration; sets forth the purpose and duties of the committee; prescribes the composition of the committee, the nomination and appointment process, and the membership terms of the committee; and sets forth the mechanisms by which the committee meets, performs its work, and is evaluated.

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the new section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section. The exact impact cannot be determined until the committee appointments are made, but it should be very small, consisting only of travel expense for the state and local government representatives on the committee to attend committee meetings.

Mr. Petru also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more clearly understandable procedure by which the LNG advisory committee is created and operates. There is an anticipated economic cost to small businesses and to individuals, but to only those small business owners or individuals who are members of the LNG advisory committee; due to the nature of the provisions, the amount of that cost cannot be determined. The anticipated economic cost arises from the provision that the commission will not reimburse advisory committee members for travel or other expenses related to service on the committee. Such expenses are likely to be different for each committee member.

Comments on the proposal may be submitted to Thomas D. Petru, Director, Liquefied Petroleum Gas Division, Railroad Commission of Texas, P. O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under Texas Natural Resources Code, §116.012, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LNG industry that will protect or tend to protect the health, welfare, and safety of the general public. The new section implements the provisions of Senate Bill 383, 73rd Legislature, 1993, which mandates that state agency advisory committees conform to specific requirements set forth in the act.

The following is the statute, article, or code affected by the proposed new section:

§13.20C
§§116.0
1993.

s Natural Resources Code,
ate Bill 383, 73rd Legislature,

§13.20C *Advisory Committee.*

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

(1) Commission—The Railroad Commission of Texas.

(2) Committee—The LNG Advisory Committee of the Railroad Commission of Texas.

(3) Consumer representative—A member of the committee who is not engaged in the business of producing, distributing or retailing LNG and who is not engaged in the business of designing, manufacturing, distributing or retailing LNG equipment or performing LNG related research services or other services, but who is an end user of LNG fuel, including, but not limited to, a consumer of LNG as an automotive or other transportation fuel.

(4) Division—The Liquefied Petroleum Gas Division of the Railroad Commission of Texas.

(5) Fiscal year—September 1 of a year through August 31 of the following year

(6) Industry representative—A member of the committee who is engaged in the business of producing, distributing or retailing LNG or who is engaged in the business of designing, manufacturing, distributing or retailing LNG equipment or performing LNG related research or other services.

(7) Local government representative—A member of the committee who is a fire marshal for a city or county.

(8) LNG—Liquefied natural gas, as that term is defined in Texas Natural Resources Code, Chapter 116.

(9) Member—An industry representative, a consumer representative, or a representative of local government who serves on the LNG Advisory Committee of the Railroad Commission of Texas.

(10) Presiding officer—The chairman of the LNG Advisory Committee of the Railroad Commission of Texas.

(b) Establishment; Duration. The LNG Advisory Committee of the Railroad Commission of Texas is hereby established effective January 1, 1995. The committee is abolished on December 1, 1998, unless the commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the com-

mission the benefit of the members' collective business, environmental, and technical expertise and experience to help the commission develop and implement rules for the safe use of LNG. The committee's sole duty is to advise the commission. The committee has no executive or administrative powers or duties with respect to the operation of the division. All such powers and duties rest solely with the commission.

(d) Composition of Committee; Membership Terms. The committee shall be composed of eight members, seven of whom are voting members. The seven voting members shall include three LNG consumers, three members of the LNG industry, and one representative from local government, all of whom serve at the pleasure of the commission. The voting members' terms shall be two years. The director of the Liquefied Petroleum Gas Division shall serve as an *ex officio*, non-voting member of the committee.

(e) Nominations for Committee Membership. Any person may nominate a candidate or candidates for membership on the committee. Nominations shall be in writing and submitted by November 15, 1995, for the initial committee, and by January 1 of each odd-numbered year thereafter. Nominations may be submitted to the commission, a commissioner, or the director of the division for transmission to the commission.

(f) Appointment of Members. All members of the committee are appointed by and serve at the pleasure of the commission. The commission shall appoint members of the first committee by January 1, 1995, and by August 31 of each odd-numbered year thereafter, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise vacates his or her position prior to the end of his or her term, the commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(g) Reimbursement of Members' Expenses. The commission shall not reimburse members for travel or other expenses related to service on the committee.

(h) Presiding Officer; Other Officers. The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the commission. The committee may elect other officers at its pleasure.

(i) Subcommittees. The committee may organize itself into subcommittees. One member of each subcommittee shall serve as the chair of that subcommittee. The subcommittee chairs shall make written reports regarding their subcommittee's work to the presiding officer.

(j) Meetings. The committee shall meet at the call of the presiding officer or the commission. Committee and subcommittee meetings are open to the public.

(k) Committee Records. The division staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The division shall maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the commission and the committee members.

(l) Evaluation of Committee Costs and Benefits. By October 1 of each year, the division director shall evaluate for the previous fiscal year and report to the commission:

- (1) the committee's work;
 - (2) the committee's usefulness;
- and
- (3) the costs related to the committee's existence, including the cost of commission staff time spent in support of the committee's activities.

(m) Report to Legislative Budget Board. The commission shall biennially report to the Legislative Budget Board the information developed under subsection (l) of this section in evaluating the committee's costs and benefits.

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 July 14, 1994.

TRD-9445077

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

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 463-7008

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**Part VIII. Texas Racing
Commission**

**Chapter 303. General
Provisions**

**Subchapter A. Organization of
the Commission**

• **16 TAC §303.9**

The Texas Racing Commission proposes an amendment to §303.9, concerning the inspection of commission records. The amendment will adopt the suggested changes promulgated by the General Services Commission for providing copies of public information

Paula Cochran Carter, General Counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for local government as a result of enforcing the section. Because the charges for copies of records are designed to offset the actual cost of providing the copies, the net fiscal effect of the proposal on state government is zero.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's charges for copies of open records will be consistent with applicable state law. There will be no fiscal implications for small businesses. The cost to individuals will vary, depending on the type and number of records requested. The rates for the copies were adopted by the General Services Commission at 1 TAC §111.61 et seq (19 TexReg 2482).

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; Texas Government Code, §552.261 et seq, which requires the Commission to adopt rules relating to charges for copies of records; and Chapter 428, Acts of the 73rd Legislature, Regular Session (1993), §5, which requires the Commission to adopt rules relating to charges for copies of records. The proposed rule implements Texas Civil Statutes, Article 179e.

§303.9. Records.

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

(d) A person requesting to inspect a commission record must pay all costs involved in preparing or copying the record. The commission adopts the suggested charges promulgated by the General Services Commission for providing copies of public information [shall determine the costs involved in preparing and copying commission records in accordance with standards adopted by the State Purchasing and General Services Commission]

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

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

Issued in Austin, Texas, on July 6, 1994

TRD-9445117 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption August 26, 1994

For further information, please call: (512) 794-8461

Subchapter C. Racetrack Licenses

General Provisions

• 16 TAC §305.62

The Texas Racing Commission proposes an amendment to §305.62, concerning the criteria and burden of proof regarding the licensing proceeding of a Class 1 racetrack that has been constructed. The amendment expands the rule regarding proceedings after a foreclosure to include relief for those holding a leasehold interest in a racetrack facility.

Paula Cochran Carter, General Counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing, with all its attendant economic benefits, will continue at Class 1 racetracks in the event of a foreclosure. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §6.03, which authorizes the Commission to adopt rules for applications for racetrack licenses. The proposed rule implements Texas Civil Statutes, Article 179e

§305.62 Criteria and Burden of Proof

(a)-(g) (No change)

(h) This subsection applies to a racetrack licensing proceeding regarding a Class 1 racetrack that has been constructed, the ownership of or a leasehold interest in [but] which has been sold or transferred pursuant to the foreclosure of liens or the enforcement of an agreement securing the original financing for the racetrack (or any refinancing thereof) or otherwise transferred in lieu of foreclosure or enforcement of the debt holder's rights. The commission shall grant a new Class 1 license for a racetrack to which this subsection applies as expeditiously as possible consistent with the commission's duty to ensure the integrity of pari-mutuel racing

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 July 12, 1994.

TRD-9445116 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 794-8461

Chapter 16. Licenses for Pari-mutuel Wagering

Subchapter F. Other Licenses

• 16 TAC §305.301

The Texas Racing Commission proposes an amendment to §305.301, concerning an interim license to conduct race meetings. The amendment broadens the eligibility requirements for the interim licenses.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing, with all its attendant economic benefits, will continue at a Class 1 racetracks in the event of a foreclosure. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act, §7.02, which authorizes the Commission to set the eligibility requirements for other licenses issued by the Commission. The proposed rule implements Texas Civil Statutes, Article 179e

§305.301. Interim License to Conduct Race Meetings

(a) The commission shall issue to a qualified person an interim license to conduct pari-mutuel race meetings at a racetrack for which a racetrack license has been previously issued. To be eligible to receive an interim license under this section, a person must:

(1) own or hold a leasehold interest in the racetrack premises and facilities by virtue of:

(A) the foreclosure of liens securing the original financing of the premises and facilities (or any refinancing thereof); [or]

(B) the enforcement of an agreement securing the original financing (or any refinancing thereof) of the premises and facilities, provided the agreement was approved by the commission at the time the agreement was executed; or

(C)[(B)] other transfer in lieu of foreclosure or enforcement of the rights of a debt holder;

(2)-(4) (No change.)

(b)-(e) (No change.)

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

Issued in Austin, Texas, on July 12, 1994.

TRD-9445115 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 794-8461

Chapter 309. Operation of Racetracks

Subchapter B. Horse Race-tracks

Operations

• 16 TAC §309.200

The Texas Racing Commission proposes an amendment to §309.200, concerning stakes and other prepayment races. The amendment will make an association responsible for the payment of all purse money for stakes conducted at their facility or which the association has agreed to conduct.

Paula Cochran Carter, General Counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that funds invested by horse owners in stakes races will be guaranteed. Cost to racetracks will vary, depending on types of prepayment races accepted by the racetrack. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §8.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety. The proposed rule implements Texas Civil Statutes, Article 179e.

§309.200. Stakes and Other Prepayment Races.

(a)-(f) (No change.)

(g) An association may not conduct a stakes or other prepayment race sponsored by a person or organization other than the association unless the person or organization agrees in writing to comply with this section. The failure of an association to ensure compliance with this section is grounds for disciplinary action against the association. An association is responsible for the payment of all purse money for each stakes or prepayment race conducted at its licensed facility or which the association has agreed to conduct at its licensed facility, regardless of whether the association is the sponsor of the race.

[(h) This section applies to stakes or other prepayment races scheduled to be conducted on or after January 1, 1993.]

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 July 12, 1994.

TRD-9445114 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 794-8461

Chapter 313. Officials and Rules of Horse Racing

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.103

The Texas Racing Commission proposes an amendment to §313.103, concerning the eligibility requirements for a horse to enter a race. The amendment deletes the requirement of a negative test for equine infectious anemia as a condition of eligibility to enter.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the Commission's eligibility requirements will be easier to understand and the Commission's rules will be internally consistent. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §8.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety. The proposed rule implements Texas Civil Statutes, Article 179e.

§313.103. Eligibility Requirements.

(a)-(f) (No change.)

[(g) For a horse to be eligible to start in a race, an original certificate indicating a negative test for equine infectious anemia conducted in accordance with rules of the Texas Animal Health Commission during the twelve-month period preceding the race must be attached to the horse's registration papers not later than:

[(1) scratch time, for a race for which there are "also eligible" horses; and

[(2) one hour before post time for the first race of that day, for a race for which there are not "also eligible" horses.]

[(g)[(h)] To be entered in a race around a turn, a quarter horse must be approved by the clocker, the outrider and, if the horse is worked from the gate, the starter.

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 July 12, 1994.

TRD-9445113 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 794-8461

Subchapter C. Claiming Races

• 16 TAC §313.308

The Texas Racing Commission proposes an amendment to §313.308, concerning restrictions on subsequent use in a claiming race. The amendment makes minor modifications relating to the use of a horse that has been claimed.

Paula Cochran Carter, General Counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the number of fraudulent claims for horses will decrease. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety. The proposed rule implements Texas Civil Statutes, Article 179e.

§313.308. Restrictions on Subsequent Use. During the 30-day period after a person claims a horse in a claiming race:

(1) (No change)

(2) the horse is ineligible to enter a claiming race or starter race [including a starter handicap.] for a price less than 25% more than the price at which the horse was claimed; and

(3) (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 July 12, 1994

TRD-9445112 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption. August 26, 1994

For further information, please call (512) 794-8461

Subchapter D. Running of the Race

Jockeys

• 16 TAC §313.409

The Texas Racing Commission proposes an amendment to §313.409, concerning jockey mount fees. The amendment changes the minimum payment for jock mounts.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that jockeys are paid fairly for their services. There will be no fiscal implications for small businesses. There is a cost to horse owners running horses in races with lower purses. The amount of additional cost varies from \$3.00 to \$17 per race.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety. The proposed rule implements Texas Civil Statutes, Article 179e.

§313.409 Jockey Mount Fees.

(a)-(b) (No change)

(c) In the absence of a written agreement, the following jockey mount fees apply

(d)-(f) (No change)

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

Issued in Austin, Texas, on July 12, 1994

TRD-9445111 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption August 26, 1994

For further information, please call (512) 794-8461

Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

• 16 TAC §319.111

The Texas Racing Commission proposes an amendment to §319.111, concerning the bleeders and furosemide (Lasix) program. The amendment modifies the requirements for admitting a horse to the bleeder's program.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that procedures relating to the bleeder's program are less cumbersome, thereby increasing the number of horses available to race. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety, and §14.03, which authorizes the Commission to adopt rules relating to medicating racehorses. The proposed rule implements Texas Civil Statutes, Article 179e.

§319.111. Bleeders and Furosemide (Lasix) Program.

(a)-(b) (No change)

(c) The trainer of a horse confirmed as a bleeder in Texas may request that the commission veterinarian admit the horse to the furosemide (Lasix) program for its next race. The request must be made on a form prescribed by the commission not later than one hour before post time for the first race on the day the horse is scheduled to race. [scratch time for the race for which the request is made.] A trainer shall declare at the time of entry whether the horse will race with or without furosemide (Lasix). The failure to make such a declaration or the making of a false declaration is grounds for disciplinary action by the stewards or the commission

(d) The commission veterinarian shall maintain a list of horses that have been admitted to the furosemide (Lasix) program [and the furosemide (Lasix) program list shall be posted in the racing secretary's office]. A horse admitted to the furosemide (Lasix) program must race with furosemide (Lasix) until:

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

(e) (No change.)

(f) If a trainer elects to withdraw a horse from the furosemide (Lasix) program, the trainer must withdraw the horse not later than one hour before post time for the first race on the day the horse is scheduled to race. [before entry time for the horse's next race.] The failure of a horse that has been admitted to the furosemide (Lasix) program to race on furosemide (Lasix) without the proper notification to the commission veterinarian is grounds for disciplinary action by the commission or the stewards. A horse that races in another jurisdiction without furosemide (Lasix), except a jurisdiction that does not permit furosemide (Lasix), is automatically withdrawn from the furosemide (Lasix) program. A horse that is withdrawn from the furosemide (Lasix) program may not be readmitted to the furosemide (Lasix) program until the horse is reconfirmed as a bleeder by the commission veterinarian or in another racing jurisdiction in accordance with subsection (g) of this section.

(g) A horse that has been confirmed as a bleeder in another racing jurisdiction may be admitted to the furosemide (Lasix) program in this state provided:

(1) (No change.)

(2) the trainer declares at the time of entry that the horse will race with furosemide (Lasix);

(3)[(2) not later than entry time for the desired race] the trainer requests that the commission veterinarian admit the horse to the furosemide (Lasix) program not later than one hour before post time for the first race on the day the horse is scheduled to race;

(4)[(3)] the trainer provides written documentation satisfactory to the commission veterinarian [a written statement from a state veterinarian or association veterinarian in the jurisdiction of the horse's last race verifying] that the horse was participating in the furosemide (Lasix) program in that jurisdiction; and

(5)[(4)] the commission is able to verify that the criteria used to confirm the horse as a bleeder are substantially equivalent to the criteria in this section.

(h) (No change.)

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

Issued in Austin, Texas, on July 12, 1994.

TRD-8445110 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 28, 1994

For further information, please call: (512) 794-8481

Subchapter B. Treatment of Horses

• 16 TAC §319.112

The Texas Racing Commission proposes an amendment to §319.112, concerning unlicensed veterinary practices. The amendment makes the Commission's rule consistent with rules of the State Board of Veterinary Medical Examiners.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the Commission's rules are consistent with other agencies with overlapping jurisdiction. There will be no fiscal implications for small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before September 1, 1994, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the Commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §6.06, which authorizes the Commission to adopt rules on all matters relating to the planning, construction, and operation of a racetrack to preserve and protect the public health, welfare, and safety; and §14.03, which authorizes the Commission to adopt rules relating to medicating racehorses. The proposed rule implements Texas Civil Statutes, Article 179e.

§319.112. Unlicensed Veterinary Practices.

(a) A person other than a licensed veterinarian may not perform, conduct, or participate in veterinary practices, including equine dentistry, chiropractics, and acupuncture, unless the practices are performed by the order of and under the direct supervision of a veterinarian, licensed by the com-

mission, in accordance with rules of the Texas Board of Veterinary Medical Examiners. [who has established a veterinarian-client-patient relationship with the animal being treated.]

(b)-(c) (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 July 12, 1994.

TRD-8445108 Paula Cochran Carter
General Counsel
Texas Racing Commission
of Texas

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 794-8481

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter D. Adoptions by Reference

• 19 TAC §109.61

The Texas Education Agency (TEA) proposes an amendment to §109.61, concerning the adoption by reference of Change 29 to the financial accounting manual (Bulletin 679) for school districts and regional education service centers. Change 29 updates the standard accounting system relating to accrual accounting rules for Foundation School Program revenues and updates Procedure CDE-402 for fund codes previously shown in Appendix E of the manual (issued February 1994). Change 29 also provides the sample audit report format to be followed for the 1993-1994 fiscal year independent audit.

Thomas Canby, director of the Audit Division, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rule. The implications, resulting from standardization of auditing software, will be minimal but cannot be precisely determined at this time.

Mr. Canby and Criss Clout, director of policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that schools will have current reference that complies with state and federal laws and current accounting requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Clout, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin,

Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted in accordance with the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.29, which directs the commissioner of education to adopt annually a budget for operating the Foundation School Program, the Central Education Agency, and other programs for which the State Board of Education has responsibility.

§109.61. Financial Accounting Manual.

(a) The rules for financial accounting are described in the official Central Education Agency bulletin, Financial Accounting Manual, Bulletin 679, as amended July 1994 [1993], which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

(b) (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 July 14, 1994.

TRD-9445183

Crisis Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 463-9701

TITLE 22. EXAMINING BOARDS

Part XVII. Texas State Board of Plumbing Examiners

Chapter 363. Examinations

Qualifications

• 22 TAC §363.1

The Texas State Board of Plumbing Examiners proposes an amendment to §363.1(c) and (e). The first proposed amendment concerns eligibility criteria for the plumbing inspector examination; the second proposed amendment concerns the course content of board-approved medical gas piping installation training programs. The first amendment proposes that applicants for the plumbing inspector examination need not furnish the board with a written request from a city or political subdivi-

sion stating the applicant is employed or under consideration for employment; the second amendment proposes to include specifically the *National Fire Protection Association (NFPA) 99C Gas and Vacuum System Latest Edition* in board-approved training programs in medical gas piping installation.

Douglas A. Beran, Ph.D., Chief Fiscal Officer/Office Manager of the Texas State Board of Plumbing Examiners has determined that for the first five-year period the first amendment is in effect there will be no fiscal implications for state government but there will be fiscal implications for local governments in that a city or political subdivision will not need to employ or consider for employment an individual in order for that individual to undertake the plumbing inspector examination. For the first five-year period the second amendment is in effect there will be no fiscal implications for state or local government.

Dr. Beran also has determined the public benefit anticipated as a result of enforcing the first amendment for each year of the first five years it is in effect still will be enhanced public health, safety, and welfare by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors. There should be no effect on large or small businesses.

The public benefit anticipated as a result of enforcing the second amendment for each year of the first five years it is in effect is the public health, safety, and welfare will be enhanced because of the assurance medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases because medical gas installers have participated in quality medical gas installation training programs. There should be no effect on large or small businesses (i.e., providers of medical gas training) since they already were aware the medical gas examination administered by the Texas State Board of Plumbing Examiners contains questions from the *National Fire Protection Association 99C Gas and Vacuum System, 1993 Edition*.

The anticipated cost to persons required to comply with the first amendment as proposed will be contingent upon the costs and fees necessary to undergo the plumbing inspector examination and licensing. The anticipated cost to persons required to comply with the second amendment as proposed will be the fees charged to them by the providers approved by the Texas State Board of Plumbing Examiners to offer the medical gas installation training program.

Written comments on the proposals may be submitted to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

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

The proposed amendments do not affect other statutes, articles, nor codes

§363.1. Qualifications.

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

(c) Plumbing Inspector. Each applicant must:

(1) be a high school graduate or hold a General Equivalency Diploma (G.E.D.) [;] and

[(2) furnish the board with a written request from the city or political subdivision stating that the applicant is employed or under consideration for employment by the requesting entity and should be allowed to take the examination]

(2)[(3)] have one of the following:

(A) a journeyman or master plumber license issued in the state of Texas;

(B) a journeyman or master plumber license issued in another state, provided he or she passes the Texas State Board of Plumbing Examiners journeyman exam; or

(C) successful completion of the International Association of Plumbing and Mechanical Officials (IAPMO) or Southern Building Code Congress International (SBCCI) certification and 5,000 hours of experience working at the trade or such work experience and technical training combined to equal 5,000 hours as verified by former employers.

(d) (No change.)

(e) Medical gas piping technician. Each applicant must:

(1) hold a current journeyman or master plumber license;

(2) have successfully completed a board approved training program in medical gas piping installation which includes the *National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems Latest Edition*.

(f) (No change.)

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

Issued in Austin, Texas, on July 11, 1994

TRD-9445229

Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: September 12, 1994

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

• 22 TAC §363.11

The Texas State Board of Plumbing Examiners proposes an amendment to §363.11(a)(1)(3). The proposed amendment concerns the course content of board-approved medical gas piping installation training programs and proposes to include specifically the *National Fire Protection Association (NFPA) 99C Gas and Vacuum System Latest Edition* in board-approved training programs in medical gas piping installation.

Douglas A. Beran, Ph.D., chief fiscal officer/office manager of the Texas State Board of Plumbing Examiners has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government.

Dr. Beran also has determined the public benefit anticipated as a result of enforcing the rule for each year of the first five years it is in effect is the public health, safety, and welfare will be enhanced because of the assurance medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases because medical gas installers have participated in quality medical gas installation training programs. There should be no effect on large or small businesses (i.e., providers of medical gas training) since they already were aware the medical gas examination administered by the Texas State Board of Plumbing Examiners contains questions from the *National Fire Protection Association 99C Gas and Vacuum System, 1993 Edition*.

The anticipated cost to persons required to comply with the rule will be the fees charged to them by the providers approved by the Texas State Board of Plumbing Examiners to offer the medical gas installation training program.

Written comments on the proposals may be submitted to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

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

The proposed amendments do not affect other statutes, articles, nor codes.

§363.11. Endorsement Training Programs.

(a) Medical gas piping installation training programs

(1) Any person wishing to offer a training program in medical gas piping installation to the public must meet criteria as prescribed by the board and included in the *National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems Latest Edition*. Instructors shall be employed by a program that meets certification requirements of the Central Education Agency or is exempted from the Central Education Agency certification require-

ments under Chapter 32, Texas Education Code, §32.12(a)(5), (Proprietary Schools and Veterans Education). Such persons shall provide to the administrator lesson plans and instructor credentials. The Board shall provide a course outline and the required minimum hours.

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

(3) Periodically, the board shall review training programs in medical gas piping installation for quality in content and instruction in accordance with the *National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems Latest Edition*. The board shall also respond to complaints regarding approved programs.

(4) Instructors in medical gas piping installation will be required to successfully complete a board approved program. Instructors will be required to pass the board examination as well as successfully complete a board approved program of 160 clock hours which meets the following generic criteria. The Board will allow credit for approved courses:

(A) 40 hours to provide the instructor with the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs;

(B) 40 hours to provide the instructor with the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs;

(C) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to establish and maintain effective relationships with students, co-workers, and other personnel in the classroom, industry, and community;

(D) 40 hours to provide the instructor with the basic principles, techniques, theories, and strategies to communicate effectively with the use of instructional media;

(E) to maintain his/her status as an approved instructor of medical gas piping installation training, the instructor shall undergo one of the aforementioned training programs every 12 months such that the entire training (160 hours) is complete within four years.

(5) Each approved provider must notify the Board 30 days before conducting classes; the notice shall contain the

time(s) and place(s) where the classes will occur.

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

(b) (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 July 11, 1994.

TRD-9445230

Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: September 12, 1994

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

◆ ◆ ◆
Chapter 365. Licensing

• 22 TAC §365.4

The Texas State Board of Plumbing Examiners proposes an amendment to §365.4 concerning issuance. The proposed amendment is a companion to the proposed amendment to §363.1(c) which concerns eligibility criteria for the plumbing inspector examination and proposes that applicants for the plumbing inspector examination need not furnish the board with a written request from a city or political subdivision stating the applicant is employed or under consideration for employment. The proposed amendment to §365.4 requires an individual to submit proof to the Texas State Board of Plumbing Examiners of his/her employment with a political subdivision as a plumbing inspector and to submit the appropriate licensing fee within one year from the date of passing the plumbing inspector's examination or he/she must undergo re-examination to be eligible for licensing as a plumbing inspector.

Douglas A. Beran, Ph.D., Chief Fiscal Officer/Office Manager of the Texas State Board of Plumbing Examiners has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state government but there will be fiscal implications for local governments should a local government choose to employ an individual who has passed the plumbing inspector examination as a plumbing inspector.

Dr. Beran also has determined the public benefit anticipated as a result of enforcing the rule for each year of the first five years it is in effect will be enhanced public health, safety, and welfare by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors. There should be no effect on large or small businesses.

The anticipated cost to persons required to comply with the rule will be contingent upon the costs and fees necessary to undergo the plumbing inspector examination, licensing, and reexamination.

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

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

The proposed amendments do not affect other statutes, articles, nor codes.

§365.4. Issuance. The board shall promptly issue a license or endorsement to qualified applicants. However, the board may withhold the license or endorsement and require reexamination of any applicant who has not remitted the appropriate fee within 90 days of completion of the examination. Within one year from the date of passing the plumbing inspector's examination, a political subdivision must submit proof to the Board of the individual's employment with the political subdivision as a plumbing inspector with the appropriate licensing fee. If the individual does not comply with this requirement, he/she must undergo reexamination to be eligible for licensing as a plumbing 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 July 11, 1994.

TRD-8445231 Gilbert Kieseling
Administrator
Texas State Board of
Plumbing Examiners

Proposed date of adoption: September 12, 1994

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

Part XXIII. Texas Real Estate Commission

Chapter 534. General Administration

• 22 TAC §534.1

The Texas Real Estate Commission proposes new §534.1, concerning charges for copies of public records. The new section generally would require the Texas Real Estate Commission to impose for copies of public records the charges suggested by the General Services Commission or the actual cost of making the copies, whichever is greater. If the agency determines that it is in the public interest to make the copies available at no cost or at a reduced cost, the agency may do so. Adoption of a rule specifying the charges for public records to be imposed by the agency is required by House Bill 1009, 73rd Legislature, Regular Session.

Alan Waters, director of staff services, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The agency estimates that it will collect \$75,000 in FY 1995 if the section is adopted; for each of the four years thereafter, the agency estimates it will collect \$50,000 using the charges suggested by the General Services Commission. No fiscal implications are involved for units of local government. There is no anticipated impact on local or state employment as a result of implementing the section.

Mr. Waters also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be consistent and fair charges for copies of public records. There will be no effect on small businesses. The only anticipated economic cost to persons who are required to comply with the proposed section is the charge for copies of public records, which will vary in amount, depending on the volume of records requested, and is therefore indeterminate.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The new section is proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§534.1. Charges for Copies of Public Records.

(a) Charges for copies of public records provided by the commission shall be based upon the current charges suggested by the General Services Commission; provided, however, that the commission shall charge its actual costs if the actual costs of providing copies exceed the suggested charges.

(b) The commission may furnish copies of public records without charge or at a reduced charge if the commission determines that waiver or reduction of the fees is in the public interest.

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 July 18, 1994.

TRD-8445308 Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 465-3900

• 22 TAC §534.2

The Texas Real Estate Commission proposes new §534.2, concerning fees charged by the commission for processing dishonored checks. The new section would impose a fee of \$25 on the drawer or endorser of a dishonored check; Texas Civil Statutes, Article 9022, authorize the holder of a dishonored check to impose a processing fee not to exceed \$25. The new section also provides for the commission to notify the maker or endorser of the fee by certified mail to the last known business address of the person as shown in the records of the commission; failure to pay the processing fee is a violation of the section. Adoption of the new section is necessary for the commission to recover the expenses it incurs in the handling of dishonored checks.

Alan Waters, director of staff services, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The commission estimates that it will collect an additional \$6,650 each year if the processing fee is imposed. No fiscal implications are involved for units of local government. There is no anticipated impact on local or state employment as a result of implementing the section.

Mr. Waters also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be recovery of expenses incurred in the handling of dishonored checks. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the proposed section would be \$25 for each dishonored check processed by the agency.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 121188, Austin, Texas 78711-2188.

The new section is proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§534.2. Processing Fees for Dishonored Checks.

(a) If a check drawn to the commission is dishonored by a payor, the commission shall charge a fee of \$25 to the drawer or endorser for processing the dishonored check. The commission shall notify the drawer or endorser of the charge by sending a request for payment of the dishonored check and the processing charge by certified mail to the last known business address of the person as shown in the records of the commission. If the commission has sent a request for payment in accordance with the provisions of this section, the failure of the drawer or endorser to pay the processing charge within 15 days after the commission has mailed the request is a violation of this section.

(b) Collection of the charge imposed under this section does not preclude the commission from proceeding under Texas Civil Statutes, Article 6573a, §15(a)(4), against a licensee who has within a reasonable time failed to make good a check issued to the commission.

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 July 15, 1994.

TRD-9445309 Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 465-3900

Chapter 535. Provisions of the Real Estate License Act

Requirements for Licensure

• 22 TAC §535.51

The Texas Real Estate Commission proposes an amendment to §535.51, concerning general requirements for licensure. The amendment would adopt by reference an application form which could be used by a limited liability company to obtain a real estate broker license within one year after the expiration of a previous license. The commission began licensing limited liability companies as real estate brokers in 1994, and an application form is needed for those companies which fail to renew their licenses timely and wish to be relicensed. The application form is similar in content to the original application for a license, requesting information about the company and its designated manager concerning criminal convictions, civil suits, and judgments.

Mark A. Moseley, general counsel, 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. Moseley also has determined that for each year of the first five years the section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be a uniform and orderly process for obtaining a real estate license. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(h), which authorize the Texas Real Estate Commission

to make and enforce all rules and regulations necessary for the performance of its duties.

§535.51. General Requirements.

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

(d) The commission adopts by reference the following forms approved by the commission which are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1)-(9) (No change.)

(10) Application for Late Renewal of a Real Estate Broker License by a Limited Liability Company, TREC Form BLRLLC-1.

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 July 18, 1994.

TRD-9445310 Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 465-3900

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 404. Protection of Clients and Staff

Subchapter H. Criminal History Clearances

• 25 TAC §§404.301-404.312

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§404.301-404.312 of Chapter 404, Subchapter H, governing criminal history checks. The sections would implement provisions of House Bill 1510 of the 73rd Legislature which created new Chapter 250 of the Texas Health and Safety Code.

House Bill 1510, in creating new Chapter 250 of the Texas Health and Safety Code, bars persons who have been convicted of certain crimes from employment by an intermediate care facility for persons with mental retardation or a related condition (ICF/MR/RC). The legislation directly affects most programs of state schools and those state centers which offer mental retardation services, and those programs of community MHMR center which are ICF/MR or ICF/MR/RC certified. The Texas Department of Human Services is responsible for administering the statute as it

affects private and contract ICF/MR and ICF/MR/RC providers.

The department has determined that the process as described in statute should be applied consistently throughout all department facilities, all community MHMR center programs, and all providers of residential services which contract with facilities or community MHMR center to deliver residential services to individuals with a mental illness or mental retardation without regard to whether those programs are ICF/MR or ICF/MR/RC certified. Otherwise, the department would be administering two different processes for checking criminal history records of persons applying for employment or volunteer opportunities and would be applying different standards of protection for individuals receiving services depending upon the type of service provider. Consistent with current department policy affecting department facilities, criminal history checks will be conducted of applicants for both licensed and unlicensed staff positions.

The subchapter also would require that community MHMR centers and contract providers of residential services initiate a one-time criminal history check of all employees with self-reporting by those employees of any subsequent arrests, indictments, deferred adjudications, or convictions for offenses listed in this subchapter. This process is not required by statute; however, a similar provision was implemented for employees and volunteers at department facilities, including Central Office, more than a year ago.

The provisions of this subchapter supersede and replace the procedures concerning criminal history record information clearance which are described in the department's Human Resources (Personnel) Operating Instruction (OI 406-3) in §§3.102.20-3.102.22.

Leilani Rose, director, Financial Services Division, has determined that for FY 1995, the cost of implementing the sections as proposed is expected to be \$94,595, including one-time expenses for processing criminal history checks of current community MHMR center and provider employees. For each subsequent year of the first five-year period the sections as proposed are in effect, the cost to state government is expected to be \$84,946.

Margene Catey, deputy commissioner, Human Resources, 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 as proposed will be the improved protection of individuals receiving services through department facilities, community MHMR centers, and providers who contract with facilities and community MHMR center to provide residential services, and the protection of the rights of applicants through the administrative review process for those who believe they have been inappropriately barred from employment. There will be no economic impact on small businesses. There may be economic costs to persons who are applicants for employment as those persons incur expenses in providing documents and/or testimony for the administrative review panel.

Written comments on the proposal may be sent to Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under the Texas Health and Safety Code, §250.004(d), which requires the Texas Mental Health and Mental Retardation Board to adopt rules providing for an administrative review process, and under the Texas Health and Safety Code, §532.015, which provides the Texas Mental Health and Mental Retardation Board with broad rulemaking powers.

The new sections affect the Texas Health and Safety Code, Chapter 250; the Texas Health and Safety Code, §533.007; and the Texas Government Code, §411.115.

§404.301. Purpose. The purpose of this subchapter is, first and foremost, to protect individuals receiving services provided by a facility, community center, or provider of residential services and the property of those individuals. To do so, this subchapter:

(1) describes the process by which criminal history checks are conducted of applicants for employment or volunteer opportunities with facilities, community center, and providers of residential services which contract with facilities or community center;

(2) describes the composition, role, and functions of the administrative review panel; and

(3) requires community centers and providers to conduct a one-time criminal history check of all their employees and volunteers in direct contact positions upon the effective date of this subchapter with subsequent self-reporting.

§404.302. Application.

(a) The provisions of this subchapter apply to:

(1) department facilities, including Central Office in Austin;

(2) community centers; and

(3) non-ICF/MR or ICF/MR/RC providers which contract with facilities or community centers to deliver residential services to individuals with a mental illness or mental retardation.

(b) For ICF/MR or ICF/MR/RC residences which are owned and operated by a community center, applications for criminal history checks shall be submitted to the department through the community center.

(c) For ICF/MR or ICF/MR/RC residences which are owned by a community center but operated under contract by a private provider, the private provider is responsible for conducting criminal history

checks as provided in rules of the Texas Department of Human Services (TDHS).

(d) The provisions of this subchapter do not apply to ICF/MR or ICF/MR/RC residences which are privately owned and operated. Criminal history checks of persons applying for employment with these entities should be conducted as provided in TDHS rules.

(e) The provisions of this subchapter do not apply to professional clinical interns at facilities or community centers. A facility or community center may elect to classify professional clinical interns as volunteers. In addition, classification as a professional clinical intern does not prohibit that person from volunteering at a facility or community in a capacity beyond the internship. In this case, the provisions of this subchapter, as they apply to volunteers, would apply.

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

Applicant—A person who is one of a select number of final candidates for a position as an employee or volunteer or a person to whom the employer intends to offer a position.

Board

The Texas Mental Health and Mental Retardation Board.

CHU (Criminal History Unit)—A unit of the department's Central Office in Austin which is responsible for administering the process described in this subchapter.

Community center—A community mental health and mental retardation center established under the Texas Health and Safety Code, Title 7, Chapter 534.

Department—The Texas Department of Mental Health and Mental Retardation.

Direct contact

(A) For volunteers, this means any regular assignment which involves providing a service by working directly with an individual receiving services. Examples of direct contact volunteers include personal advocates and persons who volunteer to teach classes in facilities; however, a person who comes in once or twice to assist with a party for individuals receiving services would not be considered a direct contact volunteer. Students, practicum students, and interns are considered direct contact volunteers unless such persons are paid by the facility or community center or the facility or community center recognizes them as professional clinical interns.

(B) For employees, this means:

(i) all employees of facilities;

(ii) those employees of Central Office whose assignments include regular visits to the consumer service areas of facilities, community centers, and providers as determined by Central Office administrators in consultation with Human Resource Services;

(iii) all employees of community centers; and

(iv) all employees of providers.

Facility—Any state hospital, state school, or state center operated by the department, including the department's Central Office in Austin.

Professional clinical intern—A person who is enrolled in a formal clinical rotation at a university/college in a professional training program accredited by the appropriate licensing authority or board of examiners, or is engaged in a recognized graduate level, clinical professional degree program. Professional degree programs include, but are not limited to nursing, pharmacy, physical therapy, occupational therapy, medicine, clinical psychology, social work, and dentistry. A memorandum of understanding or affiliation agreement (MOA) must exist between the facility or community center and the university/college that specifically states that:

(A) responsibility for the care of individuals receiving services is retained by the facility or community center; and

(B) the university/college is responsible for conducting a reasonable background check of the person. To facilitate this check, the university/college may elect to include a provision in the MOA which requires the department to conduct a criminal history check.

Provider—Any entity or person which contracts with a facility or community center to deliver residential services to individuals with a mental illness or mental retardation who have been furloughed or discharged from a department facility as described in the Texas Government Code, §411.115(b). This does not include private ICF/MR or ICF/MR/RC providers: TDHS is responsible for conducting criminal history checks for those entities.

§404.304. Pre-employment Criminal History Check.

(a) Persons applying for employment or a volunteer assignment in a direct contact position with a facility, community center, or a provider must have a pre-employment criminal history check con-

ducted by the department through the Texas Department of Public Safety (TDPS).

(b) The facility, community center, or provider shall not employ an applicant who has been convicted of one of the offenses listed in:

(1) subsection (d) of this section; or

(2) subsection (e) of this section and has not obtained a clearance from an administrative review panel as described in §404.308 of this title (relating to Administrative Review Panel).

(c) An applicant may be employed on a temporary basis without a criminal history check if an emergency exists in which there is a risk to the health and safety of individuals receiving services as a result of unfilled positions or in which the operations of the organization are severely impaired as determined by the chief executive officer of the facility, community center, or provider.

(1) The applicant shall furnish the employer with an affidavit stating that the applicant has not been convicted of any of the offenses listed in subsection (d) or (e) of this section. A sample affidavit may be obtained by contacting the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668.

(2) Within 72 hours of the time the applicant is employed on a temporary basis, the facility, community center, or provider shall apply for a criminal history check as described in §404.305 of this title (relating to Application for Criminal History Check.)

(3) If the results of the criminal history check reveal a conviction for any of the offenses listed in subsection (d) or (e) of this section, the facility, community center, or provider shall dismiss the person as unemployable immediately upon receipt of the notice from the Criminal History Unit (CHU) in the department's Central Office in Austin.

(4) An employee who has been dismissed as described in paragraph (3) of this subsection may request an administrative review as described in §404.307 of this title (relating to Requesting an Administrative Review.)

(d) Offenses which constitute a bar to employment and for which an administrative review is not available except as described in §404.309 of this title (relating to Correction of Errors of Fact or Identity in Criminal History Record) include:

(1) criminal homicide (Penal Code, Chapter 19);

(2) kidnapping and false imprisonment (Penal Code, Chapter 20);

(3) indecency with a child (Penal Code, §21.11);

(4) agreement to abduct from custody (Penal Code, §25.031);

(5) solicitation of a child (Penal Code, §25.06);

(6) sale or purchase of a child (Penal Code, §25.11);

(7) arson (Penal Code, §28.02);

(8) robbery (Penal Code, §29.02); and

(9) aggravated robbery (Penal Code, §29.03).

(e) Offenses which may constitute a bar to employment and for which an administrative review may be requested include:

(1) assaultive offenses (Penal Code, Chapter 22);

(2) burglary and criminal trespass (Penal Code, Chapter 30);

(3) theft (Penal Code, Chapter 31);

(4) weapons offenses (Penal Code, Chapter 46);

(5) felony violation of a statute intended to control the possession or distribution of a substance described in the Texas Government Code, Chapter 481 (Texas Controlled Substance Act);

(6) fraud (Penal Code, Chapter 32);

(7) public lewdness (Penal Code, §21.07);

(8) indecent exposure (Penal Code, §21.08); and

(9) public indecency (Penal Code, Chapter 43).

(f) Consistent with the Texas Government Code, §411.115(e), conviction information obtained through TDPS or FBI relating to an applicant, employee, or volunteer obtained under this subchapter shall not be retained but shall be destroyed after an employment decision or personal action has been taken

§404.305 Requesting a Criminal History Check.

(a) The CHU shall act as the clearinghouse for all criminal history record requests. Only the CHU may submit a request for criminal history information to TDPS.

(b) The department may charge a fee to community centers which equals the fee which TDPS charges the department to conduct a criminal history check

(c) The Criminal History Record Information Request Form HR-44 shall be used to submit requests for criminal history checks. The request shall be submitted via electronic mail, confidential fax, or mail. Copies of the HR-44 form may be obtained by contacting the Criminal History Unit, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668. The form may be duplicated.

(d) Each facility and community center shall submit criminal history check requests for applicants for employment or direct contact volunteer assignments with:

(1) that facility or community center; and

(2) providers which contract with that facility or community center.

(e) Applicants who are not from Texas shall be checked through the Federal Bureau of Investigation (FBI) using a complete set of fingerprints on the official FBI card which may be obtained from the CHU. There is a charge for obtaining this information. The applicant's name, address, date of birth, sex, and race should be indicated on the fingerprint card as well as the name of the facility or community center requesting the information, and the name and address of the provider, if applicable.

§404.306 Report of a Criminal Conviction.

(a) When the TDPS or FBI report contains a record of a criminal conviction of any kind, the information shall be reviewed by the CHU to determine if the conviction is for one of the offenses listed in this subchapter.

(1) The CHU shall notify both the prospective employer and the applicant of the results of the criminal history check. If the prospective employer is a provider, the notice also shall be sent to the facility or community center with which the provider contracts

(2) When the TDPS or FBI report contains a record of an arrest for any of the offenses listed in this subchapter, the CHU shall contact the appropriate local law enforcement agency to determine the disposition of the arrest

(b) Notification normally will be made within 20 calendar days of the date the request was received by the CHU. The notice to the

(1) employer shall be sent via electronic mail, confidential fax, or certified mail, return receipt requested, and

(2) applicant shall be sent by certified mail, return receipt requested

(c) When the TDPS or FBI report contains:

(1) no record of a conviction for any of the offenses listed in this subchapter and any arrests reported by TDPS or FBI or offenses listed in this subchapter are determined by the CHU to have been disposed of without a conviction, the notice to the potential employer and applicant shall state that the applicant has been determined to be employable; or

(2) only a record of a class C misdemeanor conviction for any of the offenses listed in §404.304(e) of this title (relating to Pre-employment Criminal History Check), the notice to the potential employer and applicant shall state that the applicant has been determined to be employable as provided in the Texas Health and Safety Code, §250.006(a).

(d) When the TDPS or FBI report contains a record of a conviction for any of the offenses listed in this subchapter, except as described in subsection (c)(2) of this section, the written notice to the applicant shall:

(1) state that the finding is preliminary;

(2) state that the applicant may submit a written request, no later than 20 calendar days after the date the notice is received, for an administrative review of the criminal history report;

(3) state that the prospective employer has the discretion to employ another person in the position and, therefore, that the position may not be available if the applicant is found to be employable by the administrative review panel;

(4) provide information on how the applicant may correct any errors of fact or identity contained in the TDPS or FBI report; and

(5) provide information on how to request an administrative review as described in §404.307 of this title (relating to Requesting an Administrative Review) including:

(A) the address and fax number to which the request must be submitted; and

(B) notice that the failure to request an administrative review will cause the applicant to be designated as "unemployable" by any facility, community center, or provider.

(e) When a conviction reported by TDPS or the FBI is for any of the offenses listed in:

(1) §404.304(d) of this title (relating to Pre-employment Criminal History Check) as an absolute bar to employment, the notice required in subsection (d) of this

section also shall state that the applicant may request an administrative review only to contest errors of fact or identity in the report or the CHU finding that the offense is one that bars employment. See §404.309 of this title (relating to Correction of Errors of Fact or Identity in Criminal History Record) for additional information.

(2) §404.304(e) of this title (relating to Pre-employment Criminal History Check) for which mitigating factors must be considered as required in the Texas Health and Safety Code, §250.006, the notice required in subsection (d) of this section also shall state that the applicant has the right to submit documentation of mitigating circumstances to be considered by an administrative review panel concerning:

(A) the misdemeanor classification of the offense;

(B) the age of the applicant when the offense was committed;

(C) the length of time since the offense was committed;

(D) evidence of rehabilitation including employment history with a facility, community center, provider, or one of the facilities listed in subsection (g)(1) of this section; or

(E) other mitigating circumstances which existed at the time when the offense was committed.

(f) When the TDPS or FBI report contains a record of a conviction for any of the offenses listed in this subchapter, except as described in subsection (c)(2) of this section, the notice to the prospective employer shall state that the:

(1) finding is preliminary;

(2) applicant may submit a written request, no later than 20 calendar days after the date the notice is received, for an administrative review of the criminal history report; and

(3) position for which the applicant applied may be filled by another applicant at the employer's discretion.

(g) The applicant may not request an administrative review if the conviction was for an offense involving the abuse, neglect, or mistreatment of an individual receiving services from:

(1) one of the facilities listed in the Texas Health and Safety Code, §250.001, including:

(A) a nursing home, custodial care home, or other institution licensed by the TDHS under the Texas Health and Safety Code, Chapter 242;

(B) a personal care facility licensed by TDHS under the Texas Health and Safety Code, Chapter 247;

(C) a home health agency licensed by the Texas Department of Health;

(D) an adult day care facility or adult day health care facility licensed by TDHS under the Texas Human Resources Code, Chapter 103;

(E) a facility for persons with mental retardation licensed or certified by TDHS;

(F) an unlicensed attendant care agency that contracts with TDHS;

(G) an ICF/MR facility that is certified to participate in the Medicaid program under Title XIX of the Social Security Act (42 U.S.C., §1396 et seq); or

(H) an adult foster care provider that contracts with TDHS;

(2) a state hospital, state school, or state center;

(3) a community center; or

(4) a non-ICF/MR or ICF/MR/RC provider of residential services.

(h) If the applicant for whom a conviction has been reported does not request an administrative review within the allotted timeframe, the CHU shall notify the prospective employer via electronic mail, confidential fax, or certified mail, return receipt requested, that the applicant is unemployable.

(i) If the applicant for whom a conviction has been reported requests an administrative review within the allotted timeframe, the CHU shall notify the prospective employer of such via electronic mail, confidential fax, or certified mail, return receipt requested.

§404.307. Requesting an Administrative Review.

(a) An applicant may request an administrative review of the findings of a TDPS or FBI report concerning a conviction. The request must be submitted in writing by mail or fax to the CHU no later than 20 calendar days after the date the notice of the findings is received by the applicant.

(b) If the reported conviction was for one of the offenses listed in:

(1) §404.304(d) of this title (relating to Pre-employment Criminal History Check), the applicant may submit documentation which contests the accuracy of the report concerning fact or identity; or

(2) §404.304(e) of this title (relating to Pre-employment Criminal History Check), the applicant may submit documentation which contests the accuracy of the report concerning fact or identity and/or which provides evidence of mitigating circumstances as described in §404.306(e)(2)(A)-(E) of this title (relating to Report of a Criminal Conviction).

(c) If the documentation appears questionable, the CHU shall verify its authenticity and accuracy before the information is submitted to the review panel. If the documentation is determined to be false, inaccurate, or misleading, the request for an administrative review panel shall be rejected and the applicant shall be declared unemployable.

§404.308. Administrative Review Panel.

(a) The administrative review panel shall comprise at least five members with representation from facility, community center, or provider management, employees, and consumers. The panel need not include members representing the management, employees, or consumers of the facility, community center, or provider at which the applicant applied for employment.

(b) Central Office shall establish and maintain a statewide list of prospective panel members approved by the board. The statewide list shall be compiled from lists of management personnel, employees, and consumers supplied by each facility, community center, and provider.

(c) The panel shall convene at least monthly, as needed, to consider the documentation submitted by applicants who request administrative reviews. At the discretion of the CHU staff, one or more of the panelists may participate in the review by telephone.

(d) The review panel's decision shall be made solely from the documentation submitted by the applicant. The panel may not make an independent investigation of the applicant's allegations. To deem the applicant "employable," a majority of the panel members must agree that the documentation submitted is sufficient to remove the bar to employment because either the:

(1) report of the conviction was incorrect and the applicant had not been convicted of that offense; or

(2) mitigating circumstances indicate that the applicant is unlikely to be a

threat to individuals receiving services from a facility, community center, or provider of residential services and to the property of those individuals.

(e) The CHU shall send written notice of the panel's decision to the applicant by certified mail, return receipt requested, within ten working days of the date the panel met. At the same time, the CHU shall notify the potential employer via electronic mail, confidential fax, or certified mail, return receipt requested.

(f) If the review panel finds that the applicant is unemployable, the applicant shall be provided the opportunity to appear before the panel in person to offer additional information.

(1) The written notice to the applicant of the panel's decision shall include information on how to request a personal appearance including:

(A) a statement that the request must be submitted in writing within 10 days of receipt of the written notice of the panel's decision;

(B) the address and fax number to which the request must be submitted, and

(C) a statement that failure to request the personal appearance in a timely manner will result in the decision of the panel becoming final.

(2) The notice to the prospective employer shall advise that the panel's decision is not final unless the applicant fails to request a personal appearance before the panel in a timely manner.

§404.309. Correction of Errors of Fact or Identity in Criminal History Record. If the applicant believes the information reported by the TDPS or FBI contains errors of fact or identity, the applicant may request an administrative review as described in §404.307 of this title (relating to Requesting an Administrative Review) at the same time that the applicant seeks a correction of the TDPS or FBI records. The request must clearly indicate that the applicant is seeking a correction of the TDPS or FBI records. The corrected information shall be presented to the administrative review panel as part of the documentation for review.

§404.310. One-time Criminal History Check of Current Community Center and Provider Employees and Volunteers

(a) Upon the effective date of this subchapter, community centers and providers shall initiate a one-time criminal history check of all current employees and volun-

teers following the procedures described in §404.305 of this title (relating to Application for Criminal History Check.)

(1) The check shall be conducted for criminal convictions of those offenses listed in this subchapter.

(2) If the community center or provider has been conducting criminal history checks of applicants and employees and has what it considers to be a valid self-reporting system, then this one-time check is not required. For community centers, this provision applies to volunteers, as well.

(b) After this one-time check, or after an applicant is employed by the community center or provider following the pre-employment check mandated by this subchapter, each employee shall report any subsequent arrests, indictments, deferred adjudications, or convictions of those offenses listed in this subchapter to a person designated by that community center or provider. The same process applies for volunteers in a regular assignment with a community center.

(c) Each community center and provider shall develop written policies and procedures describing how it will respond to information obtained through the one-time check or employee self-reporting. The administrative review process is not available to current employees.

(1) Consistent with the Texas Health and Safety Code, §533.007(b), adverse personnel action shall not be taken if the information received pertains to arrest warrants or wanted persons notices

(2) If the information reflects a conviction for an offense listed in:

(A) §404.304(d) of this title (relating to Pre-employment Criminal History Check), consideration shall be given to any contention by the employee concerning errors of fact or identity in the report; or

(B) §404.304(e) of this title (relating to Pre-employment Criminal History Check), consideration shall be given to the following factors, as applicable

(i) the accuracy of the report concerning errors of fact or identity,

(ii) the misdemeanor classification of the offense;

(iii) the age of the applicant when the offense was committed,

(iv) the length of time since the offense was committed,

(v) evidence of rehabilitation including employment history with a facility, community center, provider, or one of the facilities listed in §404.306(g)(1) of

this title (relating to Report of a Criminal Conviction); or

(vi) other mitigating circumstances which existed at the time the offense was committed.

§404.311. References. The following documents were referenced in this subchapter:

(1) Texas Health and Safety Code, Chapter 250;

(2) Texas Health and Safety Code, §533.007;

(3) Texas Health and Safety Code, Chapter 534;

(4) Penal Code, Chapters 19-22, 25, 28-29, 30-32, 43, and 46;

(5) Texas Government Code, §411.115; and

(6) Texas Government Code, Chapter 481 (Texas Controlled Substance Act).

§404.312. Distribution.

(a) This subchapter shall be distributed to:

(1) members of the Texas MHMR Board;

(2) members of the Mental Retardation Advisory Council;

(3) members of the Mental Health Planning and Advisory Council;

(4) deputy commissioners, associate deputy commissioners, and assistant deputy commissioners in Central Office;

(5) program and management staff in Central Office;

(6) superintendents and directors of facilities;

(7) board chairpersons and executive directors of all community mental health and mental retardation centers;

(8) all advocacy organizations; and

(9) those individuals who have requested to receive copies of departmental rules.

(b) A copy of this subchapter shall be made available upon request to:

(1) any person who applies for employment at a facility, community center, or provider;

(2) any person who seeks a volunteer assignment at a facility or community center;

(3) any employee of a facility, community center, or provider;

(4) the counsel of record of the applicant or employee;

(5) any individual with a mental illness or mental retardation;

(6) the legally authorized representative of an individual with a mental illness or mental retardation;

(7) the counsel of record of any individual with a mental illness or mental retardation; or

(8) any interested party.

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 July 20, 1994.

TRD-9445338

Anne Utley
Chair

Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: August 26, 1994

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

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TITLE 28. INSURANCE
Part I. Texas Department
of Insurance
Chapter 11. Health
Maintenance Organizations
Subchapter O. Administrative
Procedures

• **28 TAC §11.1403**

The Texas Department of Insurance proposes an amendment to §11.1403, concerning a requirement that health maintenance organizations advise enrollees of a toll-free complaint telephone number for psychiatric and chemical dependency treatment services. Section 11.1403 is amended to provide notice of a changed toll-free telephone number. This change is necessary because the former toll-free telephone number is no longer in service. In addition, §11.1403 is amended to correct a typographical error by deleting the comma after "services" in the notice.

Rhonda Myron, deputy commissioner, life/health group, has determined that for the first five-year period the proposed section will be in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section. There will be no effect on local employment or the local economy.

Ms. Myron also has determined that for the first five year period the proposed section is in effect, the public benefits anticipated as a result of enforcing the amendment as proposed will be availability to enrollees of complaint resolution services through access to an operable toll-free complaint telephone number for psychiatric and chemical dependency treatment services. There will be no effect on small businesses. There are no anticipated economic costs to persons who are

required to comply with this amendment, other than possible minimal printing costs.

To be considered by the Commissioner of Insurance, comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the Texas Register, to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, Mail Code 113-2A, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Rhonda Myron, Deputy Commissioner, Life/Health Group, Texas Department of Insurance, P.O. Box 149104, Mail Code 106-1A, Austin, Texas 78714-9104. A request for public hearing on the proposed sections should be submitted separately to the Office of the Chief Clerk.

The amendment is proposed under the Insurance Code, Articles 20A.22(a) and 1.03A. The Insurance Code, Article 20A.22(a) authorizes the State Board of Insurance to promulgate rules to carry out the provisions of the Health Maintenance Organization Act, the Insurance Code, Chapter 20A. New Article 1.03A, as enacted by the 73rd Legislature in House Bill 1461, provides that the Commissioner of Insurance may adopt rules and regulations for the conduct and execution of the duties and functions of the Department.

The Insurance Code, Chapter 20A, is affected by this proposed section.

§11.1403. Requirement for Notifying Enrollees of Toll-free Telephone Number for Complaints about Psychiatric or Chemical Dependency Services of Private Psychiatric Hospitals, General Hospitals and Chemical Dependency Treatment Centers. Health Maintenance Organizations shall include in their next available newsletter or other general mailing to all enrollees following the effective date of this rule, and shall include in information provided to new subscribers, the following notice: **FIGURE 1: 28 TAC §11.1403 FIGURE 2: 28 TAC §11.1403** The entire notice shall be in at least 10-point type. If the newsletter or other mailing is in larger than 10-point type, the notice shall be in the same type as the rest of the newsletter or mailing. Paragraphs 1-3 of the English notice and paragraphs 1-3 of the Spanish notice must be in bold-face type. Paragraphs 1 and 2 of the English and Spanish notices must be in all capital letters. A final print of the mailing shall be submitted to the HMO Unit of the Texas Department of Insurance for filing within 30 days following distribution to enrollees.

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 July 20, 1994

TRD-9445334

D. J. Powers
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 475-2025

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 72. Memorandum of Understanding with Other State Agencies

Memorandum of Understanding with the Texas Department of Commerce Regarding Economic Development

• 40 TAC §72.3001

The Texas Department of Human Services (DHS) proposes new §72.3001, concerning the memorandum of understanding with the Texas Department of Commerce regarding economic development, in its Memoranda of Understanding with Other State Agencies rule chapter. The new section will adopt by reference Texas Administrative Code Title 10, Community Development; Part V, Texas Department of Commerce; Chapter 195, Memoranda of Understanding; §195.3, which was proposed in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3046) and was adopted without change in the June 17, 1994, issue of the *Texas Register* (19 TexReg 4748). This memorandum of understanding implements the requirement in the Texas Government Code, §481.028, enacted by the 73rd Legislature that the Texas Department of Commerce enter into memoranda of understanding with other state agencies involved in economic development to cooperate in program planning and budgeting.

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

Mr. Rairford also has determined that for each year of the first five years the new section is in effect the public benefit anticipated as a result of enforcing the new section will be that the coordination of workforce and economic development with state agencies involved in these activities through program and budget planning will occur. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed new section.

Questions about the content of the proposal may be directed to Carol Barron at (512) 450-4242 in DHS's Self-support Services Unit. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-007, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

The new section implements the Human Resources Code, §§22.001-22.024.

§72.3001. *Memorandum of Understanding with the Department of Commerce Regarding Economic Development.* The Texas Department of Human Services (DHS) adopts by reference Texas Administrative Code Title 10, Community Development; Part V, Texas Department of Commerce; Chapter 195, Memoranda of Understanding; §195.3, (relating to Memorandum of Understanding with the Texas Department of Human Services) as adopted effective June 1, 1994. This memorandum of understanding between the Texas Department of Commerce and DHS provides for coordination of workforce and economic development involved in program and budget planning.

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 July 15, 1994.

TRD-9445128

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

Proposed date of adoption: October 1, 1994

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

Part X. Texas Employment Commission

Chapter 305. Interagency Matters

• 40 TAC §305.3

The Texas Employment Commission proposes new §305.3, concerning a memorandum of understanding with the Texas Department of Commerce concerning program planning and budgeting relating to workforce development programs, as required by §481.028 of the Government Code.

Martin Aguirre, deputy administrator, Employment Service/Unemployment Insurance, has determined that there will not be fiscal implications on state or local government or as a result of enforcing or administering the rule.

Mr. Aguirre also has determined that for each year of the first five years the section as proposed is in effect the public benefits will be coordination of effort between the Texas Employment Commission and the Texas Department of Commerce. There will be no effect on small businesses. There will be no economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Carolyn Calhoun, Office of the Deputy Administrator for Legal Affairs, T.E.C. Building, 101 East 15th, Room 660, Austin, Texas 78778, (512) 463-2291.

The new section is proposed under Texas Labor Code, Title 4, Subtitle A (formerly Texas Civil Statutes, Article 5221b), which provides the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

§305.3. *Memorandum of Understanding with Texas Department of Commerce.* The Texas Employment Commission hereby adopts by reference the terms of a memorandum of understanding on program planning and budgeting relating to workforce development programs. Said memorandum of understanding is set out at 10 TAC §195.10. Copies are available at the Texas Employment Commission, 101 East 15th, Room 660, Austin, Texas 78778.

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 July 18, 1994.

TRD-9445213

J. Ferris Duhon
Legal Counsel
Texas Employment
Commission

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 463-2291

Chapter 307. Charges for Copies of Public Records

• 40 TAC §§307.1-307.5

The Texas Employment Commission proposes new §§307.1-307.5, concerning charges for providing copies of, or access to, public records. These rules are proposed to comply with Chapter 428, Acts, 73rd Legislature, Regular Session (1993), which requires agencies to adopt rules establishing charges for copies of public records, and by the Texas Labor Code, §202.091, which requires the Texas Employment Commission to charge a reasonable fee set by the Commission for providing a copy of a Commission record to a person entitled to receive a copy thereof. Except as otherwise provided in these rules, the Texas Employment Commission adopts the charges, definitions and procedures set out in the General Services Commission Rules at 1 TAC §§111.62-111.70.

Phoebe Knauer, Director of Information Release for the Texas Employment Commission, has determined that for each year of the first five years the proposed sections will be in effect, there will be no significant fiscal implications for state government as a result of enforcing or administering these sections. The charges authorized under these pro-

posed rules, when taken as a whole, are substantially the same as those currently being assessed by the Commission, thus it is not anticipated that the rules will have a perceptible impact on revenues collected for this activity.

Ms. Knauer also has determined that for each year of the first five years the proposed sections will be in effect, there will be no effect on local government as a result of enforcing or administering the proposed sections.

Ms. Knauer has determined that for each year of the first five years the proposed sections will be in effect, there will be a benefit to the public in that the charges for copies of public records will be consistent with those recommended by the General Services Commission, providing greater consistency among state agencies in assessing charges for access to public records. There will be no effect on small businesses. There is no anticipated economic cost to persons as a result of these sections, since the costs of obtaining copies of public records should be substantially the same as the current cost of obtaining copies of public records from the Texas Employment Commission.

Comments on the proposal may be submitted to Carolyn Callhoon, Office of the Deputy Administrator for Legal Affairs, Texas Employment Commission Building, 101 East 15th Street, Room 660, Austin, Texas 78778, (512) 463-2291.

The new sections are proposed under Texas Labor Code, Title 4, Subtitle A (formerly Texas Civil Statutes, Article 5221b), which provides the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

§307.1 Charges for Copies of Public Records. Except as otherwise specified in this chapter, the Texas Employment Commission hereby adopts by reference the definitions, the methods and procedures, and the charges for copies of public records set out in the General Services Commission Rules at 1 TAC §§111.62-111.70. The Commission may establish a standard fee for the handling of certain types of repetitive requests when the costs of responding to such requests are substantially similar in most cases. The standard fee will be based upon the average costs of handling that type of request, using the personnel, resource and overhead charges set forth in the General Services Commission rules, and will be based on a survey of a representative sample of requests. In the event that the actual costs of responding to a given request are significantly lower or higher than the standard fee charged for that type of request, actual costs will be charged in lieu of the standard fee.

§307.2 Waiver of Fees for Program Related Requests. No charge will be assessed to an individual or an employing unit for copies of records pertaining to that indi-

vidual or employing unit, when the provision of records is deemed by the Commission to be reasonably required for the proper administration of the Texas Unemployment Compensation Act, found in the Texas Labor Code, at Title 4, Subtitle A.

§307.3 Waiver of De Minimis Fees in Response to Open Records Requests. No charge will be assessed to any individual or entity for providing copies of records in response to an Open Records request when the total records provided in response to all requests made by that same individual or entity in any given 30-day period consists of fewer than 50 pages of readily available, standard-size pages.

§307.4 Charges To Other Governmental Entities. Notwithstanding any other provision in this chapter, provision of information to other governmental agencies for purposes other than the administration of the Texas Unemployment Compensation Act will be made only on a cost reimbursable basis, with all costs being calculated in accordance with OMB Circular A-87, as required by federal law at 20 Code of Federal Regulations 603 et seq. Charges to other governmental entities can only be waived when the request is of an isolated or infrequent nature and when the costs of responding to a particular request are negligible.

§307.5 Charges for Certification of Records. In addition to the fees the Commission may charge for providing copies of records, the Commission shall charge a fee of \$5.00 for preparation of a certification instrument, which may be attached to one or more pages of records covered by the certification instrument.

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 July 14, 1994.

TRD-9445070

C. Ed Davis
Deputy Administrator for
Legal Affairs
Texas Employment
Commission

Earliest possible date of adoption: August 26, 1994.

For further information, please call: (512) 463-2291.

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TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 23. Travel Information

Subchapter A. General Provisions

• 43 TAC §23.2

The Texas Department of Transportation proposes an amendment to §23.2, concerning Definitions. Section 23.2 is amended by adding the terms of card, magazine, and program, and amending the definition of travel literature. The amendment to §23.2 is necessary because of the contemporaneous proposed adoption of new §23.26, concerning Magazine Discount Card Program.

J. Don Clark, director, Travel and Information Division, has determined that there will be no fiscal implications on state or local government as a result of enforcing or administering the section. Mr. Clark has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed sections.

Mr. Clark also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the section will be to further encourage travel to and within the state of Texas. 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.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amendment. The public hearing will be held at 9:00 a.m. on Monday, August 8, 1994, in Room 101, Building 200, 200 East Riverside Drive, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may

need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangement can be made.

Written comments on the proposed amendments may be submitted to J. Don Clark, Director, Travel and Information Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be at 5 p.m. on August 27, 1994.

The amendment is proposed under Texas Civil Statutes, Articles 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and Texas Civil Statutes, Article 6144e, which designate responsibility to the department for encouraging travel to and within Texas.

Texas Civil Statutes, Article 6144e, is affected by the proposed section.

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

Card-Texas Highways Travel Passport.

Magazine-Texas Highways magazine

Program-Texas Highways Magazine Discount Card Program.

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

Issued in Austin, Texas, on July 15, 1994

TRD-9445154 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Earliest possible date of adoption. August 26, 1994

For further information, please call (512) 463-8630

Subchapter B. Travel Information

• 43 TAC §23.10

The Texas Department of Transportation proposes an amendment to §23.10, concerning travel literature. In order to further encourage travel to and within the state of Texas and to meet the demand of an increasing number of potential travelers requesting travel publications by allowing for more efficient and extensive distribution, subsection (c) is amended to: provide that distribution of multiple quantities of travel literature is subject to inventory and budgetary constraints; authorize the department to deny the distribution of

multiple quantities if it determines that the copies will not assist the traveling public and stimulate travel to or within the state; and authorize multiple quantities to elected state and federal officials for use in their official duties. Furthermore, in order to offset some of the costs of publishing travel literature with revenues from advertising, new subsection (c) is added to: authorize the department to accept paid advertising in travel literature; list acceptable and unacceptable subjects for advertising; require the department to publish information about available advertising and maintain a mailing list of all interested persons; provide for a 30-day notice of advertising opportunities; require the acceptance of advertising on a first-come, first-served basis; and authorize random solicitation by the department if no orders are received.

J. Don Clark, director of the Travel and Information Division, has determined that for each year of the first five-year period the new sections are in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for each year of the first five-year period the section will be in effect will be an increase in costs of approximately \$225,500. Mr. Clark has also determined that expected revenue from advertising sales will be approximately \$373,000 for Fiscal Year 1995, \$392,000 for 1996, \$411,000 for 1997, \$432,000 for 1998, and \$454,000 for 1999.

Mr. Clark has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed sections.

Mr. Clark also has determined that for each year of the first five years the amended section is in effect the public benefits anticipated as a result of enforcing the section will be to further encourage travel to and within the state of Texas and to increase the efficiency and expediency of providing travel literature to increasing demand by the public. There will be no negative effect on small business and no anticipated economic cost to persons who are required to comply with the proposed amended section.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amendment. The public hearing will be held at 1:30 p.m., on Monday, August 8, 1994, in Room 101, Building 200, 200 East Riverside Drive, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 1:00 p.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or simi-

lar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangement can be made.

Written comments on the proposed amendments may be submitted to J. Don Clark, Director, Travel and Information Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be at 5:00 p.m. on August 27, 1994.

The amendment is proposed under Texas Civil Statutes, Articles 6666, which provides the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and Texas Civil Statutes, Article 6144e, which authorizes the department to compile and publish pamphlets, bulletins, and documents necessary for information and publicity purposes concerning the highways of the state and to provide road information, travel guidance, and various descriptive materials designed to furnish aid and assistance to the traveling public and stimulate travel to and within Texas.

Texas Civil Statutes, Article 6144e, is affected by this proposed amendment.

§23.10. Travel Literature.

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

(c) Distribution

(1) Policy. This subsection prescribes the policies and procedures of the department relating to the distribution and dissemination of travel literature to:

(A) provide for equitable free distribution, within budgetary constraints, of available travel literature; and

(B) maximize the resources of the department available to advertise the highways of the state and to promote travel to and within the state.

(2) Single copies. A single copy of a publication may be distributed free of charge to each individual requesting a publication.

(3) Multiple copies or bulk quantities.

(A) Except as provided in paragraph (4) of this subsection, and subject to inventory and budgetary constraints, the department may distribute multiple copies or bulk quantities of a publication to an individual or organization free of charge, provided that the recipient, in a written form prescribed by the department:

(i) certifies [in writing, in a form prescribed by the department,] that all copies of publications will be re-distributed to the public or end user free of charge; and

(ii) describes how the copies will assist the traveling public and stimulate travel to or within the state.

(B) The director may deny the distribution of multiple copies or bulk quantities under this paragraph if he or she determines that the copies will not assist the traveling public and stimulate travel to or within the state. The director will provide to an individual or organization written notice of a decision to deny copies. Such notice will contain the reasons for the director's denial. [The maximum number of copies that the department may provide per fiscal year for each individual requesting a publication in accordance with subparagraph (A) of this paragraph is:

[(i) 400 current state "image" folders;

[(ii) 25 Texas Official Highway Travel Maps;

[(iii) six Texas State Travel Guides;

[(iv) 25 other travel literature publications;

[(v) 100 "Don't Mess with Texas" litter bags; and

[(vi) 100 "Don't Mess with Texas" bumper stickers.]

(4) Exceptions Subject to inventory and budgetary constraints, the [The] department may provide multiple quantities of travel literature:

(A) free of charge, [a maximum of 100 Texas Official Highway Travel Maps, Texas State Travel Guides, and other travel literature publications per year] to each elected state and federal official, for use in their official duties; [and]

(B) [multiple quantities of travel literature] to the tourism division of the Texas Department of Commerce, the Texas Education Agency, local governmental entities involved in tourism, and other state and federal agencies, on such written

terms and conditions as may be mutually agreed upon; and

(C) to other individuals and entities if the recipient:

(i) reimburses the department for its costs to print the additional quantities; and

(ii) satisfies the requirement of paragraph (3)(A)(i) of this subsection.

[(5) Reimbursement. The department may provide quantities exceeding the maximum authorized under paragraphs (3)(B) or (4)(A) of this subsection if the recipient reimburses the department for its costs to print the additional quantities and satisfies the requirements of paragraph (3)(A) of this subsection.]

(d) Commercial cooperation. The department may, consistent with Texas Civil Statutes, Articles 601b and 601g, and Texas Constitution, Article XVI, Section 21, enter into cooperative contracts with commercial entities for production, marketing, and distribution of department travel literature to achieve:

(1) greater volume;

(2) reduced cost to the department;

(3) higher quality;

(4) wider circulation; and

(5) other considerations that will achieve more effective or more economical production and distribution of travel literature than could be attained by departmental efforts alone.

(e) Advertising.

(1) General policy. Texas Civil Statutes, Article 6144e, empowers the department to publish literature for the purpose of advertising the highways of this state and attracting traffic thereto. In furtherance of that purpose of assisting and encouraging travel in Texas, the department may include certain paid advertising in travel literature, provided that the quality and quantity of the primary informational content is not impaired.

(2) Acceptable subjects. Subjects acceptable for advertising in department travel literature include:

(A) Texas vacation, travel or tourism-related features, sites, facilities, destinations, accommodations, restaurants, and services;

(B) Texas shopping opportunities;

(C) pleasure-driving features, equipment, facilities, destinations, and services;

(D) recreational features, sites, equipment, facilities, and services;

(E) camping, hiking, fishing, boating, and outdoor features, sites, equipment, facilities, and services;

(F) public transportation modes, products, facilities, and services; and

(G) other features, sites, products, equipment, facilities, and services relating to travel and tourism.

(3) Unacceptable subjects. Advertising subjects not acceptable in department travel literature include:

(A) out-of-state travel-tourism features, locations, destinations, facilities, and services unless augmenting Texas travel or tourism;

(B) alcoholic beverages;

(C) tobacco products;

(D) sexually-oriented products and services; and

(E) other subjects not related to travel and tourism.

(4) Advertising sales and solicitations.

(A) Mailing list. Any entity or individual interested in advertising in department travel literature will be included in the department's mailing list upon request. The department will annually publish in the *Texas Register* an invitation to be added to the mailing list.

(B) Publication of rate cards. The department will calculate and prepare advertising rate cards for each travel literature publication deemed by the department as appropriate for advertising. The department will publish the rate cards at least semi-annually in the Standard Rate and Date Service (SRDS) publication, Consumer Magazine and Agri-Media Rates and Data, and other SRDS publications. The department will also annually publish rate card information in the *Texas Register*.

(C) Content of rate cards. Rate cards will include information about:

- (i) available advertising space and positions;
- (ii) costs;
- (iii) publication issue and closing dates;
- (iv) circulations;
- (v) publisher's editorial profile; and
- (vi) other related information.

(D) Procedure for selling advertising.

(i) The department will mail rate card information to every entity or individual on the mailing list at the same time, approximately 12 months prior to the publication closing date. During that 12-month period, the department will also mail the information upon request to any other entity not on the list.

(ii) After a 30-day period following the initial date of mailing, the department will accept all insertion orders (orders for paid advertising) received prior to the publication deadline on a first-come, first-serve basis or until all advertising space for a particular publication is filled. Insertion orders post-marked or received prior to the end of the 30-day period will not be accepted. If more than one insertion order is received on the same day for the same space in a publication, the department will select an insertion order for acceptance by use of random computer selection.

(iii) After a 45-day period following the initial date of mailing, if advertising space remains unfilled, the mailing list will be sorted in a fair, random order by computer. Each entity or individual will be contacted in this sequence for efforts to sell any remaining advertising space.

(5) Restrictions.

(A) The department will not accept advertising it considers to be misleading or a misrepresentation of facts.

(B) The department will not accept advertising from an entity that discriminates against customers on the basis of race, color, creed, religion, sex, or national origin.

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 July 14, 1994.

TRD-9445069

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 463-8630

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Subchapter C. Texas Highways, Magazine

• 43 TAC §23.26

The Texas Department of Transportation proposes new §23.26, concerning Magazine Discount Card Program.

In order to further encourage travel to and within the state of Texas and to increase the number of subscribers to Texas Highways by furnishing a discount card to each paid subscriber, the department is proposing new §23.26 to: enable magazine subscribers to obtain travel-related goods and services at discounted prices; authorize the department to issue a discount card at no cost to paid subscribers to Texas Highways upon new or renewed subscriptions; list acceptable and unacceptable products and services for businesses eligibility; describe how businesses may apply and the conditions for participation in the program; authorize the maintenance and publishing in Texas Highways of the list of participating businesses; and authorize the department to remove a business from the program for noncompliance with its stated discount.

J. Don Clark, Director of the Travel and Information Division, has determined that there will be fiscal implications as a result of enforcing or administering this section. The effect on state government for each year of the first five-year period the section will be in effect will be an increase in costs of approximately \$91,600 for fiscal year 1995; \$85,700 for 1996; \$80,900 for 1997; \$84,400 for 1998; and \$99,200 for 1999.

Mr. Clark also has determined that expected revenue from increased paid subscriptions will be approximately \$202,000 for Fiscal Year 1995, \$212,000 for 1996, \$223,000 for 1997, \$234,000 for 1998, and \$246,000 for 1999. Mr. Clark has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed sections.

Mr. Clark also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to further encourage travel to and within the State of Texas. There will be no negative effect on small business and no anticipated economic cost to persons who are required to comply with the proposed section.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed new section. The

public hearing will be held at 9:00 a.m. on Monday, August 8, 1994, in Room 101, Building 200, 200 East Riverside Drive, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangement can be made.

Written comments on the proposed new section may be submitted to J. Don Clark, Director, Travel and Information Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be at 5:00 p.m. on August 27, 1994.

The new section is proposed under Texas Civil Statutes, Articles 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and Texas Civil Statutes, Article 6144e, which designate responsibility to the department for encouraging travel to and within Texas.

Texas Civil Statutes, Article 6144e, is affected by this proposed section.

§23.26. Magazine Discount Card Program.

(a) Purpose. In furtherance of the department's legislative responsibility to encourage travel to and within Texas as prescribed by Texas Civil Statutes, Article 6144e, and to promote paid circulation of Texas Highways magazine, this section establishes a Texas Highways Magazine Discount Card Program to enable magazine subscribers to obtain travel-related goods and services at discounted prices.

(b) Program. The department will issue a Texas Highways Travel Passport at no cost to paid subscribers of Texas High-

ways Magazine to enable subscribers to obtain discounts on goods and services offered by participating businesses.

(c) Issuance of cards.

(1) Card issuance. The department will issue a card to paid subscribers upon new or renewed subscription to the magazine.

(2) Replacement. The department will issue a replacement card only upon renewal or extension of the paid subscription. The department will not otherwise replace lost cards.

(3) Expiration. Each card will expire at the end of the subscription term and is valid until the last day of the month shown on the card.

(d) Business eligibility.

(1) The department will accept as a participant in the program a business that sells products or services relating to:

(A) Texas vacation, travel, or tourism related features, sites, facilities, destinations, accommodations, restaurants, and services;

(B) Texas shopping opportunities;

(C) pleasure driving features, equipment, facilities, destinations, and services;

(D) recreational features, sites, equipment, facilities, and services;

(E) camping, hiking, fishing, boating, and outdoor features, sites, equipment, facilities, and services;

(F) public transportation modes, products, facilities, and services; or

(G) other features, sites, products, equipment, facilities, and services of interest to traveling and vacationing individuals and families.

(2) The department will not accept as a participant in the program a business that sells products or services relating to:

(A) out-of-state travel-tourism features, sites, destinations, facilities, and services;

(B) alcoholic beverages, except that a restaurant that serves alcoholic beverages with meals will not be excluded if the discount does not apply to such beverages;

(C) tobacco products;

(D) sexually oriented products and services; and

(E) other products and services not related to travel and tourism.

(3) The department will not accept as a participant in the program a business that discriminates against customers on the basis of race, color, creed, religion, sex, or national origin.

(e) Business participation.

(1) Except as provided in paragraph (2) of this subsection, to participate in the program, an eligible business must:

(A) file an application in the form and manner prescribed by the department with the publisher of the magazine;

(B) upon approval of the application, sign an agreement with the department whereby the business agrees to abide by terms and conditions prescribed by the department; and

(C) offer a discount on travel-related goods or services to magazine subscribers.

(2) An association or trade group may, on behalf of eligible business members, contract with the department to provide for their participation in the program.

(f) Publication. The department will maintain a list of participating businesses, and will publish the list in the magazine periodically.

(g) Removal of business. The director may remove a business from the department's list of participating businesses based on noncompliance with the business' stated amount or nature of its discount, the provisions of this section, or an agreement with the department. A business will be provided written notice of noncompliance, and if not resolved within 30 days, the director will remove the business from the list. A business may appeal removal by filing a petition for an administrative hearing under §§1.21-1.63 of this title (relating to Contested Case Procedure).

(h) Cancellation of program. The department may cancel the program upon a 60-day written notice to participating businesses. The department will notify cardholders at least 90 days prior to cancellation.

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 July 15, 1994.

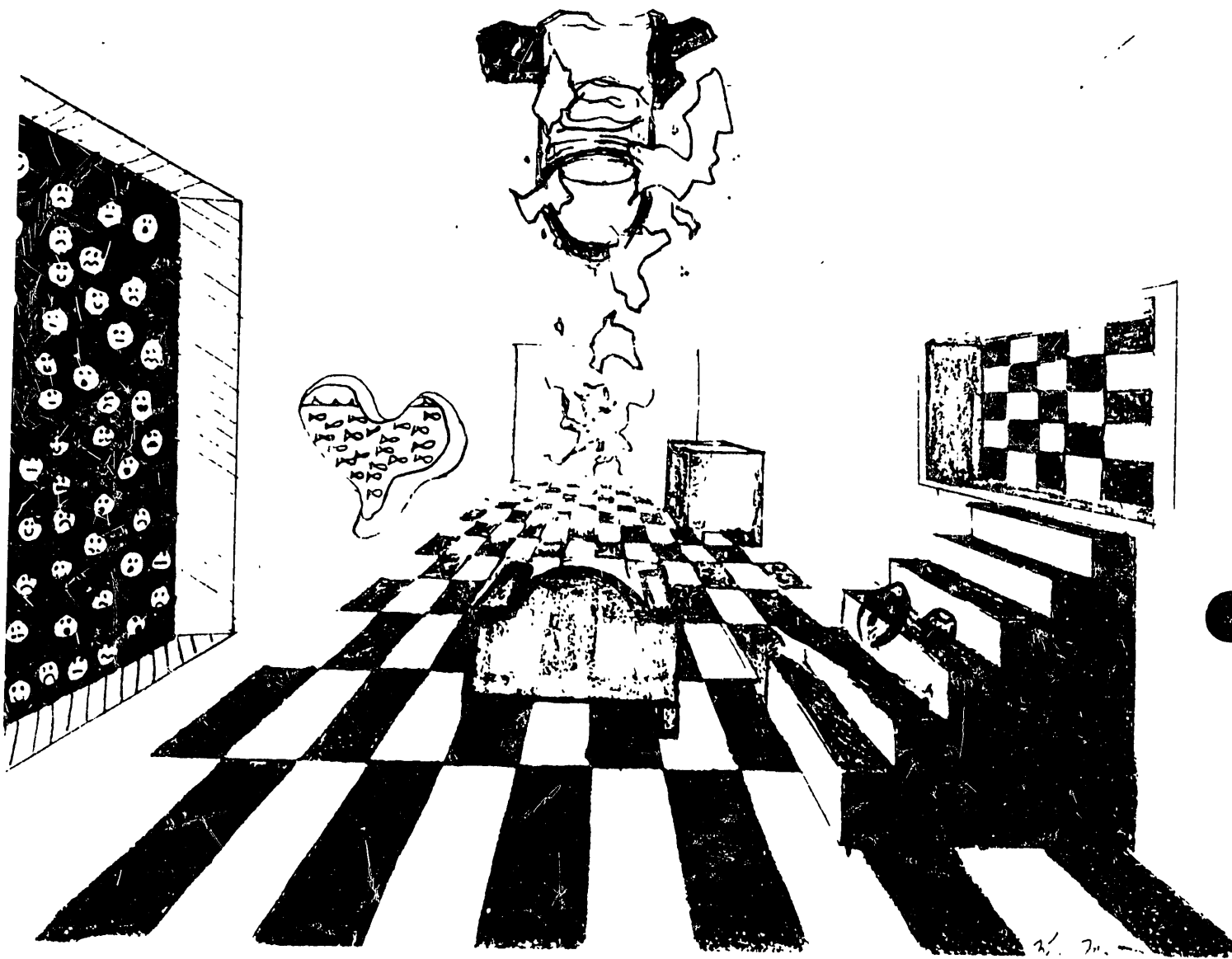
TRD-9445155

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Earliest possible date of adoption: August 26, 1994

For further information, please call: (512) 463-8630





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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §98.105

The Texas Department of Health has withdrawn the emergency effectiveness of the repeal to §98.105, concerning the HIV and STD Control. The text of the emergency repeal appeared in the April 8, 1994, issue of the *Texas Register* (19 TexReg 2453). The effective date of this withdrawal is June 28, 1994.

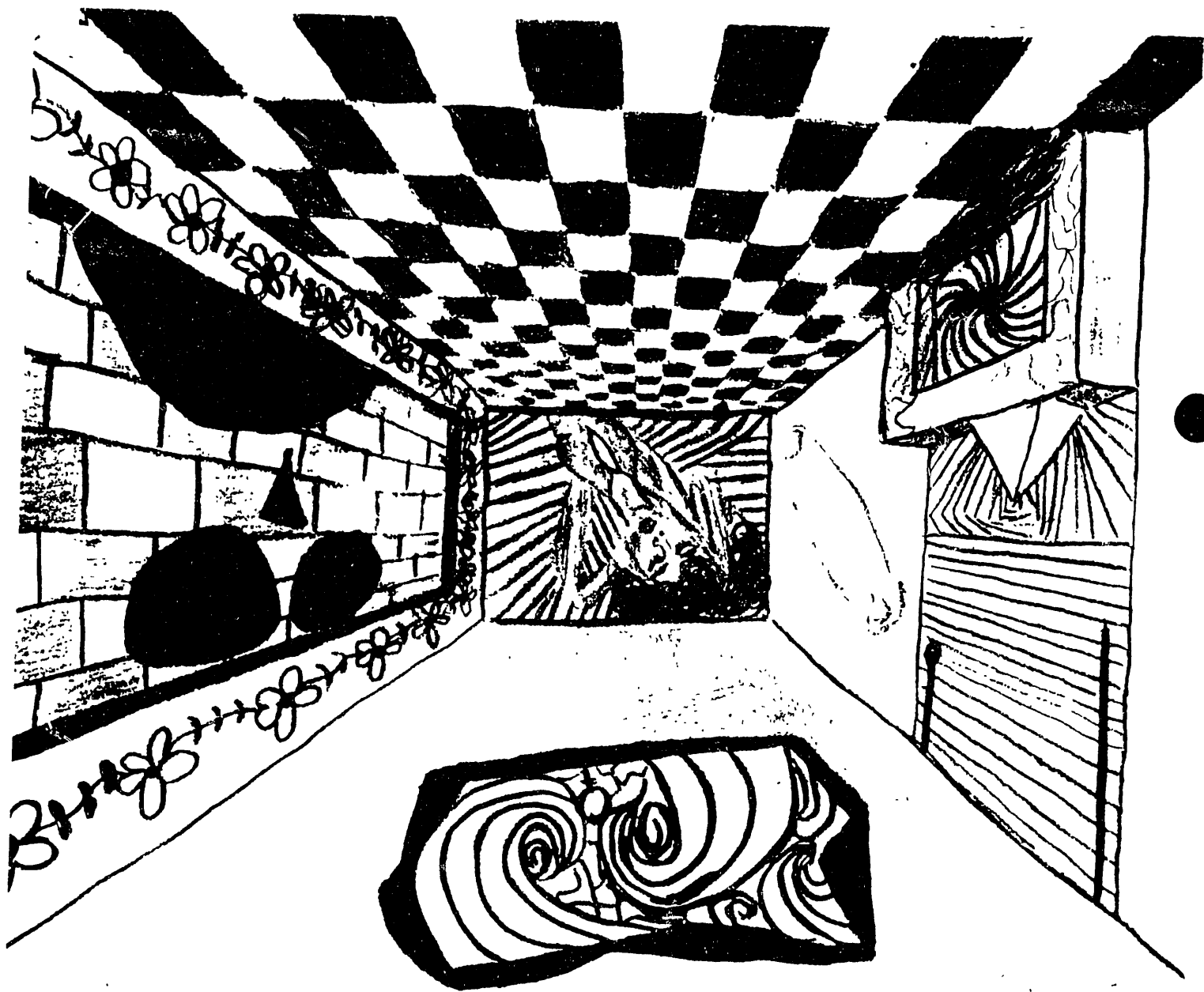
Issued in Austin, Texas, on June 28, 1994.

TRD-9445124 Susan K. Steeg
 General Counsel
 Texas Department of
 Health

Effective date: June 28, 1994

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





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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter U. General and Special Rules of Practice and Procedure

• 16 TAC §5.460

The Railroad Commission of Texas adopts §5.460, concerning certification of minority-owned applicants for motor carrier and motor bus authority, with changes to the proposed text as published in the May 24, 1994, issue of the *Texas Register* (19 TexReg 4002).

The rule establishes commission policies and procedures for minority business enterprise applicants for motor carrier and motor bus authority.

The changes are to subsections (b) and (g). The purpose of the change to subsection (b) is to clarify that a bona fide MBE transportation contractor is an owner-operator and/or a multi-truck lessor who is a United States citizen and who is a woman or who is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is leased to a for-hire motor carrier or motor bus company. The purpose of the change to subsection (g) is to clarify that a successful MBE applicant must continue to meet the definition of a bona fide MBE certificate holder and that any failure to do so may result in revocation of the authority granted.

Public comments regarding this rule supported and opposed, in equal measure, its adoption. Two comments opposed the rule on the grounds that no one should receive special consideration due to gender or national origin in an application for a certificate of public convenience and necessity.

Two other comments were in favor of the rule, but suggested that certain changes be made prior to adoption. One commenter suggested that language be added to the rule to allow consideration of private business MBE goals in determining public necessity for a proposed certificated trucking service. The comment stated that private business MBE

goals should be considered if a genuine policy of utilizing bona fide MBE certificate holders and a clear intent to implement such a policy can be established. The comment suggested that this could be established through evidence of solicitation or advertisements seeking MBE certificate holders, past use of MBE contractors, whether certificate holders or not, and internal instructions to staff to utilize MBE certificate holders or other MBE contractors. This commenter also suggested eliminating MBE transportation contractors because such contractors subvert the purpose of the rule by allowing non-MBE protestants to overcome an applicant's position with evidence of the protestants' use of minority owner-operators.

Another commenter suggested clarifying the definition of bona fide MBE transportation contractor. The commenter stated that a bona fide MBE transportation contractor is any owner-operator and/or multi-truck lessor who is leased to a for-hire motor carrier who is a bona fide MBE, without regard to the owner-operator's or multi-truck lessor's status as a bona fide MBE. This commenter also suggested that all of the minority definitions be grouped together and that the first two sentences of subsection (g) be eliminated because they are repetitive of the third sentence in subsection (g).

The commission agrees with the comments supporting adoption of the rule and agrees that the definition of a bona fide MBE transportation contractor should be clarified. However, the Commission does not agree that the proposed rule would provide special consideration due to gender or national origin for an applicant. The proposed rule recognizes that an MBE applicant must meet the burden of proof required of all other applicants. In addition, the proposed rule recognizes that certain contractors may have a need for the services of an MBE carrier based upon existing governmental requirements. The commission does not agree that a bona fide MBE transportation contractor is a non-MBE owner-operator and/or multi-truck lessor leased to an MBE for-hire motor carrier or motor bus carrier. The commission's intention is that a bona fide MBE transportation contractor is an owner-operator and/or a multi-truck lessor who is a United States citizen and who is a woman or who is Black, Hispanic, Asian American, American Indian, or Alaska Native, and who is leased to a for-hire motor carrier or motor bus company. No other definition supports the term as used in subsections (d) and (e) of the proposed rule. The commission

disagrees that private business MBE goals should be considered in determining the issue of public necessity. The commission has limited the factor of unavailability of bona fide MBE certificate holders to those instances where a contractor needs the services of an MBE carrier due to existing governmental MBE programs. Those programs have a presumption of validity under the law which private programs cannot claim. In addition, private programs could require extensive time and expense to determine whether they were legally valid.

The commission also disagrees that the minority definitions should all be grouped together because the *Texas Register* requires that definitions be alphabetized.

The commission agrees that the first two sentences of subsection (g) could be considered repetitive and has included revised language to eliminate surplus language. References to partnerships in the definition of bona fide MBE certificate holder in subsection (b) have been added to clarify the requirements specified in subsection (g).

No groups or associations commented in favor of or against the proposed rule.

The section is adopted pursuant to Texas Civil Statutes Article 911a, §4(a)(1), which vest the commission with power and authority to prescribe all rules and regulations necessary for the regulation of motor bus companies, and pursuant to Texas Civil Statutes Article 911b, §4(a)(1), which vest the commission with power and authority to prescribe all rules and regulations necessary for the regulation of motor carriers.

§5.460. Certification of Minority-Owned Applicants.

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

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

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

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

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

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

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

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

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

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

pervision of the assistant director-enforcement of the transportation division, shall have the responsibility of advising prospective bona fide MBE applicants of the assistance available for the transportation division bona fide MBE applicant liaison officer.

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

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

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

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

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

(g) MBE certificate holders must continue to meet the definition of a bona fide MBE certificate holder in subsection (b) of this section and the commission may revoke the certificate granted to a bona fide

MBE certificate holder if such holder fails to meet that definition.

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

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

Issued in Austin, Texas, on July 18, 1994.

TRD-9445233

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

Effective date: August 8, 1994

Proposal publication date: May 24, 1994

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

TITLE 22. EXAMINING BOARDS

Part X. Texas Funeral Service Commission

Chapter 201. Licensing and Enforcement—Practice and Procedure

• 22 TAC §201.16

The Texas Funeral Service Commission (the Commission) adopts new §201.16, concerning a memorandum of understanding (MOU) between the Commission and the Texas Department of Health (the TDH), without changes to the proposed text as published in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3624).

The new section implements the provisions of Senate Bill 284, 72nd Legislature, Regular Session, 1991, which requires the Commission and the TDH to enter into a MOU to facilitate cooperation between the two agencies by describing the duties of each agency under authority of Health and Safety Code, Chapter 193 and Chapter 195, and Texas Civil Statutes, Article 4582b.

The new section establishes the joint procedures to be used by the two agencies for the referral, investigation and resolution of complaints affecting the administration and enforcement of state laws relating to vital statistics and the licensing of funeral directors and funeral establishments.

No comments were received regarding adoption of the new section.

The new section is adopted under Senate Bill 284, 72nd Legislature, Regular Session, 1991, which provides the Commission with authority to adopt by rule a memorandum of understanding with the TDH to facilitate cooperation between the two agencies in implementing and enforcing the Health and Safety Code, Chapter 193 and Chapter 195, and

Texas Civil Statutes, Article 4582b. Authority also exists pursuant to Texas Civil Statutes, Article 4582b §5, which vest the Commission with authority to adopt rules necessary to administer Article 4582b.

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 July 12, 1994.

TRD-9443859 Wayne L. Goodrum
General Counsel
Texas Funeral Service
Commission

Effective date: August 3, 1994

Proposal publication date: May 13, 1994

For further information, please call: (512) 834-9992

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

Chapter 361. Administration

General Provisions

• 22 TAC §361.1

The Texas State Board of Plumbing Examiners adopts an amendment to §361.1, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4079).

The rule is justified because each person who has access to a potable water system will not be endangered by lead in the water nor by a cross-connection of clean and unclean water.

The amendment to §361.1 updates the rule to cite correctly the state agency responsible for issuing the Water Treatment Certificate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law. The rule also is adopted under Chapter 341, Health and Safety Code, Subchapter C.

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 July 11, 1994

TRD-9445218 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

• 22 TAC §361.6

The Texas State Board of Plumbing Examiners adopts an amendment to §361.6, without changes to the proposed text as published in the June 3, 1994, issue of the *Texas Register* (19 TexReg 4318).

The rule is justified by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors, by ensuring compliance with health and safety and water protection law, and by ensuring instructors of continuing education programs have undergone quality instructor certification training.

The rule clarifies some fees and sets forth other fees for certain licenses, examinations, renewals and late renewals, and instructor certification training; the rule also deletes certain charges for copies which are found in §361.9 (Charges for Copies of Public Records).

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law. The rule also is adopted under Senate Bill Number 5 (General Appropriations Act), 73rd Legislature, Regular Session, §78 (Appropriation of Collections for Seminars and Conferences).

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 July 11, 1994.

TRD-9445219 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: June 3, 1994

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

◆ ◆ ◆
• 22 TAC §361.8

The Texas State Board of Plumbing Examiners adopts an amendment to §361.8, without changes to the proposed text as published in the June 3, 1994, issue of the *Texas Register* (19 TexReg 4319).

Justification for the rule is the public health, safety, and welfare will be enhanced by ensuring compliance by the Board and by its clientele with the Plumbing License Law through the use of appropriate forms and materials.

The rule updates §361.8 to cite correctly the forms and materials used by the Board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners

with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445217 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: June 3, 1994

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

◆ ◆ ◆
• 22 TAC §361.26

The Texas State Board of Plumbing Examiners adopts an amendment to §361.26, without changes to the proposed text as published in the April 19, 1994, issue of the *Texas Register* (19 TexReg 2824).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring each individual who receives contracted services from a plumber licensed by the Texas State Board of Plumbing Examiners is informed of the Board's name, address, and telephone number should the recipient of the plumber's services desire to file a complaint against the contracting plumber with the Board.

The rule sets forth consumer interest information that shall be contained in the written contracts for services between a licensed plumber and any other individual.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445216 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: April 19, 1994

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

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Chapter 363. Examinations

• 22 TAC §363.1

The Texas State Board of Plumbing Examiners adopts an amendment to §363.1(f), with-

out changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4079).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring water supply protection specialists' compliance with health and safety and water protection law.

The rule sets forth additional items to be included in the water supply protection specialist training program an individual must undertake in order to qualify for the water supply protection specialist examination.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445215 Gilbert Kiseling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

◆ ◆ ◆
• 22 TAC §363.5

The Texas State Board of Plumbing Examiners adopts an amendment to §363.5, without changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2608).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring each individual licensed by the Texas State Board of Plumbing Examiners has undergone a rigorous and thorough examination and has been afforded the opportunity to obtain quality study materials for the examination.

The rule concerns the description of the examination for each license and endorsement category and what study materials are available to examination applicants.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445220 Gilbert Kiseling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: April 12, 1994

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

◆ ◆ ◆
• 22 TAC §363.6

The Texas State Board of Plumbing Examiners adopts an amendment to §363.6, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4080).

The rule is justified because the public health, safety, and welfare will be enhanced by assuring all individuals licensed by the Board—regardless of their special needs—have been afforded reasonable accommodations to undergo the Board's rigorous written and applied/mechanical examinations.

The rule clarifies the responsibilities of the Board to provide reasonable accommodations for the special circumstances of an examinee.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445221 Gilbert Kiseling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

◆ ◆ ◆
• 22 TAC §363.11

The Texas State Board of Plumbing Examiners adopts an amendment to §363.11(a) and (b), without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4080).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or an unintended cross-connection of breathable and lethal gases because the installers of medical gas piping have undergone quality medical gas training programs and compliance with health and safety and water protection law because water supply protection specialists have under-

gone quality water supply protection specialist training programs.

The amendment to §363.11(a) deletes anachronistic language. The amendment to §363.11(b) sets forth approval criteria for instructors, the required course outline and the minimum hours of training for prospective instructors, provider's notification to the Board of the time(s) and place(s) where water supply training will occur, and self-monitoring by the approved providers.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445222 Gilbert Kiseling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

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Chapter 365. Licensing

• 22 TAC §365.1

The Texas State Board of Plumbing Examiners adopts an amendment to §365.1, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4081).

The rule is justified because of the enhanced public assurance that permitted plumbing work is performed with the direct participation of a master plumber.

The rule cites the tasks a master plumber is entitled to perform by virtue of being a master plumber.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445223 Gilbert Kiseling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

◆ ◆ ◆
• 22 TAC §365.2

The Texas State Board of Plumbing Examiners adopts an amendment to §365.2, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4081).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring each individual who applies to take the journeyman plumber's examination is a registered plumber's apprentice, has minimum educational qualifications, and has minimum trade experiences.

To be eligible to take the journeyman plumber's examination, an applicant must be a registered apprentice; hold a high school diploma or GED; and meet certain minimum trade experience requirements described in the Texas State Board of Plumbing Examiners' rule §365.3(b)(3). The amendments to rule §365.2 set forth criteria to qualify as a registered plumber's apprentice.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 11, 1994

TRD-9445224 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

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• 22 TAC §365.3

The Texas State Board of Plumbing Examiners adopts an amendment to §365.3, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4082).

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors.

Previously, the rule provided that a political subdivision shall furnish proof of a plumbing inspector applicant's employment prior to taking the plumbing inspector's examination.

The amendment provides that a political subdivision may furnish proof of intention to employ an individual as a plumbing inspector if the applicant meets the Board's requirements to qualify as a plumbing inspector.

No comments were received regarding adoption of the amendment

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

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

Issued in Austin, Texas, on July 11, 1994

TRD-9445225 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

◆ ◆ ◆
• 22 TAC §365.11

The Texas State Board of Plumbing Examiners adopts an amendment to §365.11, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4081).

The rule is justified because of the enhanced public assurance that permitted plumbing work is performed with the direct participation of a master plumber.

The rule cites the tasks a master plumber is entitled to perform by virtue of being a master plumber.

No comments were received regarding adoption of the amendment

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

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

Issued in Austin, Texas, on July 11, 1994

TRD-9445226 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

• 22 TAC §365.12

The Texas State Board of Plumbing Examiners adopts an amendment to §365.12, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4083)

The rule is justified because the public health, safety, and welfare will be enhanced by ensuring individuals issued licenses by the Texas State Board of Plumbing Examiners are fit, competent, and qualified to engage in the trades regulated by the Board

The rule is concerned with the licensing of persons with criminal backgrounds. It clarifies the ineligibility of incarcerated felons to obtain or renew any license issued by the Texas State Board of Plumbing Examiners

No comments were received regarding adoption of the amendment

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

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

Issued in Austin, Texas, on July 11, 1994

TRD-9445227 Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

◆ ◆ ◆
Chapter 367. Enforcement

• 22 TAC §367.1

The Texas State Board of Plumbing Examiners adopts an amendment to §367.1, without changes to the proposed text as published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4083)

The rule is justified because of the enhanced public assurance the Plumbing License Law is enforced by field representatives of the Texas State Board of Plumbing Examiners and by plumbing inspectors

The rule concerns field representatives of the Board and plumbing inspectors. The amendments to §367.1 clarify employment criteria and job responsibilities of a field representative of the Board and clarify job responsibilities of a plumbing inspector

No comments were received regarding adoption of the amendment

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

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

Issued in Austin, Texas, on July 11, 1994.

TRD-9445228 Gilbert Kierling
Administrator
Texas State Board of
Plumbing Examiners

Effective date: August 8, 1994

Proposal publication date: May 27, 1994

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

Part XXIV. Board of Veterinary Medical Examiners

Chapter 573. Rules of Professional Conduct

Supervision of Personnel

• 22 TAC §573.12

The Texas Board of Veterinary Medical Examiners adopts new §573.12, Alternate Therapies Chiropractic and Other Forms of Musculoskeletal Manipulation, with changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3415).

This new rule specifies when licensees must be involved in this treatment modality in accordance with the mandate contained in §7(b) of the Veterinary Licensing Act. A public hearing concerning this proposed rule was held on May 31, 1994. Comments in favor of adoption of the rule were received from American Association of Equine Practitioners. No groups or associations commented against adoption of the rule. A number of individual comments were received, both in support and against adoption of the rule.

A trainer opposed the rule as proposed. He felt chiropractic care is very beneficial in his training operation and believed owners should have the prerogative as to what treatment(s) are provided to their own animals. He also believed that many veterinarians are not qualified to assess the value of this therapy for certain conditions.

A trainer wanted this form of therapy available to horse trainers because he believed it is beneficial.

A trainer uses chiropractic care as an integral part of her training program and utilizes it when other treatment regimes provided by the veterinarian have failed. She felt it should be an alternative therapy and not utilized in lieu of a veterinarian. She suggested that a certification or licensing board be established to certify the qualifications of individuals performing this service.

An animal therapist supported a certification board for licensure of acupuncturists. The Board did not consider this issue.

A trainer requested the Board to help get statutory regulation of equine chiropractors. No consideration was given this issue because it was not directly related to the rule under consideration.

A trainer supported the board resolving this issue, but believed placing liability on veterinarians will force trainers to call the treatment something other than chiropractic because veterinarians will not be willing to assume responsibility.

A commenter expressed her dissatisfaction with the Board and other government entities interfering with her rights as an owner to select treatment for her animals. She suggested that complaints about problem lay manipulators be sent to the Board office so it could determine what harmful things are happening by providers of this alternate therapy.

A veterinarian supported having veterinarians involved with nonveterinarians who provide this therapy in order to protect the public. He testified about unqualified individuals making diagnoses, performing treatments and/or prescribing legend drugs, and making prognoses. He also testified about nonveterinarians at race tracks who had asked him to inject legend drugs into animals under their care. He expressed concern with a veterinarian's ability to separate qualified from unqualified individuals who perform this therapy.

A veterinarian supported veterinarians' role with alternate therapies in order to fulfill the Board's mandate to protect the public and ensure humane treatment. He questioned whether some animal owners have adequate knowledge of chiropractic and acupuncture to know whether treatments are needed or are effective. He suggested that a panel be created to certify individuals qualified to administer manipulation treatments.

A veterinarian supported the rule and pointed out that this rule is attempting to regulate all who perform musculoskeletal manipulation on animals and not just one or two people who are well known and considered qualified providers of the service.

A veterinarian supported the rule but recommended that direct supervision by a veterinarian be required when treatments are provided. He testified that he has been trained in acupuncture and chiropractic and has seen many more unqualified individuals than qualified individuals treating animals with these procedures. Therefore, he felt that direct supervision is essential to protect the public and the animal.

A veterinarian supported the rule as proposed but felt that direct supervision by a veterinarian is needed since general supervision does not adequately protect the public. He testified that he is a small-animal practitioner utilizing chiropractic and other modalities in his practice and pointed out that animals can be injured by overmanipulation. Unless the veterinarian witnesses the treatment, he or she has no way of knowing if a lay person may make this error.

The American Association of Equine Practitioners, supported the proposed rule. He felt there is a place for chiropractic medicine as an alternative therapy to treatments by a veterinarian. He also noted that forms of re-

straint or sedatives are not normally needed when performing these treatments, but are preferred by some lay people. Further, he felt the required disclosure statement should be dropped for veterinarians as chiropractic in veterinary medicine becomes recognized.

A commenter suggested that the rule should specify what diagnosis is acceptable. She pointed out that in most instances the veterinarian can't make a diagnosis of the problem and that is the reason a chiropractor is called upon. She also encouraged the Board to make it clear in the rule that veterinarians' responsibility is to the Board and not a liability in a court of law if the owner is not satisfied. She encouraged DVMs to take courses in chiropractic medicine.

The Texas Chiropractic Board informed the Board that it is working on a rule that may parallel this Board's proposed rule. At present it advises licensed chiropractors who want to treat animals to work under the supervision of a licensed veterinarian.

The Texas Veterinary Medical Association testified in support of the rule as written. He pointed out that the issue is not whether or not this procedure works or whether or not it is available to the public, but rather how it is made available to them. He supported the proposed rule because the Board needs to ensure that proper controls exist to prevent untrained or incompetent persons from offering these services.

An attorney provided oral and written testimony and opposed the rule as proposed. However, he offered a revised version that he regards as acceptable. He recommended that subsection (b)(1)(B), which requires a diagnosis, be deleted. He argued that this subsection is unnecessary because subsection (b)(1)(A) requires that a valid veterinarian/client/patient relationship be established. This provision is defined by the Veterinary Licensing Act and requires, among other things, that a veterinarian assume responsibility for medical judgments regarding the health of an animal and requires that there be sufficient knowledge of the animal to make at least a general or preliminary diagnosis of its medical condition. In addition, Mr. VonDohlen said that subsection (b)(1)(B) may be interpreted to require a diagnosis prior to every chiropractic treatment, which would not be necessary when caring for chronic conditions. He also stated that the veterinarian/client/patient relationship allows the veterinarian the option of requiring direct supervision if chiropractic/MSM treatment might endanger the animal's well being and should adequately protect the public. He also opposed subsection (c) as proposed. He believed that, as currently written, it could be construed to impose extended and strict liability on a veterinarian who directly or generally supervises an independent contractor. He submitted that such exposure for a veterinarian would be a barrier to the public's access to this service by adding an unnecessary increase in cost and reducing the availability of this service without providing a corresponding benefit. He recommended that the veterinarian should be responsible only for his or her own act or omissions.

The Board considered all written and oral comments on this rule. Some were incorporated into the rule and some were not. A number of people requested that the Board require veterinarians to have little or no involvement in chiropractic/MSM services. The Board did not incorporate this approach because the statute does not give the Board this choice but rather charges it to determine a veterinarian's level of supervision when the therapy is provided. Others suggested that the Board initiate some form of certification, registration, or approval process of those nonveterinarians who provide chiropractic/MSM. The Board did not incorporate these suggestions because it has no statutory authority to regulate anyone other than veterinarians. A related suggestion was made that the Board should receive complaints from the public on non-veterinarians who perform chiropractic/MSM for the purpose of determining the extent of harm, if any, that they cause while performing this therapy. The theory was that little or no harm will occur and the Board will determine that no close supervision of the providers is needed. The Board did not incorporate this suggestion since it has no practical means to know who might be performing the service or how to inform the public where and how to file complaints. Several who testified recommended that subsection 573.12(b)(1) (B), be deleted. This subsection required that a diagnosis be made before chiropractic/MSM be prescribed. Since testimony indicated that many believe most veterinarians are unfamiliar with chiropractic/MSM, requiring a veterinarian to make a diagnosis would be a barrier to making this therapy available. The Board modified this subsection to address this concern by allowing the treatment after a veterinarian has performed an examination of the animal to determine that no medical problems exist and that such treatment would not likely be harmful to the patient. The veterinarian's knowledge of the animal established in the veterinarians/client/patient relationship shall be adequate to meet the examination requirement, but the examination must be sufficient for the veterinarian to make a judgement that the treatment will not likely be harmful to the animal. Many who commented perceived that veterinarians' responsibility under subsection (c) created an extended liability on veterinarians that would have negative effects on the availability of this service. The intent of the rule was not to imply that veterinarians' responsibility would extend to any responsibility beyond those under the Veterinary Licensing Act or Board rules. Therefore, subsection (c) was substantially rewritten to clarify that veterinarians' responsibility for professional judgements and actions created by law and Board rules would be to the Board. Such actions will be judged by a standard based on a level of judgement and performance that would be exercised by the average Texas veterinarian who uses or recommends chiropractic/MSM in his or her practice. Several people who testified recommended that the Board require veterinarians to allow employees and independent contractors perform chiropractic/MSM only under direct supervision. The Board did not specify the level of supervision but left this determination to veterinarians based on their judgement of the situation

and knowledge of the competence of the persons performing the therapy.

The rule is adopted under Texas Civil Statutes, Article 8890, §7(b), which provides that the Board shall adopt rules to protect the public and to ensure that the performance of alternate therapies, including chiropractic treatment, are performed only by a licensee or under the supervision of a licensee.

§573.12. Alternate Therapies-Chiropractic and Other Forms of Musculoskeletal Manipulation.

(a) Definition: For the purpose of this rule, animal chiropractic and other forms of musculoskeletal manipulation (MSM) are systems of therapeutic application of mechanical forces applied manually through the hands or any mechanical device to diagnose, treat, and/or alleviate impaired or altered function of related components of the musculoskeletal system of nonhuman animals. Chiropractic and other forms of MSM in nonhuman animals are considered to be alternate therapies in the practice of veterinary medicine.

(b) Treatment using chiropractic and other forms of MSM Chiropractic and other forms of MSM may only be performed by the following:

(1) A licensed veterinarian Chiropractic and MSM may be performed by a licensed veterinarian under the following conditions:

(A) a valid veterinarian/client/patient relationship has been established as defined in the Act;

B an examination has been made by the licensee to determine that chiropractic/MSM will not likely be harmful to the patient; and

C the licensee obtains as a part of the patient's permanent record, a signed acknowledgement by the owner or other caretaker of the patient that chiropractic or MSM is considered by Texas law to be an alternate (nonstandard) therapy.

2 A licensee's employee or an independent contractor An employee or an independent contractor may perform these procedures on an animal under the direct or general supervision of the licensee if the conditions in subsection (b)(1)(A)-(C) of this section have been met.

3 An individual to whom the exceptions of the Act, §3, apply.

(c) Responsibility. Whether the chiropractic/MSM is performed by a licensee or the licensee's employee or an independent contractor working under the supervision of a licensee, the Board will hold the

licensee to a level of professional judgement as would be exercised by the average Texas licensee who performs or recommends chiropractic/MSM treatments in his/her 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 July 18, 1994.

TRD-9445234

Judy C. Smith
Administrative Assistant
Board of Veterinary
Medical Examiners

Effective date: August 16, 1994

Proposal publication date: May 6, 1994

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

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter B. Interagency Agreements

• 25 TAC §401.57

(Editor's Note: The following new section was inadvertently published in the May 20, 1994, issue of the Texas Register (19 TexReg 3932) with no effective date. This section is being re-published in this issue effective July 26, 1994.)

The Texas Department of Mental Health and Mental Retardation (TXMHMR) adopts new §401.57, without changes to the proposed text as published in the January 9, 1994, issue of the Texas Register (19 TexReg 144). The memorandum of understanding (MOU) that is adopted by reference as Exhibit N is adopted with changes.

The MOU outlines training requirements for identifying and reporting abuse, neglect, and unprofessional or unethical conduct in health care facilities. Senate Bill 210 (73rd Texas Legislature) requires TXMHMR, the Texas Commission on Alcohol and Drug Abuse (TCADA), and the Texas Department of Health (TDH) to adopt the memorandum by rule.

Section I of the MOU is revised to use the term "health care facility" to refer to the entities to which the MOU applies.

New Section II of the MOU incorporates definitions for the terms used throughout the document. Section III (formerly Section II) is revised to delete terms specific to types of training that may be utilized (e.g., instruction, information, etc.). The section is further revised to clarify that in addition to the minimum requirements for information included in the training program, additional training concern-

ing patient care and the prevention of abuse or neglect or illegal, unprofessional, and unethical conduct may be used to fulfill the eight-hour requirement. The section is also revised to clarify that although full-time employees are subject to the eight-hour requirement, administrators may vary the amount and type of training required for part-time employees, provided that the minimum information requirements of the training program are met.

The requirement that facilities maintain training records for ten years is reduced to five years in Section IV of the MOU (formerly Section III). The section is also revised to delete the provision that training curriculum be included with each individual training record. The provision is replaced by a requirement that a copy of the curriculum be maintained by the facility. Language is also added concerning training on the Code of Ethics for various disciplines.

Written comment on the proposal was received from eight organizations, including: Texas Mental Health Association, Austin; Advocacy, Inc., Austin; Shoal Creek Hospital, Austin; Woods Psychiatric Institute, Abilene; Tri-County Mental Health and Mental Retardation Services, Conroe; CPC Oak Bend Hospital, Fort Worth; Timberlawn Mental Health System, Dallas; and Bexar County Hospital District, San Antonio. All commenters offered recommendations for changes.

A commenter noted that when considered in terms of all psychiatric inpatient settings, the inservice requirement creates a tremendous health care cost. The commenter requested that the department utilize the minimum standards of training to get maximum results. The department responds that changes made in response to comment received concerning the proposed training requirements have enhanced efforts to attain the goal of maximum results.

A commenter recommended that the training address what is required if incidents do occur, including reporting and investigating requirements. The department responds that the minimum requirements for the training program include training on requirements and procedures for reporting such incidents.

A commenter recommended that the training emphasis needed to be on teaching staff how to provide a therapeutic environment, which is likely to prevent the occurrence of abuse or neglect. Another commenter noted that the eight topics specified are necessary, but seem to ignore issues leading to patient abuse or neglect. The department responds that language has been added to clarify that in addition to the eight required topics, the eight-hour requirement can be met through training in a variety of areas designed to improve patient care or prevent abuse or neglect or illegal, unprofessional, and unethical conduct. These include, but are not limited to, courses related to the prevention of aggressive behavior, crisis intervention, CEU, CNE, and CME courses, some aspects of employee orientation, and sensitivity training.

A commenter asked whether the requirements of the memorandum applied to outpa-

tient services. Another commenter recommended that the term "health care facility" be used throughout the document to reference the entities to which the MOU applies, with definitions provided for those entities. The department responds that the provisions of Senate Bill 210 apply only to the specified categories of inpatient facilities. As requested, the term "health care facilities" has been used throughout the document, with appropriate definitions added as requested.

A number of commenters expressed concern about the requirement that each employee or health care professional associated with a health care facility receive eight hours of training in the required topics. Several commenters suggested that the amount was excessive. Others suggested that the amount of training required should be allowed to vary depending on the responsibilities of the employee. Most questioned the application of the training requirement to consultant or temporary health care professionals who serve at the health care facility on a limited basis (e.g., one or two days a week, courtesy consults).

The department responds that as mandated by the 73rd Legislature, each full-time employee or health care professional associated with a health care facility is required to receive eight hours of training. Revisions to Section III of the MOU clarify that the requirement may be met utilizing a variety of types of training, and also clarify that the training may include a variety of topics in addition to the eight specified in the MOU. Realistically, the eight hour figure shouldn't be difficult to achieve since so many topics can be used to meet it.

In response to concerns regarding the need for such extensive training for certain part-time employees, such as pool employees, consultants, and physicians providing courtesy consults, the agencies developing the MOU offer language allowing administrators to reduce the amount of time spent in training for part-time employees. The MOU includes criteria administrators should consider in determining whether or not eight hours of training is necessary. The MOU also specifies that regardless of the amount of training provided, the required topics must be addressed in any training program. The department notes, however, that all full-time employees are required to receive eight hours of training.

Several commenters questioned the need for eight hours of training on an annual basis, noting that refresher training could be accomplished just as effectively in six, four, or two hours. The department responds that although refresher training in the eight required topics may be accomplished in fewer than eight hours, additional training in topics designed to improve patient care or prevent abuse or neglect or illegal, unprofessional, or unethical conduct should be used to complete the eight hours. The intention is that employees continue to learn about topics that will help prevent incidents from occurring.

Concerning the subject of sexual exploitation, a commenter noted that standards are needed that require health care professionals to learn about boundaries. The department agrees, and recommends that health care facilities developing curricula for their training

programs consider including this as part of the program.

A commenter asked whether the portion of training on the prevention and management of aggressive behavior (PMAB) concerning patients rights/patient abuse could be utilized to meet some of the training requirements. The department responds that language has been revised in Section III of the MOU to clarify that this type of training may be utilized to meet the training requirement.

A commenter noted that part of training should focus on how to prevent abuse and neglect, including training on how to interact in a therapeutic manner. The commenter also recommended that the training focus on identifying systemic problems and situations in which the staffing ratio, program or work environment is not therapeutic and therefore contributes to the occurrence of abuse, neglect, and unethical conduct. The department agrees and has included language in Section III of the MOU concerning training for employees in the prevention of abuse or neglect. The department encourages health care facilities to include training concerning a variety of topics, including, but not limited to, systemic issues and sensitivity training.

Another commenter recommended including sensitivity training and awareness of the importance of reporting abuse and neglect in the training program. The commenter also suggested including training in the importance of preventive measures. Again, the department agrees, and has included language in Section III of the MOU concerning training for employees in the prevention of abuse or neglect.

Concerning reporting requirements, a commenter noted that training should be provided through an interactive process. The commenter suggested that there should be measurable outcomes which are more substantive than a signature on an attendance sheet. The commenter noted that the accountability should not come through a signed document but through the demonstration of behaviors and concepts that indicate the message of the training has been integrated. The department agrees. Clearly, the intent of the training requirement is to ensure that employees and associated health care professionals of health care facilities are aware of issues related to abuse and neglect and illegal, unprofessional, and unethical conduct, and act and react in a way that avoids such incidents. The signed document is merely a concrete means of determining whether the training was provided.

Several commenters noted that the requirement that training records be maintained for ten years seemed a bit excessive. The department agrees, and has reduced the length of time to five years.

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

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 17, 1994.

TRD-9443509

Ann K. Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Effective date: July 26, 1994

Proposal publication date: January 9, 1994

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

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter B. Fees, Charge, and Costs

• 28 TAC §1.301

The Texas Department of Insurance adopts new §1.301, relating to charges for copies of public records, without changes to the proposed text published in the June 10, 1994, issue of the *Texas Register* (19 TexReg 4486).

The adopted section is necessary because House Bill 1009, 73rd Legislature, required each state agency to review its procedures for providing access to and copies of public records and to analyze the charges the agency makes for providing copies. House Bill 1009 also mandated each state agency to promulgate rules specifying the charges the agency will establish for copies of public information. On March 29, 1994, GSC adopted rules to set out the methods and procedures that a state agency may use in determining the amounts the agency should charge. To comply with House Bill 1009 mandates, the department adopts by reference the rules that the GSC has adopted in 1 TAC §§111.61-111.70.

Section 1.301 provides a framework within which the department may recover the cost to provide copies of open records to persons requesting the copies. The section also provides that the department may waive these charges under certain circumstances.

No comments were received regarding adoption of the rule.

The new section is adopted under House Bill 1009, 73rd Legislature and the Insurance Code, Article 1.03A. House Bill 1009 requires all state agencies to promulgate rules specifying the charges each agency will establish for copies of public information. Article 1.03A authorizes the Commissioner to adopt rules and regulations for the conduct and execution of the duties and functions by TDI.

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 July 20, 1994.

TRD-9445333

D. J. Powers
General Counsel and Chief
Clerk
Texas Department of
Insurance

Effective date: August 10, 1994

Proposal publication date: June 10, 1994

For further information, please call: (512) 475-2025

Part II. Texas Workers' Compensation Commission

Chapter 110. Required Notices of Coverage

• 28 TAC §110.110

The Texas Workers' Compensation Commission adopts new §110.110, concerning requirements for governmental entities awarding a contract for a building or construction project, and for persons providing services on a building or construction project for a governmental entity. The new rule is adopted with changes to the proposed text as published in the April 26, 1994, issue of the *Texas Register* (19 TexReg 3131). The changes to the proposed text are as follows. The contract language in subsection (c)(7)(J) has been designated as Figure 1. The text of the notice in subsection (d)(7) has been designated as Figure 2. Subsections (a)(7) and (c)(7) were changed by adding language to further clarify who is covered by the rule. Subsections (c)(7)(J) in Figure 1 and (e)(3) were added to clarify that a contractor or subcontractor is representing to the governmental entity that workers' compensation coverage is provided. Subsections (d)(8)(C) and (e)(8)(C) were added to require specific language regarding representations of coverage to be added to contracts to provide services on the project. Subsections (c)(7)(F), and (c)(7)(I)(V) in Figure 1; (d)(5), (d)(8)(F), (e)(6), and (e)(8)(F) were changed to reduce the retention period for contractors and other persons providing services on the project from three years to one year. Subsection (g) was changed to state that this rule applies to contract advertised for bid after September 1, 1994, rather than awarded after September 1, 1994.

The Texas Labor Code, §406.096, requires workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity. The commission is aware that this statutory requirement is not being met, and this rule is designed to achieve compliance and to implement a recordkeeping process which will enable oversight of compliance. The rule does this by placing requirements on the governmental entity and on contractors and other persons providing services on a project. These requirements include coverage, certificates of coverage, posted notices of coverage, and notification of changes in coverage status. The rule does not create any duty or

burden on anyone which the law does not establish.

The rule defines terms which apply to governmental entity building or construction projects and sets up a clear procedure for governmental entities and contractors that bid for building and construction projects to follow in complying with the requirements of the Texas Labor Code, §406.096. It also defines "persons who provide services on a project" who are subject to the statutory requirement of coverage, and sets forth their requirements to comply with the statute and the rule. It specifically excludes persons such as food/beverage vendors whose deliveries and labor are not permanently incorporated into the project. The rule puts persons on notice that providing false or misleading certificates of coverage, or failing to provide or maintain required coverage, or failing to report any change that materially affects the provision of coverage may subject the contractor or other persons providing services on the project to administrative penalties, civil penalties, or other civil actions.

The rule requires a governmental entity to timely obtain certificates of coverage, retain them for the duration of the project plus three years, and provide them to the commission upon request and to others entitled to them by law. It also requires the governmental entity, as a prerequisite to awarding a contract, and as part of the contract, to require that the contractor: provide coverage and certificates of coverage for the contractor's employees; timely obtain and provide the governmental entity all required certificates of coverage for all persons providing services on the project; retain certificates of coverage on file for the duration of the project and for one year thereafter; notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; post notices on each project site; and contractually require persons with whom it contracts to do the same, with the certificates of coverage to be provided to the person for whom they are providing services. The rule also sets out the language to be included in bid specifications and in contracts awarded by a governmental entity and the information required to be in the posted notice to employees. It further establishes a method for obtaining the certificates from persons providing services on the project and providing them to the governmental entity.

It requires a contractor awarded a building or construction contract to: provide workers' compensation coverage to the contractor's employees for the duration of the project; file a certificate of coverage of the contractor's employees with the governmental entity prior to being awarded a contract; obtain and provide to the governmental entity, certificates of coverage from each other person with whom it has contracted to provide services on the project, prior to that person beginning work on the project; obtain and provide new certificates of coverage shown on the current certificate ends during the duration of the project; retain all certificates of coverage for the duration of the project and for one year thereafter;

notify the governmental entity of material changes in coverage; contractually require each other person with whom it contracts to provide a certificate of coverage; and post notices on each project site.

All other persons providing services on a project have the same requirements as a contractor, with the exception of posting notices and with the exception that the certificate of coverage is given to the person for whom they contracted to provide services on the project. The rule uses the term "persons providing services on the project" in lieu of the statutory term "subcontractor" because the term "subcontractor" as used in the statute (§406.096) and in this rule is broader than standard industry usage. The use of the different terminology will prevent confusion.

The rule does not create any duty or burden on anyone which the law does not establish.

Comments on the proposed new rule were received from the Texas Municipal League, Turner-Bass and Associates, Associated General Contractors of Texas (Highway, Heavy, Utilities and Industrial Branch), Brown and Root, Inc., and Texas Concrete Company.

Comments supporting the proposed new rule were received from Turner-Bass and Associates and Texas Concrete Company.

Comments opposing the proposed new rule were received from the Texas Municipal League, Brown and Root and the Associated General Contractors of Texas.

Summaries of the comments and commission responses are as follows.

The Texas Municipal League made the following comments:

Comment: The rule imposes onerous posting and recordkeeping requirements on governmental entities when sanctioning governmental entities or contractors who do not comply with the simple language of the statute would better accomplish the stated purpose of the rule. The Commission disagrees with this comment for two reasons. First, the posting requirement is placed on the contractor and not on the governmental entity. Second, the Commission's goal is to achieve compliance with the law, rather than sanction failure to comply.

Comment: The rule is inappropriate because it requires governmental entities to maintain employment records and lists of all persons working on a public building or construction project. The Commission disagrees. The rule requires only that governmental entities obtain certificates of coverage for each person providing services on the project. Multiple persons can be covered by a single certificate. In addition, the Commission believes it is not unduly burdensome for a governmental entity to maintain a list of all contractors and subcontractors working on its projects. The commenter was also concerned that the rule creates new liabilities for governmental entities which overlook the failure of a subcontractor to maintain workers' compensation insurance coverage. The Commission disagrees. The rule creates no liability on the part of governmental entities which does not already exist.

Brown and Root made the following comments:

Comment: The definition of "persons providing services on the project" is too broad and may include food/beverage vendors. The Commission agrees the original language creates confusion. Subsections (a)(7) and (c)(7) have been amended to reflect the intention that services does not include activities unrelated to the project such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

Comment: The commission should require notice to the governmental entity only of "cancellations and/or renewals" rather than of "changes that materially affect" the provision of coverage. The Commission disagrees because this limitation would make it more difficult for governmental entities to ensure all contractors and subcontractors on a project maintain the required coverage. While the rule as written covers cancellations and renewals, the Commission believes the language as proposed also encompasses other possible scenarios such as dropping coverage for some employees after beginning work on a project.

Comment: It is not always feasible to provide certificates of coverage to a governmental entity prior to a subcontractor beginning work on a project. The Commission disagrees and asserts that contractors can alleviate this problem through advance planning and the use of facsimile machines.

Comment: The contractor might be subject to fines and penalties if a subcontractor fails to keep the contractor informed about the status of their coverage. The rule places an additional recordkeeping burden on contractors. The Commission agrees that the rule appropriately places a burden on the contractor to obtain new certificates of coverage from subcontractors when coverage expires during the contract period. When the contractor fails to provide new certificates as required by the rule, the contract becomes voidable by the governmental entity if the contractor does not timely remedy the problem. However, the rule does give contractors some leeway in timeframes in that it allows a contractor to file certificates of coverage extension for its subcontractors within seven days after the contractor receives the certificate from its subcontractor. (See (d)(4)(B)). The commission has also added text to clarify that each person providing services on a project is responsible for representations as to their coverage only. (See (c)(7)(J), (d)(8)(C), (e)(3), and (e)(8)(C)).

Comment: Contractors would be required to maintain a tickler system on all certificates of coverage and pursue late or missing certificates. The Commission agrees that the rule imposes these requirements but believes the law already requires this.

The Association of General Contractors of Texas made the following comments:

Comment: The definition of "persons providing services on the project" should merely track the statutory language. The Commission disagrees. Contractors and subcontractors are misinterpreting the statutory

language and many persons working on government projects are not covered by workers' compensation insurance even though coverage is required by law. The new definition makes clear that all persons working on a government contract must be covered.

Comment: The expense and burden of using certified mail is excessive. The Commission disagrees. The cost of using certified mail is outweighed by the benefit of having a record that something was mailed. In addition, a contractor also has the option of making a personal delivery in lieu of using certified mail.

Comment: The posting requirements are redundant because the Commission already requires posted notices of coverage. The Commission disagrees. The notice currently required provides only information about coverage, the identity of an employer's workers' compensation carrier, Commission assistance, and the safety hotline. The notice required by this rule informs employees that coverage of them is mandatory.

Brown and Root and the Association of General Contractors both made the following comment:

Comment: Retaining records for three years is too long. The Commission agrees in part. The statute of limitations on fraud is three years and records must be maintained to allow prosecution of this crime. Also, state law requires business records to be kept for three years. Because the access to these records is essential to prosecution of violation of the law and this rule, a three-year period will continue to exist for governmental entities but the period is reduced to one year past the duration of the project for contractors and persons providing services on the contract. This change has been made in subsections (c)(7)(F), (c)(7)(I)(V), (d)(5), (d)(8)(F), (e)(6), and (e)(8)(f).

Texas Concrete Company made the following comment:

Comment: The rule should cover plants producing prestressed-precast concrete products to be used in government projects. The Commission disagrees. The purpose of this rule is to ensure persons working on the jobsite are covered.

The new rule is adopted under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act, and Texas Labor Code, §406.096, which establishes requirements for governmental entities, contractors, and subcontractors ("persons providing services on the project") regarding workers' compensation coverage for workers on public building or construction projects.

§110.110. Reporting Requirements for Building or Construction Projects for Governmental Entities

(a) The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this rule shall have the meaning defined in the Texas Labor Code, if so defined.

(1) Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees (including those subject to a coverage agreement) providing services on a project, for the duration of the project.

(2) Building or construction-Has the meaning defined in the Texas Labor Code, §406.096(e)(1).

(3) Contractor-A person bidding for or awarded a building or construction project by a governmental entity.

(4) Coverage-Workers' compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).

(5) Coverage agreement-A written agreement on form TWCC-81, form TWCC-82, form TWCC-83, or form TWCC-84, filed with the Texas Workers' Compensation Commission which establishes a relationship between the parties for purposes of the Workers' Compensation Act, pursuant to the Texas Labor Code, Chapter 406, Subchapters F and G, as one of employer/employee and establishes who will be responsible for providing workers' compensation coverage for persons providing services on the project.

(6) Duration of the project-Includes the time from the beginning of work on the project until the work on the project has been completed and accepted by the governmental entity.

(7) Persons providing services on the project ("subcontractor" in §406.096 of the Act) -Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to independent contractors, subcontractors, leasing companies, motor carriers, owners/operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes but is not limited to providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

(8) Project-Includes the provision of all services related to a building or construction contract for a governmental entity.

(b) Providing or causing to be provided a certificate of coverage pursuant to this rule is a representation by the insured that all employees of the insured who are providing services on the project are covered by workers' compensation coverage, that the coverage is based on proper reporting of classification codes and payroll amounts, and that all coverage agreements have been filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading certificates of coverage, or failing to provide or maintain required coverage, or failing to report any change that materially affects the provision of coverage may subject the contractor or other person providing services on the project to administrative penalties, criminal penalties, civil penalties, or other civil actions.

(c) A governmental entity that enters into a building or construction contract on a project shall:

(1) include in the bid specifications, all the provisions of subsection (d) of this rule, using the language required by paragraph (7) of this subsection;

(2) as part of the contract, using the language required by paragraph (7) of this subsection, require the contractor to perform as required in subsection (d) of this rule;

(3) obtain from the contractor a certificate of coverage for each person providing services of the project, prior to that person beginning work on the project;

(4) obtain from the contractor a new certificate of coverage showing extension of coverage:

(A) before the end of the current coverage period, if the contractor's current certificate of coverage shows that the coverage period ends during the duration of the project; and

(B) no later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project;

(5) retain certificates of coverage on file for the duration of the project and for three years thereafter;

(6) provide a copy of the certificates of coverage to the commission upon request and to any person entitled to them by law; and

(7) use the language for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific docu-

ment in which they are contained or to impose stricter standards of documentation contained in Figure 1: 28 TAC §110.110(c)(7) of this section.

(d) A contractor shall:

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;

(3) provide the governmental entity, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;

(4) obtain from each person providing services on a project, and provide to the governmental entity:

(A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;

(7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice does not satisfy other posting requirements imposed by the Act or other commission rules. This notice must be printed with a title in at least 30-point bold type and text in at least 19-point normal type, and shall be in both English and Spanish and any other language common to the worker population. The text for the notices shall be the following text in Figure 2: 28 TAC §110.110(d)(7) of this

section, provided by the commission on the sample notice, without any additional words or changes; and

(8) contractually require each person with whom it contracts to provide services on a project, to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;

(C) include in all contracts to provide services on the project the language in subsection (e)(3) of this section;

(D) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) obtain from each other person with whom it contracts, and provide to the contractor.

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(F) retain all required certificates of coverage on file for the duration of the project and for one year thereafter.

(G) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(H) contractually require each other person with whom it contracts, to perform as required by subparagraphs (A)-(H) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services

(e) A person providing services on a project, other than a contractor, shall

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) provide a certificate of coverage as required by its contract to provide services on the project, prior to beginning work on the project;

(3) have the following language in its contract to provide services on the project: "By signing this contract or providing or causing to be provided a certificate of coverage, the person signing this contract is representing to the governmental entity that all employees of the person signing this contract who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions."

(4) provide the person for whom it is providing services on the project, prior to the end of the coverage period shown on its current certificate of coverage, a new certificate showing extension of coverage, if the coverage period shown on the certificate of coverage ends during the duration of the project;

(5) obtain from each person providing services on a project under contract to it, and provide as required by its contract:

(A) a certificate of coverage, prior to the other person beginning work on the project; and

(B) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(6) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(7) notify the governmental entity in writing by certified mail or personal delivery, of any change that materially affects the provision of coverage of any person providing services on the project and send the notice within 10 days after the person knew or should have known of the change, and

(8) contractually require each other person with whom it contracts to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to it prior to that other person beginning work on the project;

(C) include in all contracts to provide services on the project the language in subsection (e)(3) of this section;

(D) provide, prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) obtain from each other person under contract to it to provide services on the project, and provide as required by its contract:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the contract;

(F) retain all required certificates of coverage on file for the duration of the project and for one year thereafter.

(G) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(H) contractually require each person with whom it contracts, to perform as required by subparagraphs (A)-(H) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

(f) If any provision of this rule or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this rule that can be given effect without the invalid provision or application, and to this

end the provisions of this rule are declared to be severable.

(g) This rule is applicable for building or construction contracts advertised for bid by a governmental entity on or after September 1, 1994.

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 July 15, 1994.

TRD-9445153

Susan Cory
General Counsel
Texas Workers'
Commission

Effective date: September 1, 1994

Proposal publication date: April 26, 1994

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Subchapter J. Administrative Provisions

Alternate Means of Control

• 30 TAC §§115.901, 115.910-115.916

The Texas Natural Resource Conservation Commission (TNRCC or Commission) adopts new §115.901, an amendment to §115.910, and new §§115.911-115.916, concerning Alternate Means of Control (AMOC), with changes to the proposed text as published in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1436).

The new §§115.911-115.916 and revisions to §115.910 establish procedures for requesting the Executive Director's approval of an AMOC. In lieu of complying with control requirements in Chapter 115, relating to Control of Air Pollution from Volatile Organic Compounds, the AMOC rules provide for alternate emission reductions greater than or equal to reductions specified in Chapter 115.

The new §115.901, concerning Insignificant Emissions, relocates the previous §115.910(b).

The revisions to §115.910, concerning the Availability of AMOC, provide any person affected by a control requirement and/or emission specification of this chapter the opportunity to comply with an AMOC, provided the AMOC plan is approved. Such AMOC plan will be considered federally enforceable and shall include monitoring, test-

ing, reporting, and recordkeeping requirements appropriate to the AMOC specifications.

The new §115.911, concerning Criteria for Approval of AMOC Plans, sets forth basic criteria for an AMOC plan approval. The intent of the §115.911 requirement for surplus reductions is to avoid double counting of emission reduction credits with regard to the State Implementation Plan (SIP) and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area), §116.151 of this title (relating to New Major Source or Modification in Nonattainment Area Other than Ozone), §116.160 of this title (relating to Prevention of Significant Deterioration Requirements), and §116.161 of this title (relating to Source Located in an Attainment Area with Greater than De Minimis Impact).

The new §115.912, concerning Calculations for Determining AMOC Reductions, provides basic guidance for calculations of equivalency based on actual annual emissions and maximum potentials to emit.

The new §115.913, concerning Procedures for AMOC Plan Submittal, provides for the submittal of a proposed AMOC plan and demonstration to the Executive Director and to the United States Environmental Protection Agency (EPA) Regional Office in Dallas, for concurrent review. Section 115.913 details the basic required components of an AMOC plan.

The new §115.914, concerning Procedures for an AMOC Plan Approval, sets forth the procedures upon preliminary and final determination to approve or deny the AMOC plan. Section 115.914 provides EPA an additional 45-day review period, upon notice of the Executive Director's final determination, with the opportunity to disapprove the Executive Director's determination. The Executive Director shall then revise or revoke the AMOC plan. The new §115.915, concerning Public Notice Format, provides for written comment on the Executive Director's preliminary determination to approve an AMOC plan.

The new §115.916, concerning Review of Approved AMOC Plans, voids an AMOC plan upon the compliance date of a new or modified regulation of this chapter affecting a source subject to an AMOC plan; and requires the holder of an AMOC plan to comply with the requirements of this chapter. The intent of §115.916 is to ensure that actual emission reductions are being achieved. The goal of the TNRCC is to review the proposed AMOC plans and establish the Executive Director's preliminary determination within 45 days of an AMOC plan submittal. The TNRCC staff has established a goal which ranges from 120 days to the EPA-identified 180 days for processing an AMOC plan submittal. However, it is the intent of the TNRCC to meet the 150-day goal as identified during the rule negotiation period. The TNRCC recommends that the application be submitted six months prior to compliance dates to provide for a reasonable period of time for TNRCC consideration. It is the position of the TNRCC that a method of control implemented prior to January 1, 1991, shall

not be recognized as meeting the criteria established for an AMOC.

A public hearing was held on March 31, 1994 in Austin. The comment period closed on April 1, 1994.

Alternate Means of Control. Twelve commenters submitted testimony on §§115.901, 115.910, and 115.911-115.916. Amoco Oil Company (Amoco) on behalf of Amoco Oil, Amoco Chemical, and Amoco Production; City of Dallas, Health and Human Services (Dallas); Dow Chemical Company, Texas Operations (Dow); Exxon Company, U.S.A., Baytown Refinery (Exxon); Houston Lighting and Power (HL&P); Mobil Oil Corporation (Mobil); The Society of the Plastics Industry, Incorporated (SPI); Texas Chemical Council (TCC); Texas Mid-Continent Oil and Gas Association (TMOGA); and Vought Aircraft Company (Vought) generally supported the proposed revisions, but suggested changes or clarifications. The EPA generally supported the concepts of flexibility and a compressed AMOC processing timeframe, but would require the incorporation of components of the Economic Incentive Plan (EIP) which are beyond the TNRCC air quality planning standards. The EPA maintains the position that EIP concepts should be included within the AMOC rule language in order to develop an approvable program. The TNRCC staff disagrees that this is an EIP, but believes that this program satisfies EPA's guidelines for an EIP program. An individual opposed the proposed changes.

Exxon and Mobil support the AMOC proposal in concept and endorse those comments submitted jointly by TCC and TMOGA. Mobil further applauds the TNRCC efforts to provide industry with flexibility to comply with regulations to control volatile organic compounds (VOC) in the most cost-effective manner and be protective of the environment. Mobil also believes that this proposed rule is consistent with EPA Administrator Browner's long-standing commitment to regulatory flexibility.

The TCC/TMOGA strongly support the AMOC proposal in concept and in most of the particulars, but only if the proposed changes to the existing AMOC rule are, indeed, absolutely necessary for EPA approval of the TNRCC's AMOC program.

General Comments. The EPA noted that the section headings (e.g., §115.911) are followed by numbers for subsections, rather than letters. The EPA inquired whether the subsections should be labeled by letters rather than numbers to maintain consistency with other chapters.

The TNRCC has intentionally used the form reflected in the AMOC rule in order to address the *Texas Register's* publication requirements. When there is no subsection (b), subsection (a) is not identified, but implied.

Vought requested consideration for a time-limited exemption from new regulations for the Aerospace Industry.

The AMOC rules do not place any new regulations on the Aerospace Industry and this concern cannot be addressed in this rulemaking package.

The SPI supports the proposed rules, which allow owners/operators of sources the opportunity to comply with an AMOC for VOCs. As noted, the AMOC rules provide for alternate emission reductions greater than or equal to reductions specified in Chapter 115. This provision allows owners/operators of sources the flexibility to choose those control requirements which may best meet the needs of the facility. The SPI requested that the TNRCC provide guidance for smaller sources in developing AMOCs.

The TNRCC desires to provide as much guidance as resources will allow. Specific guidance is available in the rules and additional guidance can be obtained from the Small Business Technical Assistance staff and the Engineering Services Section of the Enforcement Division, who will review the AMOC application.

HL&P supports the TNRCC's guidelines which allow a regulated source to utilize an AMOC as a method to reduce VOC emissions to compliance levels.

The TNRCC staff appreciates HL&P's support of the AMOC proposal. With regard to the language choice of "compliance levels," the AMOC rule requires going beyond standard compliance levels by virtue of the application of applicable factors identified in §115.911(3).

An individual opposed any preliminary determination regarding an AMOC. The individual believes that such a determination is not in the public's interest since it is predicated on an agreement between the TNRCC and the applicant and has no public input.

With regard to the individual's opposition to a preliminary determination for an AMOC, the AMOC process allows the TNRCC the authority to determine whether an AMOC request is valid and provisions should be established. If the AMOC request is not valid, then the AMOC is not published in the *Texas Register* and thus saves the State of Texas the expense of public notice on AMOC requests which fail to meet the TNRCC standards as provided for within the AMOC rules. The AMOC rules provide for public input in the form of written public comment on AMOC provisions published in a newspaper of general circulation. In addition, the AMOC rules require that written notice regarding the Executive Director's final determination be provided as noted in §115.914(6) and further provides an opportunity to appeal the Executive Director's determination to the Commission.

The individual further expressed a need for a public hearing.

It is the TNRCC's position that the opportunity for public comment provides adequate public input. The TNRCC will make every effort to respond to public comments and concerns.

The TCC/TMOGA stated that the preamble of the proposed AMOC rule appears to have overstated the costs and understated the benefits of the proposal. The TCC/TMOGA noted that, in particular, it does not seem likely that local governments would need any "increased compliance personnel," because the rules would lead to site-specific AMOCs

with site-specific provisions, thus possibly reducing the level of effort required in an inspection. The TCC/TMOGA further stated the preamble does not expressly reference the increased economic efficiency that the increased use of AMOCs will achieve.

As mentioned by TCC/TMOGA, the AMOC rules provide for environmental benefits by establishing an offset ratio; utilizing actual emissions levels; and implementing source specific monitoring, testing, reporting, and recordkeeping requirements. In addition, the TNRCC agrees that economic benefits will be afforded to the regulated community. Costs to the agency regarding processing and enforcement of AMOCs are difficult to predict since the costs will be based upon the number and complexity of the applications.

An individual requested the TNRCC in §115.901 to define "make a significant contribution to air contaminants in the atmosphere."

Since this particular section of the rule affects attainment counties, the Prevention of Significant Deterioration (PSD) rules apply and the term "significant" refers to the PSD program requirements. The PSD program requires modeling to demonstrate that the emissions from the compound or specific gas stream are not "significant." For facilities affected by this section, the TNRCC recognizes the PSD rules as a resource for guidance.

No comments were received regarding §115.910. The section was adopted with minor changes in response to comments received on other sections.

The EPA requested that the term "actual annual emission" in §115.911(2) be clearly defined in the rule, including how it is to be calculated. In addition, EPA requested that the term "theoretical annual emissions reductions" be defined. The EPA noted that §115.912 addresses some of the definition requests, however, the terminology is not consistent, nor are there cross-references between §115.911 and §115.912.

The TNRCC agrees and staff has addressed EPA's request to clearly define the terms in §115.911 and §115.912 by modifying the language used to explain "actual annual emissions" as well as describe calculations for equivalency. The TNRCC staff has eliminated the use of the term "theoretical annual emissions reductions." In addition, the TNRCC staff has cross-referenced §115.911 and §115.912 for clarification purposes. It is the intent of the TNRCC to review each AMOC and offset ratio to ensure compliance with the statutory requirements of Chapter 115, relating to the Control of Air Pollution From Volatile Organic Compounds. The intent of §115.911(2) is to establish an enforceable annual emissions limit, §115.911(3) is to provide for an additional environmental benefit within the AMOC, and §115.911(4) is to ensure that the daily emission potential will protect the integrity of the SIP.

HL&P expressed concern regarding §115.911(2)(D) which requires that the emission reductions at an alternative source shall be the amount of total theoretical annual emission reductions required by otherwise

applicable provisions of Chapter 115, multiplied by the applicable factor of 13 for sources located in the Houston/Galveston area. HL&P acknowledged the TNRCC's desire to avoid double counting of emission reduction credits with regard to netting or offsetting requirements, but stated that the concerns should be alleviated by §115.911(4), which requires reductions in actual emissions created by the AMOC to be surplus and remain surplus to reductions required by Chapter 115 and any netting or offsetting requirements of Chapter 116. HL&P recommended that an alternative source be required to reduce total actual annual emissions to the same compliance level as a regulated source as long as the alternative source and the regulated source are located in the same TNRCC account.

As stated previously with regard to the language choice of "compliance levels," the AMOC rules require going beyond standard compliance levels by virtue of the application of applicable factors identified in §115.911(3). It is the position of the TNRCC that the additional reduction factor is required as a shared benefit with the environment. While the TNRCC does not intend to approve AMOC applications containing such uncertain calculations and computational assumptions, the reduction factors will further ensure the development or occurrence of necessary reductions as well as the integrity of the AMOC program by preventing the uncertainty inherent in calculations or computational assumptions from leading to actual increases in VOC emissions. In addition, the reduction factor helps ensure the support of the EPA with regard to the innovative AMOC program.

An individual protested §115.911(3), which provides that the AMOC must be implemented and reductions created after January 1, 1991. The individual protested allowing AMOCs to exist before the rule is finalized.

With regard to the individual's opposition to AMOCs, the TNRCC desires to clarify that AMOCs are nonexistent prior to January 1, 1991. However, it is the intent of the TNRCC to recognize emission reductions achieved by an AMOC plan provided the emission reductions occurred after January 1, 1991, and which utilize Emissions Inventory reporting for the base year 1990 or thereafter.

The SPI requested clarification regarding §115.911(4) as it was proposed "Reductions in actual emissions created by the AMOC must be surplus and remain surplus to reductions required by this chapter and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modifications in Ozone Nonattainment Area), §116.151 of this title (relating to New Major Source or Major Modification in Nonattainment Area Other than Ozone), §116.160 of this title (relating to Prevention of Significant Deterioration Requirements), and §116.161 of this title (relating to Source Located in an Attainment Area with Greater than De Minimis Impact)."

The TNRCC staff believes that efforts to clearly define terms and cross-referencing §115.911 and §115.912 clarify the requirements set forth in the AMOC rules. Thus, the language modifications to the rules should

address SPI's concerns as related to the issue of actual emissions that may be surplus. Surplus is defined as the reductions in a plan that go beyond the requirements of Chapter 115 that become part of the plan. These reductions may not be used for other AMOC plans, netting, or offsetting requirements.

The SPI stated that the intent and applicability of §115.911(2) is unclear and considered it sufficient for facilities to adopt alternative plans that achieve the same reductions as controls that would otherwise be required, instead of requiring reductions that provide an additional offset

The TNRCC staff modified the language for clarification purposes. Despite the modification to language, the intent of the rule remains the same, which is to provide for additional reductions made at alternative sources which comply with the guidelines within the AMOC rules. This additional reduction maintains the reductions provided by the rules as well as provides a safety factor to ensure adequate reductions.

The SPI stated that any additional reductions should be treated the same as reductions achieved if the required controls were implemented

The TNRCC staff interpreted SPI's comment to address the issue of additional reduction factors, and to say that additional reduction factors should not be necessary. It is the position of the TNRCC that the additional reduction factor is required as a benefit to the environment. In addition, the reduction factor helps ensure the support of the EPA with regard to the innovative AMOC program. While the TNRCC does not intend to approve AMOC applications containing such uncertain calculations and computational assumptions for which actual increases in VOC emissions might occur, the reduction factors further will ensure the development or occurrence of necessary reductions as well as the integrity of the AMOC program by preventing the uncertainty inherent in calculations or computational assumptions from leading to actual increases in VOC emissions.

The TCC/TMOGA suggested the use of "indirect source" in §115.911(5) rather than the term "associated emissions." The term "indirect source" is a term used in the Federal Clean Air Act (FCAA), §110(a)(3)(C), to refer to places and activities (such as parking garages) which attract mobile sources

The TNRCC staff finds TCC/TMOGA's request to replace "associated emissions" with "indirect source" to be reasonable. However, upon referencing the FCAA, staff believes the proper reference to be FCAA, §110(a)(5)(C)

The EPA stated that §115.911(6) does not identify the specific procedures (e.g., formulas, specific test methods, or monitoring techniques) that will be used. The procedures must be clearly stated in the rules that Executive Director approval of these methods will not prohibit EPA disapproval of the alternate compliance plan if EPA finds that the quantification procedures were not adequate

It is the intent of §115.914(8) to provide EPA authority to reject an AMOC plan for failure to meet any of the criteria of §115.910 et seq.,

relating to Alternate Means of Control, including authority to disapprove of procedures/criteria/ provisions the TNRCC Executive Director has approved. It is, however, incumbent upon EPA to clearly explain the reasons for disapproval and provide an explanation of what action must be taken to gain approval (e.g., formulas, specific test methods, or monitoring techniques).

An individual referenced §115.911(6) and stated opposition to any allowance for estimations of emissions.

With regard to the individual's opposition to allowances for the estimations of emissions, the TNRCC considers the estimation of emissions to be acceptable in cases where accuracy may be determined and when estimation is considered the best determination of emissions. In addition, estimated emissions may be restricted to trades when like estimated emissions are grouped. The TNRCC Executive Director may authorize the use of estimated emissions if it is deemed appropriate for determining actual emissions.

The TCC/TMOGA and Amoco expressed concern regarding the lack of reference to AP-42 factors in §115.911(6)(B). Amoco requested consideration to add language to §115.911(6)(B) which recognizes the EPA AP-42 factors or other calculation equations which are a function of process or control system parameters, activity levels, and/or throughput or production rates. The TCC/TMOGA also urged the TNRCC to state in the preamble that AP-42 factors will be acceptable under §115.911(6)(B) where appropriate

The TNRCC considers AP-42 factors and other calculation methodologies to be acceptable when the Executive Director determines the relative accuracy is sufficient to ensure emission reductions on a case-by-case basis as provided for in §115.911(8)(D). The intent of §115.911(8)(D) is not to limit the list of appropriate calculation methodologies, but to provide the Executive Director with the flexibility to require calculations sufficient to ensure the integrity of the AMOC program. Necessarily, this flexibility would provide the Executive Director discretion to disapprove inappropriate methodologies.

The EPA noted that §115.911(7) states that, "The AMOC plan must ensure that actual emission reductions are created and preserved with respect to actual emissions in 1990; . . . It is EPA's understanding that §115.911(2) requires that actual emission reductions occur not relative to the units' 1990 levels, but rather relative to the "theoretical annual emissions reductions required by otherwise applicable provisions of Chapter 115." The EPA inquired as to whether the requirements in this provision would be in addition to the requirements in §115.911(2). The EPA identified the need for the state to clarify this point and further stated that if this is an additional requirement, then the state must clearly define what is meant by "actual emission reductions are created" and "actual emissions in 1990." The EPA also stated that the definitions should address how actual emissions would be determined

The TNRCC staff has addressed this comment by modifying language in §115.911(2). The testing component is included in the rule language at the request of EPA. Inclusion within the rule language does not imply the Executive Director does not have authority to require testing under 30 TAC Chapter 101, relating to §§101.8, 101.9, and 101.14 (relating to Sampling, Sampling Ports, and Sampling Procedures and Terminology), "monitoring" rules, or other rules.

The EPA stated that in §115.911(7)(A) it must be clear that the Executive Director approval of the monitoring, recordkeeping, and reporting requirements will not prohibit EPA from disapproving an alternate compliance plan if EPA finds that the provisions for establishing compliance are not adequate.

It is the intent of §115.914(8) to provide EPA authority to reject an AMOC plan for failure to meet any of the criteria of §115.910 et seq., relating to Alternate Means of Control, including authority to disapprove of procedures/criteria/ provisions the TNRCC Executive Director has approved. It is, however, incumbent upon EPA to clearly explain the reasons for disapproval and provide an explanation of what action must be taken to gain approval (e.g., formulas, specific test methods, or monitoring techniques)

The EPA noted in §115.911(7)(A) that following General Criteria for Monitoring the rule should state: "Each AMOC plan must provide for testing of the affected sources on a frequency consistent with the applicable emission limit and consistent with the requirements of Title V where applicable and the enhanced monitoring rule where applicable."

The EPA further noted that in §115.911(7)(A) the AMOC rules should state the following general criteria for recordkeeping: "Each AMOC must require collection and maintenance of records consistent with the averaging time of the emission limit and recordation of all information necessary for calculating the compliance status of an affected source. In addition, the requirement must be as reliable, readily retrievable, and retained for a comparable period of time as the underlying Chapter 115 requirement." The EPA also stated in §115.911(7) that, while EPA believes that the existing Chapter 115 monitoring, recordkeeping, and reporting requirements are adequate to demonstrate compliance with the existing rules, EPA is not at all certain that the requirements will be sufficient to show compliance with an emission average or emission cap.

While the TNRCC staff considers EPA's request logical, this requirement extends beyond the actual requirements in Chapter 115, relating to the Control of Air Pollution from Volatile Organic Compounds. It is not the intent of the proposed AMOC rules to establish compliance with Title V or the enhanced monitoring rule. Additional rules may be imposed upon the sources upon implementation of Title V with regard to operating permits. Thus, the TNRCC believes that the frequency of AMOC required monitoring, testing, reporting, and recordkeeping shall be sufficient to reasonably ensure compliance with applicable emission limits. Where Chapter 115 re-

quires a percentage control requirement with no averaging time specified, the only conclusion is that the averaging time is appropriate to meet the intent of Chapter 115.

The EPA stated that §115.911(7)(B) needs to clearly state the criteria which will be used to determine the acceptability of the emission limits and/or control requirements. The EPA suggested the following revision: "For all sources in the AMOC plan, the plan must establish enforceable emission limits and/or control requirements that will ensure that the actual emission reductions required by §115.911(2) will be achieved. The AMOC plan must include all necessary and appropriate provisions for monitoring, reporting and recordkeeping sufficient to determine compliance with the emission limits and/or control requirements specified in the plan."

In addition, EPA noted that this provision must require that the emission limits and/or control requirements established in the AMOC plan must specify an appropriate averaging time that is consistent with the short-term ozone standard.

As a general comment, EPA noted that this rule does not specify whether it allows for emission trading to occur through emission averaging or emission caps. The EPA stated that the TNRCC must clarify which emission trading program is provided for by the AMOC rules, since each program requires different monitoring, recordkeeping, and reporting requirements.

It is the intent of the TNRCC to provide for the acceptability of an AMOC to be evaluated on the basis of actual annual emissions. No AMOC may be approved unless actual emissions are reduced by an appropriate factor below the level that would occur under the otherwise applicable rules in Chapter 115. The AMOC program has been modified to provide for an annual emissions limit and short-term emission potentials. The purpose of establishing short-term emissions potentials is to prevent large increases in maximum daily potentials to emit that cause the ozone standard to increase by a significant amount. A one part per billion (1 ppb) increase in the ozone level was used to establish a level of significance for the TNRCC evaluation of an AMOC. The Urban Airshed Model was used to determine that an increase of four tons per day (TPD) in the Houston/Galveston area would increase the ozone level by a 1 ppb change. Thus, the sum of all increases of maximum potentials to emit over the Houston/Galveston area will be limited to 4 TPD.

This limitation upon the total of the maximum potentials to emit is based on the whole nonattainment area; however, ozone formation is sensitive to the location of VOC emissions. Therefore, to prevent one or a few sources from utilizing all of the established limit in a small geographic area that could cause a significant increase in the measured or modeled ozone concentration, each AMOC involving multiple sources will be limited to a total increase in the maximum daily potentials to emit of 200 pounds. If shutdown credits generated by the applicant meet the criteria of the AMOC rule, those credits will be considered by the TNRCC. It is the position of the TNRCC that shutdown sources for which

the applicant is seeking credit must have been in operation prior to January 1, 1990, must have been included in the 1990 base-year emissions inventory, and must remain shutdown. It is the intent of the TNRCC staff to recommend approval of those AMOCs that meet the requirements of the AMOC rules and for which AMOC provisions are agreeable to both the TNRCC and the AMOC applicant. As previously noted, the TNRCC intends to evaluate an AMOC based upon the requirements in Chapter 115, relating to the Control of Air Pollution From Volatile Organic Compounds, which establish the statutory upper limits for emissions either short-term or annual as defined within the AMOC rules. In addition, offset ratios are to be measured against annual emissions. Thus, the evaluation for AMOC sources must ensure that real reductions occur in compliance with §115.911(2) requirements, relating to Criteria for Approval of AMOC Plans.

Vought stated that provisions should be allowed for the transfer of emission credits between facilities within the same nonattainment areas as a means to comply with Chapter 115. Vought further stated that transfer of emissions credits would benefit facilities that wish to sell emission credits.

The TNRCC is interested in pursuing a program which provides for transfer of emission credits between facilities within the same nonattainment areas. The TNRCC may consider such programs in future rulemaking. However, the scope and requirements of the AMOC rules are not sufficient to allow for such programs. The intent of the AMOC rules is to provide for alternate means of control strictly within the same TNRCC account number.

Dallas stated that the proposed rule should include explicit language to authorize the TNRCC Executive Director to conduct any audit testing of any monitoring/testing requirements contained in the AMOC. Dallas further stated that this authority should be at the discretion of the Executive Director, and should only be used to safeguard against deliberate or unintentional misrepresentation of system parameters as they relate to emission rates.

The Executive Director has explicit authority under §101.8 to determine what constitutes sufficient or accurate monitoring and testing with regard to any source of air pollution in the state. During a TNRCC inspection, a review of the approved AMOC plan provisions will be conducted to determine the AMOC holder's compliance with the AMOC. The TNRCC staff has added language to clarify the Executive Director's authority to require testing to protect the air of the state.

In §115.912, Calculation for Determining AMOC Reductions, the EPA reiterated the need to define the phrase "actual 1990 annual emissions" and inquired whether the phrase means the emissions for a given unit that were reported in the 1990 Base Year Emissions Inventory, the baseline emissions as defined in §115.912(4), or some other definition.

The TNRCC staff has attempted to address EPA's comments by modifying language for

consistency throughout the AMOC rule. It is the TNRCC's position that no emission inventory submission, for the purpose of the Urban Airshed Model, is frozen or locked into an emission level. Furthermore, the emission inventory base year is subject to revision to ensure real emission reductions will occur. This impacts an AMOC application in that it is based on actual annual emissions or the most accurate available emission data.

The TCC/TMOGA expressed concern that §115.912 would place undue and unintended burdens on a source seeking an AMOC to simply substitute one control device for another. The TCC/TMOGA stated that it is not necessary or appropriate to require such AMOCs to achieve the supplemental reductions required of multisource AMOCs or to be made contingent on reducing allowable emissions to historical actual levels. The TCC/TMOGA stated that the sole inquiry in the single-source AMOC situation should be whether the proposed alternative control device is at least as effective as the otherwise required control device, and whether the alternative control plan includes sufficient monitoring, reporting, and recordkeeping (MRR) requirements. The TCC/TMOGA suggested a separate section or subsection addressing the additional criteria expected of multisource AMOCs.

It is the intent of the TNRCC to establish procedures which streamline the application process for regulated entities which achieve emission reductions with an alternative means of control. The current SIP procedures are lengthy and at times burdensome in nature. Provisions within Chapter 115 require specific control devices or methods, and provide the opportunity to apply for the use of alternate control devices or methods in accordance with §115.910. The TNRCC has modified the AMOC rule language in order to expand the opportunity to use alternate control devices or methods which involve controlling unregulated facilities in lieu of regulated facilities and same-source applications. Expansion of the AMOC program to multiple source applications necessarily involves the addition of more stringent control and application requirements, many of which are irrelevant to single-source AMOC applications. The TNRCC staff has modified the language in §115.910 and §115.912 in order to avoid undue and unintended burdens on a source seeking an AMOC simply to substitute one control device for another. Site-specific SIP and permit amendment procedures may be considered in situations for which an AMOC may not be approved.

Dallas stated that the definition of "1990 baseline emissions" needs to be more explicit. Dallas stated that it is not clear whether the term applies to all VOC sources in the account facility, including fugitives, or if it only applies to sources addressed elsewhere in Chapter 115.

The TNRCC staff has attempted to clarify the definition of "baseline" in §115.912 by modifying the language.

As noted by EPA, §115.912(2) states that "credits are generated by controlling a source beyond the degree required by this chapter." The EPA requested the state to more clearly

define what types of emission reductions would be eligible for generating credits. The EPA noted that various ways to produce actual emission reductions might include shutdowns, curtailment, installation of more stringent emission control technology, process changes, and material input changes. The EPA further noted that under an emission averaging program, emission reductions from shutdowns or curtailments could not provide credit, however, they could provide credit under an emissions cap program.

The AMOC program has been modified to provide for an annual emissions limit and short-term emissions potential. If shutdown credits generated by the applicant meet the criteria of the AMOC rule, those credits will be considered by the TNRCC. It is the position of the TNRCC that shutdown sources for which the applicant is seeking credit must have been in operation prior to January 1, 1990, must have been included in the 1990 base year emissions inventory, and must remain shutdown. It is the intent of the TNRCC staff to recommend approval of those AMOCs that meet the requirements identified in the AMOC rules and for which AMOC provisions are agreeable to both the TNRCC and the AMOC applicant.

An individual referenced §115.912(2) and stated opposition to any emission credit system. Section 115.912(2) reads as follows: "The AMOC applicant shall calculate emission reduction credits generated (credits are generated by controlling a source beyond the degree required by this chapter) by subtracting the source's proposed actual emissions under the AMOC plan (its alternative emission limit) from the source's baseline."

As noted, the AMOC program has been modified to provide for an annual emissions limit and short-term emissions potentials. If shutdown credits generated by the applicant meet the criteria of the AMOC rule, those credits will be considered by the TNRCC. It is the position of the TNRCC that sources seeking credit for shutdowns must have been in operation prior to January 1, 1990, and must remain a shutdown credit. It is the intent of the TNRCC staff to recommend approval of those AMOCs that meet the requirements identified in the AMOC rules and for which AMOC provisions are agreeable to both the TNRCC and the AMOC applicant.

The EPA identified the need in §115.912(3) to more clearly define the term "proposed actual emissions." The EPA noted that in §115.912(1) and (2), the term is followed by "its alternative emission limit." The EPA inquired whether this means the proposed actual emissions become the new enforceable annual emission limit for the unit, and if so, EPA stated that the subsection should explicitly state this. In addition, EPA inquired whether the proposed actual emissions are to be based on historic data or projected activity levels.

The TNRCC agrees and staff has addressed EPA's request to clearly define the terms in §115.911 and §115.912 by modifying the language used to explain "actual annual emissions," as well as that used to describe calculations for equivalency. The TNRCC

staff has eliminated the use of the term "proposed actual emissions." In addition, the TNRCC staff has cross-referenced §115.911 and §115.912 for clarification purposes.

An individual requested that in §115.912(3) a definition be provided for "best available data" and "good engineering practice." In addition, the individual requested that in §115.912(4) a definition be provided for "assuming full compliance with the requirements of this chapter."

The terms noted are terms that have meaning commonly ascribed to them in the field of air pollution control. The TNRCC staff does not believe that further definition is necessary. The terms identify standards or expectations of the TNRCC when considering the approval or disapproval of an AMOC plan.

In §115.912(4), TCC/TMOGA suggested that the reference year for baseline calculations should not be fixed at 1990, otherwise, the TNRCC will be unable to consider sources constructed and regulations adopted after that date. The TCC/TMOGA recommended adding the words "or thereafter" in §115.912(4).

The TNRCC staff has provided for a flexible baseline. The TNRCC intends to approve an AMOC which maintains consistency with air quality planning for the state and meets the criteria of this undesignated head.

AMOCO stated that calculations for determining AMOC reductions should not limit the baseline definition of the actual emission rate to the year 1990 only. This could result in a severe penalty for a unit that experienced outages in 1990. It is further perceived that the goal of establishing a baseline could still be achieved, while at the same time allowing a more comprehensive review of facility operation. AMOCO suggests that the phrase "or any two-year period from 1990 to present" be added in §115.912(4).

As noted in the previous response, the TNRCC staff has provided for a flexible baseline. The TNRCC intends to approve an AMOC which maintains consistency with air quality planning for the state and meets the criteria of this undesignated head.

In §115.913, Procedures for AMOC Plan Submittal, the TCC/TMOGA recommended that the reference to "company name" in §115.913(b)(1) be changed to "AMOC applicant name" to reflect the fact that AMOCs may be requested by entities other than "companies." The TCC/TMOGA further recommended that all references to "applicant" in the rules be changed to "AMOC applicant."

The TNRCC agrees and has modified the language to reflect the change to "AMOC applicant name" and references of "applicant" to "AMOC applicant" for clarification purposes.

AMOCO stated that §115.913(b)(3) should be revised to consistently reflect the modifications to §115.912(4) and suggested adding the phrase "or the quantification of the AMOC plan sources' actual emissions based on the selected two-year period from 1990 and beyond."

The TNRCC staff has provided for a flexible baseline. The TNRCC intends to approve an

AMOC which maintains consistency with air quality planning for the state and meets the criteria of this undesignated head.

The TCC/TMOGA does not support the specification of averaging times in §115.913(b)(4). The TCC/TMOGA states that the purpose of an AMOC is to provide for a substitute means of achieving the goal of Chapter 115, which is attaining the ozone National Ambient Air Quality Standards (NAAQS) as determined through the air quality planning process with the process based on achieving reductions in annual emissions from 1990 baseline levels. The TCC/TMOGA believes that the main inquiry for any AMOC should be whether it will achieve at least the same reduction in annual emissions as would literal compliance with specific provisions of Chapter 115. The TCC/TMOGA recommended that §115.913(b)(4) be changed to remove "a typical peak ozone weekday for the base year 1990, averaged over a period no greater than 30 days. If this averaging period or limitation conflicts with an averaging period or limitation under §115.911(7)(B) and replace it with "the criteria established in §115.911(7)." They also recommended that "then the more stringent of the two subsections applies" be removed.

The TNRCC staff has modified the language to incorporate the concept of short-term emission potentials with an annual emissions limit. The TNRCC position is consistent with the air quality planning for the state.

The EPA noted that in §115.913(b)(4), the AMOC proposed rule requires that in addition to the annual emission limit, the AMOC plan must establish a "short-term emission limit based upon a typical peak ozone weekday for the base year 1990, averaged over a rolling period no greater than 30 days." The EPA stated that the TNRCC must further clarify how the short-term limit is to be established. The EPA inquired how the TNRCC intends to require that the short-term limit be equivalent to the peak ozone weekday emissions reported for that unit in the 1990 base year inventory and whether the emission limit is to be specified as an emission rate limit or a mass-emission cap limit. The EPA stated that since the TNRCC is allowing for an averaging period greater than 24 hours, the TNRCC will need to provide, in support of the SIP submittal, a statistical showing that the specified averaging time is consistent with attaining the ozone NAAQS and satisfying reasonable further progress (RFP) requirements on the basis of typical summer day emissions.

The TNRCC staff has modified the language to incorporate the concept of short-term emission potentials with an annual emissions limit. The TNRCC position is consistent with the air quality planning for the state. It is the intent of the TNRCC to establish the statutory upper limits for emissions as defined within the AMOC rules. In addition, the offset ratios are to be measured against annual emissions. Thus, the evaluation for AMOC sources must ensure that real reductions occur in compliance with §115.911 requirements, relating to Criteria for Approval of AMOC Plans. The TNRCC also understands that EPA desires a statistical showing that demonstrates that ap-

proval of AMOC plans incorporating averaging times longer than 24 hours is consistent with attaining the NAAQS and satisfies RFP requirements. The TNRCC does not anticipate that a sufficient number of AMOC applications will be received to provide an adequate statistical database for this type of analysis. Incorporation of a threshold maximum, however, limits the maximum daily potential emissions of an AMOC plan to the statistical noise level of the Urban Airshed Model. Incorporation of a limit upon the total increases in the maximum daily potentials to emit that will be approved in any nonattainment area, based upon a level of significance with no impact upon the modeled ozone levels for that area, ensures that no violation of the NAAQS will be caused by the cumulative impact of all AMOC plans

The EPA requested in §115.913(b)(5) that the TNRCC be consistent in the terminology used or clarify how "projected emissions from the affected source(s) without the AMOC plan" are to be calculated. The EPA understands this phrase to be identical to the term "baseline," as defined in §115.912(4)

The TNRCC staff has addressed EPA's request to clearly define the terms in §§115.911, 115.912, and 115.913 by modifying the language.

Vought stated that §115.913(c) makes it unlawful to make any changes which will cause a change in the character of the emissions, or will result in an increase in the discharge of the various emissions. Vought further stated that there should be more latitude for use of similar kinds of VOC producing materials. In addition, Vought stated that §115.913(c) does not allow for reformulations by manufacturers, or even for the substitution of formulations of products that may be lower in overall VOC, but higher in one particular component. Vought stated that an exemption should be written based on criteria such as the health effects level of components, distance to off-site receptors, and total emissions.

The exemptions proposed by Vought are beyond the scope of the current proposal. The AMOC program is designed to provide an opportunity to utilize alternatives to the reasonably available control technology requirements of Chapter 115. Vought proposed the establishment of exemptions analogous to those incorporated in the best available control technology review provided for new sources under Chapter 116, relating to Control of Air Pollution By Permits For New Construction of Modification. Exemptions requiring such detailed review are appropriate on a case-by-case basis for new sources in the permitting process. However, the provision of such exemptions to the AMOC program would place an inordinate burden upon the resources of the TNRCC and the AMOC applicants, without providing an appropriate benefit to the environment

An individual stated that under §115.913(c) it should be unlawful, period, if a person varies from any provision of the AMOC

It is the intent of the TNRCC to allow those AMOCs that meet the requirements of the AMOC rules. It shall also be unlawful for any AMOC holder to vary from the emission lim-

its, control requirements, and monitoring, testing, reporting, and recordkeeping requirements of an approved AMOC plan.

For clarification purposes, TCC/TMOGA recommended adding "as a new AMOC plan" to proposed §115.913(d).

The TCC/TMOGA further requested clarification that any requested change would not necessarily be subjected to full-blown AMOC application and documentation requirements, but only require a demonstration that the change does not affect the source's continued eligibility under the rules.

The TNRCC staff believes TCC/TMOGA's request is reasonable and has modified the language in this section. The modification clarifies the requirements of an amended or revised AMOC plan. The clarification should sufficiently address TCC/TMOGA's concerns.

An individual stated that under §115.913(d), any revisions or moves to amend an AMOC must undergo a 30-day public comment period so that the public has a chance to respond.

The TNRCC staff believes that the AMOC rules provide for sufficient public comment and involvement in the AMOC process.

In §115.914, Procedures for an AMOC Plan Approval, for clarification purposes, TCC/TMOGA requested the following changes to §115.914(2). They requested that the word "appealable" be revised to read "appealable to the Commission as provided in paragraph (7) of this section."

The TNRCC staff believes that the TCC/TMOGA request is reasonable and has modified the language as requested.

In §115.914(4), an individual requests clarification of "significant and timely written comments" and asks who makes this decision.

The position of the TNRCC staff is to evaluate written comments submitted prior to or by the close of the public comment period. Staff attempts to identify relevant issues impacting the proposed AMOC rules which are subject to adoption and responded to in a manner that provides for a more effective AMOC plan. The proposed AMOC rules provide for the delegation of discretion to approve or deny AMOC plans to the TNRCC Executive Director. The TNRCC staff, acting on behalf of the Executive Director has the authority to make such decisions.

The TCC/TMOGA suggests a change in the placement of "in response to the analysis of written comments" in §115.914(5) to eliminate a misplaced modifier

The TNRCC staff finds the TCC/TMOGA suggestion to be reasonable and has modified the language as requested in order to improve the sentence structure.

In §115.914(6), TCC/TMOGA suggested the word "proposed" be removed and "the notice required by this subsection shall be sent by a means evidencing receipt" be added.

The TNRCC staff finds the TCC/TMOGA suggestion to be reasonable and has modified the language as requested in order to clarify the intent of this section of the AMOC rule.

In §115.914(7), TCC/TMOGA recommended the words "or submitted by EPA" be deleted and "paragraph (6)" be added for clarification. The TNRCC agrees that the requested clarification is needed in this section and has modified the language.

The TCC/TMOGA suggested adding the reference to paragraph (6) to §115.914(8) as well.

The TNRCC staff finds the TCC/TMOGA suggestion to be reasonable and has modified the language as requested in order to clarify the procedures required to obtain an AMOC.

Amoco stated that §115.914(9) should be deleted to stay enforcement for facilities which have submitted an application for an AMOC but are waiting for approval. AMOCO further stated that it is possible that the compliance date could arrive prior to the facility obtaining approval of its AMOC plan.

The TNRCC disagrees and identifies in the preamble of the rules the need to submit an AMOC application six months prior to the compliance date in order to allow for timely TNRCC consideration. As stated previously, the TNRCC intends to process AMOC applications in a timely manner with the goal identified as within 150 days of the date of receipt. However, application deficiencies or unforeseen events may delay approval of an AMOC until after the compliance date or may require disapproval of an AMOC application. By not authorizing a stay of enforcement for facilities which submit an AMOC application, the TNRCC discourages last minute, frivolous applications for which the sole intent may be to delay compliance with Chapter 115. On or after the compliance date specified in Chapter 115, AMOC applicants are required to either comply with the applicable rules or obtain an approved AMOC. It is the TNRCC enforcement position that if an AMOC applicant acted in good faith with regard to the AMOC request, the TNRCC may administratively resolve, upon final approval of an AMOC, any violation resulting from a failure to obtain an approved AMOC prior to the compliance date of the regulation

In response to §115.914(9), TCC/TMOGA urged the TNRCC to adopt a provision that does create a stay of enforcement for persons submitting AMOC plans, provided that the rule makes it clear that the AMOC applicant would be liable for noncompliance retroactive to the effective date of the underlying rules should the proposed AMOC plan be denied. The TCC/TMOGA noted that §115.914(9) seems misplaced in the overall order of the rest of §115.914.

The TNRCC has restructured §115.914 such that §115.914(9) is addressed in §115.910, relating to Applicability of AMOC. With regard to the request for a stay of enforcement, please refer to the previous comment.

Amoco noted that in §115.914(10) the proposed rule states that "if no appeal of the Executive Director's decision to approve the AMOC plan is filed, the AMOC plan becomes effective upon the acceptance of the plan by EPA." Amoco understands the need for the TNRCC to obtain EPA approval for the overall AMOC concept. However, Amoco does

not believe it should be necessary for EPA to review every individual plan for acceptance. Amoco stated that individual plan reviews by both the TNRCC and EPA are duplicative efforts and ultimately expend more capital resources and slow down the process for the applicant. Amoco believes that it is essential for the EPA to give the TNRCC the flexibility needed to govern and administer the TNRCC programs. Amoco noted that this thinking is in keeping with the President's Executive Order issued in the October 4, 1993, *Federal Register* as follows: "The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society... regulatory approaches that respect the role of State, local, and tribal governments, ..."

The TNRCC agrees with Amoco's comment; however, EPA approval is required for EPA to approve the proposed rules and subsequent SIP submittal

For clarification purposes, TCC/TMOGA suggested references to both paragraphs (7) and (12) in §115.914(10).

The TNRCC staff finds the TCC/TMOGA suggestion to be reasonable and has modified the language as requested with the reference to paragraph (7) changed to paragraph (8) which reflects the restructuring of the section.

In addition, TCC/TMOGA suggested that in §115.914(12) the phrase "is defined as" be added, rather than the previous "shall be considered to be"

The TNRCC staff finds the TCC/TMOGA suggestion to be reasonable and has modified the language as requested

An individual feels that under §115.914(12), the TNRCC should require EPA to respond to AMOC plans.

The TNRCC has requested EPA to inform the state as to the intent of EPA to approve or disapprove an AMOC. However, the TNRCC would not want to delay an AMOC plan found acceptable to the Executive Director in the event of untimely EPA response.

In §115.915, Public Notice Format, the TCC/TMOGA noted that §115.915(b) (1) references an "AMOC plan application number" and inquires as to whether the number is to be assigned by the TNRCC upon filing of the request

For clarification purposes, the TNRCC staff added the language "assigned by the TNRCC" to the proposed language

The TCC/TMOGA noted that in §115.915(b)(2) the reference to "company" should be changed to "AMOC applicant."

The TNRCC staff agrees and has modified the language as requested

In §115.916, Review of Approved AMOC Plans, the TCC/TMOGA suggested revising §115.916(b) to add "unless revised to reflect new regulatory requirement" The TCC/TMOGA is concerned that §115.916(b) as currently proposed would cause an AMOC

plan to be voided even if the AMOC holder had gotten the AMOC plan revised in anticipation of forthcoming regulatory requirements affecting sources governed by the AMOC.

The TNRCC staff finds TCC/TMOGA's request to be reasonable and has modified the language as suggested.

HL&P noted that §115.916(b) voids an AMOC plan on the compliance date specified in a new or modified section of Chapter 115 which affects a source subject to an AMOC plan. HL&P recommended that provisions be created to allow a facility to simply verify continued compliance of a regulated source subject to an AMOC plan should the rules affecting such a source be modified. HL&P noted that such a verification would reassure the TNRCC that the necessary VOC emission reductions are still being realized as well as preventing a facility from going through the burdensome process of creating a completely new AMOC plan for TNRCC approval.

As noted in the previous response to comment, the TNRCC staff has modified the language for flexibility.

Vought stated that the compliance demonstration every three years should apply only to AMOC plans which were adopted after this revision of Subchapter J.

The TNRCC staff, in response to public comments, believes that modification to this section was necessary to be consistent with current air quality planning and inspection procedures.

Amoco stated that the requirement in §115.916(d) for a mandatory three-year review of the AMOC plan should be deleted. As an alternative, Amoco suggested the following language: "Any facility covered by an approved AMOC plan must submit within 425 days after start-up of alternative controls, a report documenting that the annual emission reductions achieved by the AMOC plan are equivalent to or greater than the reductions required in Chapter 115. The report shall include the emission point number, the facility identification number, the baseline annual emission level and the actual annual emission level after alternative controls are installed"

Refer to the previous response to comment

The TCC/TMOGA urged the deletion of §115.916(d). The TCC/TMOGA stated that given that the rules require automatic review of any AMOC to accommodate new regulatory requirements, there is no purpose served by also requiring review every three years. The annual inspection process already ensures that the use of AMOCs will be audited on a regular basis

The TNRCC staff finds TCC/TMOGA's request to be reasonable and has deleted the language as suggested. Upon review of the impact of the AMOC rules on the TNRCC Regional Offices with regard to site inspections, the TNRCC staff believes that the current inspection procedures are sufficient to evaluate whether the AMOC holder is complying with required standards

Vought noted that in the preamble of the proposed rule, it is stated that "a method of

control implemented prior to January 1, 1991, shall not be recognized as meeting the criteria established for an AMOC." Vought stated that companies have expended considerable amounts of money and efforts to purchase abatement equipment, develop compliance plans, and obtain air permits to comply with Chapter 115. Vought further stated that some of the permits were issued for periods of 15 years and now in less than four years will no longer be "recognized," by definition. Vought stated that some blanket variance should be granted to companies which have developed and permitted equipment and operational procedures to comply with the regulations

The TNRCC, upon considering comments, modified the language within the AMOC rules to provide for a flexible base year. The position of the TNRCC staff is to maintain consistency with state air quality planning and to ensure that the criteria established for an AMOC is met. Modifications to reduce VOC emissions prior to the proposed AMOC rules are not recognized. However, the TNRCC is attempting to provide flexibility for companies with creative solutions to reduce VOC emissions in lieu of complying with Chapter 115 provided that the reduction is surplus to the TNRCC regulations

Summary Comments Amoco is supportive of the AMOC concept and encourages the TNRCC to extend the philosophy to future programs that may require reductions. Amoco requested the TNRCC to add verbiage clarifying that excess emissions (those greater than the reductions required in Chapter 115) can be used for trading, netting, or other purposes for the applicant. Amoco urges the early adoption of inter-pollutant trading concepts to provide incentives for continued economic growth opportunities in the Texas Gulf Coast area where growth opportunities are negatively impacted by ozone nonattainment designations.

The TNRCC staff reiterates the position that the scope and requirements of the AMOC rules are currently not sufficient to allow for the type of trading and netting purposes requested by Amoco. The intent of the AMOC rules is to provide for alternate means of control strictly within the same TNRCC account number

The EPA noted that the AMOC-proposed rules specify a 30-day comment period and a 45-day EPA review period. The EPA stated that current draft EPA policy on SIP flexibility calls for EPA to have a minimum of 180 days

The TNRCC staff participated in rule negotiations with EPA Region 6 which addressed the timeline issue. It is the position of the TNRCC staff that the negotiated time frame of 150 days is a realistic goal for processing AMOC applications. The TNRCC staff has identified a range of 120 days to the EPA-identified 180-day processing time for an AMOC plan submittal. It is the intent of the TNRCC to meet the 150-day goal as identified during the rule negotiation period for processing an AMOC plan

The EPA stated that because the AMOC program involves an emission trading program, EPA will have to evaluate the AMOC program for consistency with the EIP rules before the

program can be approved into the SIP. The EPA noted that the EIP rules establish the criteria upon which EPA will determine the acceptability of a state's EIP SIP submission. The EPA noted that §51.493 of the EIP lays out nine main elements that the state needs to address in any EIP SIP submittal. The EPA further stated that while many of the criteria should be met if the state addresses EPA's comments (included within this document) and revises the proposed regulation appropriately, some criteria will need to be addressed in a narrative to the regulation, that should be submitted to EPA as part of the SIP submission. The EPA identified the need for the TNRCC to include within the SIP narrative an explanation of how the state program meets each requirement specified in §51.493 of the EIP. The example identified by EPA is to clearly explain how the EIP will provide benefits to both the environment and to the regulated entities as required by §51.493(a)(1).

The TNRCC believes that EPA's request is reasonable in the sense that the EIP provides general consistency. However, the EIP was recognized as strictly guidelines for developing the AMOC proposed rules, therefore the TNRCC does not consider the AMOC rules to be an EIP program. During rule negotiations with EPA, the TNRCC communicated the desire to propose AMOC replicable procedures that were beyond the Economic Trading Policy Statement, yet not incorporating all of the EIP, since the AMOC program provides for site-specific trades and allows for a 45-day EPA veto authority. If all the EIP components are to be required for approval, it would be in the best interest of an expedited process to eliminate the 45-day EPA veto authority as the rule would encompass all the EIP components. Furthermore, the TNRCC staff would recommend that the AMOC program be developed as a full VOC trading policy. It is, however, the intent of the TNRCC staff to address specific compliance with the EIP in a SIP narrative statement. It is also the intent of the TNRCC staff to develop future AMOC rules to replace this interim rule, which would ultimately eliminate the need for an EPA review.

The EPA noted that 40 Code of Federal Regulations (CFR) §51.493(d) and (e) require that the EIP contains credible, workable, and replicable methods for quantifying emissions, and specific monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the applicable requirements. The EPA stated that the TNRCC AMOC proposal does not contain replicable emission quantification protocols nor specific monitoring, recordkeeping, and reporting requirements.

The EPA will consider approval of EIPs that do not contain replicable emission quantification protocols nor specific monitoring, recordkeeping, and reporting requirements under the following conditions: the state regulation which allows for source-specific trades contains the general framework that address all elements of the EIP program; the state regulation requires EPA review and approval of each source specific trade; and the SIP submission to EPA includes at least one source-specific trade which contains the specifics of the trade including the emission

quantification calculations, enforceable emission limits, and monitoring, recordkeeping, and reporting requirements. As a result, EPA stated that the TNRCC will have to also submit at least one source-specific trade that will go through the full EPA review process.

The EPA stated that because the AMOC proposed rule provides for an alternative way to comply with Chapter 115, the TNRCC needs to include in the SIP narrative a discussion of the appropriate application of the two uncertainty factors required by 40 CFR §51.493(f)(2). The EPA further stated that based on the application of the factors, the TNRCC will need to either adjust the SIP credit calculated for Chapter 115 or demonstrate that the uncertainty factors for sources using the AMOC provision should be the same as the rule effectiveness factors used in calculating SIP credit from Chapter 115.

Refer to the previous response to comment.

The EPA stated that in the SIP narrative, as required by 40 CFR §51.493(f)(3), the TNRCC must commit to conducting periodic audits of the program to ensure that projected emission reductions are realized. The EPA further requires that in the auditing procedures, the TNRCC must clearly specify what data will be collected to evaluate the program, and when the audits will occur (not to exceed three-year intervals). In addition, EPA requires the TNRCC to commit to: evaluating, to the extent practicable, the cost savings relative to traditional regulatory program requirements realized during program implementation; ensuring the timely implementation of programmatic revisions or other measures which the TNRCC in response to the audit, deems necessary for the successful operation of the program in the context of overall RFP and attainment requirements; and providing timely post-audit reports to EPA.

The EPA stated that as required by 40 CFR §51.493(h), the SIP narrative will also need to contain a description of the TNRCC commitments which are integral to the implementation of the program, and the administrative system to be used to implement the program, addressing the adequacy of the personnel, funding, and legislative authority.

The position of the TNRCC staff is to consider EPA's comment regarding audit provisions and incorporate the necessary provisions into the SIP narrative statement as it pertains to the TNRCC SIP planning process and air quality planning for the State of Texas.

The EPA stated that as required by 40 CFR §51.493(i), the SIP must contain the TNRCC's enforcement program which defines violations and specifies auditing and inspection plans and provisions for enforcement actions. The EPA stated that the program must contain effective penalties for noncompliance which preserves the level of deterrence in traditional programs.

The TNRCC staff considers noncompliance with the AMOC provisions to result in noncompliance with Chapter 115. Thus, a violation of the AMOC provisions would result in a violation of Chapter 115 for which the enforceable provisions shall be implemented.

The amendment and new sections are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.901 Insignificant Emissions. For persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis counties, the Executive Director, after consultation with appropriate local governmental agencies, may exempt a specific compound or a specific vent gas stream from the application of this chapter if the Executive Director determines that the emissions from the compound or specific vent gas stream will not make a significant contribution to air contaminants in the atmosphere.

§115.910 Availability of Alternate Means of Control.

(a) Any person affected by a control requirement and/or emission specification of this chapter may request approval of an Alternate Means of Control (AMOC) plan using the procedures established in §115.913 of this title (relating to Procedures for Alternate Means of Control Plan Submittal). Such AMOC plan shall be approved if it is demonstrated that the plan meets all applicable criteria and procedures of §§115.911-115.913, 115.915, and 115.916 of this title (relating to Criteria for Approval of AMOC Plans; Calculations for Determining AMOC Reductions, Procedures for AMOC Plan Submittal, Public Notice Format, and Review of Approved AMOC Plans and Termination of AMOC Plans). The AMOC plans not satisfying the requirements of this undesignated head may apply for a site-specific State Implementation Plan revision approved by the Executive Director and the United States Environmental Protection Agency.

(b) An AMOC applicant may apply to the Executive Director for a waiver of portions of §115.913 of this title (relating to Procedures for Alternate Means of Control Plan Submittal) which may not apply to a single-source AMOC application and for §115.914 and §115.915 of this title (relating to Procedures for an Alternate Means of Control Plan Approval and Public Notice Format). A single-source AMOC application is one that proposes only the substitution of one control device for another.

(c) Application for an AMOC plan does not stay enforcement of regulations of this chapter.

(d) Any violation of an AMOC plan shall be subject to enforcement action as a violation of this chapter.

§115.911. Criteria for Approval of Alternate Means of Control Plans. An alternate means of control (AMOC) plan shall be approved if it meets each of the following criteria, as applicable.

(1) All facilities covered by the AMOC plan are and remain in the same Texas Natural Resource Conservation Commission account number.

(2) The AMOC plan must propose annual emission limits in tons per year for each source in the AMOC plan that, when collectively compared against actual annual emissions generated in 1990 (or subsequent years if a source in an AMOC was not operational prior to 1990), result in net emissions reductions equal to or greater than reductions that would be achieved if each source complied with all applicable requirements of this chapter.

(3) If the AMOC plan involves any source with a proposed annual emission limit which exceeds the baseline as defined in §115.912(a) of this title (relating to Calculations for Determining Alternate Means of Control Reductions), the AMOC plan must provide additional reductions made at alternative sources which comply with the guidelines in §115.912 of this title and are at least equal to the amount the source exceeds its baseline, multiplied by the applicable factor provided in the following subparagraphs.

(A) For sources located in the Beaumont/Port Arthur area, the applicable factor is 1.2.

(B) For sources located in the Dallas/Fort Worth area, the applicable factor is 1.15.

(C) For sources located in the El Paso area, the applicable factor is 1.2.

(D) For sources located in the Houston/Galveston area, the applicable factor is 1.3.

(E) For sources located in other areas in Texas, the applicable factor is 1.1.

(4) The AMOC application must demonstrate that the sum of the maximum daily potentials to emit from the sources subject to the proposed AMOC plan shall not be more than 200 pounds per day greater than the sum of the maximum daily potentials to emit from those sources if the emissions were controlled in accordance with this chapter, concerning Control of Air Pollution From Volatile Organic Com-

pounds. For each nonattainment area, the Executive Director shall establish a limit upon the sum of the increases of the maximum daily potentials to emit from all AMOC plans in the nonattainment area. The limit shall be set so that the sum of the maximum daily potentials to emit shall not increase the measurable or modeled ozone level by one part per billion.

(5) The AMOC must be implemented and reductions created after January 1, 1991.

(6) Reductions in actual emissions accounted for in the AMOC plan must be surplus and remain surplus to reductions required by this chapter and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area), §116.151 of this title (relating to New Major Source or Major Modification in Nonattainment Area Other than Ozone), §116.160 of this title (relating to Prevention of Significant Deterioration Requirements), and §116.161 of this title (relating to Source Located in an Attainment Area with a Greater than De Minimis Impact). Reductions for which the state has claimed credit in a State Implementation Plan may not be utilized as reductions in an AMOC plan.

(7) Mobile sources and indirect sources (Federal Clean Air Act, §110(a)(5)(C)) shall not be included in the AMOC plan.

(8) For purposes of demonstrating reductions and establishing emission limits in any AMOC plan, quantification of emissions must be accomplished using any of the following methods as specified by the Executive Director:

(A) test methods approved by the Executive Director for the direct measurement of emissions, either continuously or periodically,

(B) calculation equations which are a function of process or control system parameters, activity levels, and/or throughput or production rates;

(C) mass-balance calculations which are a function of inventory, usage, and/or disposal records;

(D) other appropriate methods acceptable to the Executive Director; or

(E) any combination of these approaches

(9) The AMOC plan must establish emission limits and/or control requirements for all sources in the plan which render the proposed annual emission limits enforceable

(10) The AMOC plan must include all necessary and appropriate provisions for monitoring, testing, reporting, and recordkeeping as specified by the Executive Director. The frequency of AMOC required monitoring, testing, reporting, and recordkeeping shall be sufficient to reasonably ensure compliance with applicable emission limits and/or control requirements. The monitoring, testing, reporting, and recordkeeping shall be at least as reliable, readily retrievable, and retained for a comparable period of time as the underlying requirements of this chapter, concerning the Control of Air Pollution From Volatile Organic Compounds.

(A) If this chapter includes monitoring, testing, reporting, and/or recordkeeping requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such requirement may be used to render the AMOC plan enforceable. If this chapter does not include readily transferable monitoring, testing, reporting, and/or recordkeeping requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then priority may be given to any such set of requirements adopted under other TNRCC rules for the control of volatile organic compounds (VOC) emissions from sources of the type(s) to be covered by an alternate emission limitation and/or control requirement.

(B) If this chapter includes emission limits and/or control requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such alternative emission limitation and/or control requirement may be based on the same averaging time as is applied to those same type sources under this chapter. If this chapter does not include emission limitations and/or control requirements for sources of the type(s) to be covered by an alternate emission limit and/or control requirement, then priority may be given to averaging times for emission limits and/or control requirements on similar units governed by other TNRCC rules limiting VOC emissions from sources of the type(s) to be covered by an alternate emission limit and/or control requirement.

(C) If no such TNRCC monitoring, testing, reporting, and/or recordkeeping rules have been adopted that satisfy the criteria of paragraph (10)(A) and (B) of this section, then such requirements or averaging times shall be established on a case-by-case basis.

(D) Additional or more frequent monitoring, testing, reporting, and/or recordkeeping may be required by the Executive Director to ensure the integrity of any AMOC plan.

§115.912. Calculations for Determining AMOC Reductions.

(a) For purposes of this section, a source's baseline is defined as the annual emissions that are calculated assuming full compliance with the adopted requirements of this chapter and using data representative of actual operations in 1990 or thereafter for all variables necessary to calculate annual emissions for the identified source.

(1) For an AMOC application exclusively utilizing a source that existed prior to January 1, 1990, the AMOC application shall use data representative of actual operations in 1990.

(2) For an AMOC application utilizing a source that was created on or after January 1, 1990, the AMOC application shall use data representative of actual operations for the two years prior to the application for the AMOC, or other representative years, as determined by the Executive Director.

(3) For an AMOC application utilizing a source exempted from this chapter or with no applicable adopted requirements, or for a source whose actual annual emissions were less than the annual emissions calculated assuming full compliance with the adopted requirements, calculations will be based on actual annual emissions.

(b) The Alternate Means of Control (AMOC) applicant shall determine annual emissions limits for each source included in the AMOC plan by utilizing the best available data and good engineering practice, which may include the use of statistical techniques to address variations in the data.

(c) For any source not controlled as otherwise specifically required by this chapter where an applicable adopted requirement exists, the AMOC applicant shall calculate credits needed by subtracting the source's baseline from the source's annual emissions limit under the AMOC plan. This difference shall then be multiplied by the appropriate factor in §115.911(3) of this title (relating to Criteria for Approval of AMOC Plans), to determine the credits that must be generated by other sources.

(d) For a source controlled beyond the requirements of this chapter, or for a source exempted from or with no applicable adopted control requirement in this chapter, the AMOC applicant shall calculate the amount of emission reduction credits generated by subtracting the source's annual emissions limit under the AMOC plan from the source's baseline, less any reductions

that are generated for purposes discussed in §115.911(6) of this title.

(e) For all sources included in the AMOC plan, the AMOC applicant will sum the total of credits needed and the total of credits generated to establish that the credits generated exceed the credits needed.

(f) The maximum potential to emit shall be the maximum daily emissions that the source could emit subject to any physical, operational and regulatory limitations.

§115.913. Procedures for Alternate Means of Control Plan Submittal.

(a) All persons requesting an alternate means of control (AMOC) plan as provided by §115.910 of this title (relating to Availability of Alternate Means of Control) shall submit a proposed AMOC plan and demonstration to the Executive Director; copies of such plan and demonstration to the Texas Natural Resource Conservation Commission (TNRCC) Regional Office; copies to any local air pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan; and copies to the United States Environmental Protection Agency Regional Office in Dallas.

(b) The proposed AMOC plan shall include the following information:

(1) the AMOC applicant name with mailing address, site name with physical address, TNRCC account number, and contact person including address and telephone number;

(2) an identification and a description of the sources involved in the AMOC plan including any applicable air permit numbers, plot plans, detailed flow diagrams, emission point numbers (EPNs), and facility identification numbers (FINs); an identification of the provisions of this chapter that are applicable to such sources; and an identification of promulgated provisions of this chapter that will be applicable to such sources; and a description of normal operating conditions for each source causing emissions;

(3) a quantification of the AMOC plan sources' actual emissions for the selected year;

(4) a quantification of annual emission limits and daily maximum potential emissions from all sources affected by the AMOC showing the difference between projected emissions from the affected source(s) without the AMOC plan and projected emissions resulting under the proposed AMOC plan. These calculations shall be done in accordance with the requirements of §115.912 of this title (relating to Calculations for Determining Alternate Means of Control Reductions). Assump-

tions and emission factors utilized in the calculations shall be included;

(5) a specification of emission limitation(s) and control requirement(s) to be applicable to each source affected by the proposed AMOC plan. Emission limitations shall include actual annual emission limits in tons per year for each source. Control requirements must be established for each source to make annual emission limits enforceable;

(6) a description of the compliance methodologies, including monitoring, testing, reporting, and recordkeeping measures, that will be used to enforce the emission limitation(s) and/or control requirement(s) applicable to each source affected by the AMOC plan;

(7) a sample of reporting and recordkeeping forms to be utilized;

(8) a demonstration that the AMOC plan satisfies each applicable requirement of §115.911 of this title;

(9) a list containing the name, address, and telephone number of any air pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan; and

(10) any other relevant information necessary to evaluate the merits and/or enforceability of the AMOC plan, as may be requested by the Executive Director.

(c) All representations with regard to the AMOC plan, as well as any provisions attached to the AMOC plan, become conditions upon which the subsequent AMOC plan is issued. It shall be unlawful for any person to vary from such representation or provision if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions. It shall also be unlawful for any AMOC holder to vary from the emission limits, control requirements, monitoring, testing, reporting, or recordkeeping requirements of an approved AMOC plan.

(d) Applications to amend or revise an AMOC plan shall be submitted subject to the requirements of this chapter.

§115.914. Procedures for an Alternate Means of Control Plan Approval. Upon a preliminary determination to approve or deny the proposed Alternative Means of Control (AMOC) plan, the Executive Director shall, in writing, so notify the submitter of the plan, any local air pollution control program with jurisdiction over the Texas Natural Resource Conservation Commission (TNRCC or Commission) account affected by the AMOC plan, and the United States Environmental Protection Agency (EPA) Regional Office in Dallas.

(1) If the Executive Director makes a preliminary determination to approve the AMOC plan, then this notice shall include a copy of the AMOC plan as preliminarily approved.

(2) If the Executive Director makes a determination to deny the AMOC plan, then the notice shall include a description of the reasons for such determination of denial. This determination shall constitute a final action of the Executive Director appealable to the Commission as provided in paragraph (7) of this section.

(3) Upon receipt of notice from the Executive Director that the AMOC plan has received preliminary approval, the AMOC applicant, at the applicant's own expense, shall cause to be published notice of the applicant's intent to obtain an AMOC plan and of the opportunity to submit written comments. Notice shall be consistent with §115.915 of this title (relating to Public Notice Format).

(4) The Executive Director shall consider and prepare a written response to all significant and timely written comments filed in connection with an AMOC plan.

(5) In response to the written comments, the Executive Director may modify the provisions of the AMOC plan, deny the AMOC plan, or approve the AMOC plan without changes.

(6) The Executive Director shall send written notice of his/her final determination concerning each AMOC plan to the submitter of the plan, the EPA Regional Office, any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan, and to each person who submitted timely written comments. Such notice shall include final AMOC plan provisions, a copy of the response to comments, and an announcement of the opportunity to appeal the Executive Director's determination to the Commission. The notice required by this subsection shall be sent by a means evidencing receipt.

(7) Any person entitled to notice under paragraph (6) of this section may, within 15 days of the receipt of such notice, file with the Executive Director an appeal of the final determination on the AMOC plan. Such appeal shall be considered at the next regularly scheduled meeting of the Commission for which adequate notice may be made. Based on arguments submitted to the Commission during such appeal, the Commission may remand the AMOC determination to the Executive Director, deny the AMOC plan, or issue the AMOC plan unchanged.

(8) Within 45 days of final approval of the AMOC plan by the Executive Director, EPA may notify the TNRCC of EPA's disapproval of the Executive Direc-

tor's final decision. Such notification shall be in writing and shall include a statement of the reason(s) for the disapproval and a specific listing of changes to the AMOC plan that must be made in order to overcome the disapproval. Anytime prior to the expiration of the 45-day period, EPA may notify the Executive Director that no disapproval is forthcoming. Upon receipt of a timely EPA disapproval, the Executive Director shall void or revise the AMOC plan, and reissue the notice as required by paragraph (6) of this section.

(9) If no appeal of the Executive Director's decision to approve the AMOC plan is filed pursuant to paragraph (7) of this section, the AMOC plan becomes effective upon the acceptance of the plan by EPA as described in paragraph (11) of this section.

(10) If an appeal of the Executive Director's decision is filed, the AMOC plan becomes effective upon the letter of the acceptance of the AMOC plan by the Commission or the acceptance of the AMOC plan by EPA.

(11) EPA acceptance is defined as explicit approval of the AMOC plan by EPA, notification by EPA to the Executive Director that no EPA disapproval is forthcoming, or failure of EPA to file notice of disapproval within 45 days after the Executive Director's final decision to approve the AMOC plan.

§115.915. Public Notice Format.

(a) Public notice shall be published in the public notice section of two successive issues of a newspaper of general circulation in or closest to the municipality in which the facility with the Texas Natural Resource Conservation Commission (TNRCC) account affected by the alternative means of control (AMOC) plan is located.

(b) Public notice shall contain the following information:

(1) AMOC plan application number assigned by the TNRCC;

(2) AMOC applicant name;

(3) type of facility;

(4) a description of the location of the facility;

(5) a brief description of the AMOC plan;

(6) the Executive Director's preliminary determination to approve such plan;

(7) the locations and availability of copies of the proposed AMOC plan, related documentation, and the Executive Director's preliminary analysis of the plan

(including the TNRCC Austin and Regional Offices, any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan, and the United States Environmental Protection Agency's (EPA) Regional Office);

(8) an announcement of the opportunity to submit written comments on the AMOC plan;

(9) the length of the public comment period (30 days from the final publication of this notice);

(10) the procedure for submission of written public comments concerning the proposed AMOC plan; and

(11) the name, address, and phone number of the regional TNRCC office to be contacted for further information.

(c) The AMOC plan submitter shall provide proof of adequate notice to the TNRCC, EPA, and any local pollution control program with jurisdiction over the TNRCC account affected by the AMOC plan before the Executive Director may take final action on the AMOC plan.

§115.916. Review of Approved Alternate Means of Control Plans and Termination of Alternate Means of Control Plans.

(a) For the purposes of this undesignated head, "compliance date" shall mean the date by which a source must comply with new or modified sections of this chapter.

(b) Unless revised to reflect new regulatory requirements, an Alternative Means of Control (AMOC) plan becomes void on the compliance date specified for a new or modified section of this chapter affecting a source subject to an AMOC plan.

(c) The holder of an AMOC plan shall comply with the requirements of this chapter if the AMOC plan becomes void.

(d) Upon final approval of an AMOC plan, the owner or operator of the facilities affected by such plan shall keep a copy of the plan on the site affected by the plan which shall be made available to the Texas Natural Resource Conservation Commission representatives upon request.

(e) Upon request, each holder of an AMOC plan shall submit to the Executive Director a demonstration that the plan continues to meet all applicable criteria of this undesignated head.

(f) An AMOC holder is responsible for obtaining a new AMOC plan prior to the compliance date of any new or modified regulation of this chapter that affects a source subject to an AMOC plan.

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

Issued in Austin, Texas, on July 13, 1994

1100 9145305

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

Effective date August 9, 1994

Proposal publication date March 1, 1994

For further information please call (512) 279-0615

Early Reductions

• 30 TAC §115.920, §115.923

The Texas Natural Resource Conservation Commission (TNRCC) adopts new §115.920 and §115.923, concerning Early Reductions, with changes to the proposed text as published in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1436)

The revisions to new §115.920 and §115.923 establish early reduction procedures which may be used if it can be demonstrated that such procedures will result in emission reductions which are greater than or equal to the reductions which would be achieved by implementing the applicable methods of control specified in Chapter 115 (relating to Control of Air Pollution From Volatile Organic Compounds)

New §115.920 concerning Applicability, provides that the TNRCC may allow an early reduction with certain restrictions to replace the control requirements imposed by any section in Chapter 115

New §115.923, concerning Documentation, establishes the documentation criteria required for use of an early reduction in lieu of volatile organic compound (VOC) control requirements. For each source granted an alternative emission limitation under this section, there shall be established an early reduction plan

A public hearing was held on March 31, 1994 in Austin. The comment period closed on April 1, 1994

The TNRCC received testimony on §115.920 and §115.923, concerning Early Reductions, from two commenters. The United States Environmental Protection Agency (EPA) noted that the proposed Early Reduction rules are stricter than the Federal Early Reduction Program and requested that a Federal Clean Air Act §112(f) submittal be prepared if the TNRCC pursued the current rule direction. An individual generally opposed the Early Reduction rule

§115.920 Applicability. An individual stated opposition to §115.920(a) which allows for emissions reductions made between January 1, 1991, and the effective date of the Early Reduction rule

With regard to the individual's opposition to Early Reduction credit for reductions occurring between January 1, 1991, and the effective date of the Early Reductions rule, the TNRCC provides the following background information regarding the Early Reductions program. The current Federal Reduction rule recognizes emission reductions from the base year 1987 to the present with additional provisions for having 1985 or 1986 as the base year. The EPA considers the proposed TNRCC Early Reductions rule to be more restrictive than the Federal Reduction rule because of a later base year. The Early Reduction program has been limited to reductions after January 1, 1991, so credits obtained by the 1996 Rate-of-Progress (ROP) State Implementation Plan (SIP) are preserved. The 1996 ROP SIP has 1990 as its base year. It is the intent of the TNRCC to recognize emission reductions that are achieved in a manner that is consistent with state air quality planning and that satisfy the requirements of §115.920 and §115.923, concerning Early Reductions

The EPA noted that §115.920(a) restricts allowable reductions to those made after January 1, 1991. The EPA further noted that the Federal Early Reductions rule allows reductions to have been made after the base year (demonstration of emissions year). By EPA standards, the base year can be from 1987 to the present with additional provisions for having 1985 or 1986 as the base year. The EPA noted that the proposed TNRCC Early Reduction rule is more restrictive than the Federal Early Reduction rule

The TNRCC proposed allowing Early Reduction applications for emission reductions made after January 1, 1991, and which are greater than or equal to the reductions which would be achieved by implementing the applicable method of control specified in Chapter 115. Modifications to reduce VOC emissions prior to the proposed rule are not recognized. The TNRCC recognizes the January 1, 1991, date since it is consistent with current state air quality planning and allows the use of the base year 1990 for Emissions Inventory reporting or the most accurate available emission data. The identification of a January 1, 1991, date further allows the TNRCC to ensure the integrity of the Early Reductions program by preventing the use of emission reduction credits which would jeopardize the SIP process

The EPA noted that §115.920(a) contains a statement concerning the extent or amount of emissions reductions. The EPA noted that the proposed TNRCC Early Reduction rule requires that the early reductions achieved in the federal rule be "greater than or equal to the reductions which would be achieved by implementing the applicable control specified in Chapter 115." The EPA stated that under the Federal Early Reductions rule, facilities participated with the understanding that a 90% (or 95%) reduction from the base year had to be demonstrated. As a result, EPA stated that the TNRCC requirements appear to be more restrictive than the federal rule

Although the Early Reduction rule may be more restrictive than the federal rule, the intent of the TNRCC is to be consistent in the

manner that air quality planning is addressed in the rulemaking process.

The EPA noted that §115.920(a) contains a statement disallowing the use of wastewater and fugitive emissions in the early reductions application. The EPA stated that the Federal Early Reductions rule allows the use of wastewater and fugitive emissions. The EPA urged the TNRCC to consider allowing wastewater and fugitive emissions to be utilized under the TNRCC Early Reductions rule.

The TNRCC has attempted to address EPA's comment and modified the rule language to allow for the consideration of early reduction applications requesting an extension for emission reductions that address like emissions.

An individual requested that the term "substantially greater" in §115.920(b) be defined. An individual stated opposition to relying on engineering calculation methods to show reductions and wants continuous monitoring to show that emission reductions have actually occurred.

The term identifies a standard or expectation of the TNRCC when considering the approval or disapproval of an early reductions application. Engineering calculations are generally accepted as a method for demonstrating emissions and the TNRCC believes this method to be adequate for the Early Reduction program. Each application will be reviewed on a case-by-case basis for acceptability. The TNRCC staff believes that further definition is not feasible due to the wide variety of facility types that may apply.

The EPA stated that it is the prerogative of the TNRCC to have a rule apparently more stringent than a federal rule. However, EPA noted that for §112 rules, a §112(f) submission is required to be submitted to and approved by the EPA. The §112(f) submission demonstrates that the state rule is more stringent than the corresponding federal rule.

It is the position of the TNRCC that the early reduction provisions are consistent with state air quality planning and should not require a §112(f) submission.

The new sections are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purpose of the TCAA

§115.920. Applicability. Any person affected by any control requirement of this chapter may apply to the Texas Natural Resource Conservation Commission (TNRCC) for a six-year extension of the compliance date for the control requirements imposed by any section of this chapter adopted after July 9, 1993, provided that the owner or operator of the affected sources has an approved early reduction application for those sources for which the owner or operator is seeking an extension as specified in 40 CFR §63.79, and for which:

(1) volatile organic compound (VOC) emissions reductions were made after January 1, 1991, and are greater than or equal to the reductions which would be achieved by implementing the applicable method of control specified in this chapter;

(2) the alternate VOC emissions reductions are verifiable through testing or calculation methods which conform to good engineering practice and which are approvable by the Executive Director, and represent reductions in the actual emissions from the base year 1990, provided there is no evidence that emissions in the base year 1990 are artificially inflated or substantially greater than emissions in other years prior to implementation of emissions reduction measures;

(3) the alternate VOC reductions created by the Early Reductions program must be surplus to reductions required by this chapter and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area Other than Ozone), §116.161 of this title (relating to Source Located in an Attainment Area with a Greater than De Minimis Impact); and

(4) the sources in the early reduction application may be restricted to the grouping of the same type of emissions sources based upon determination by the Executive Director.

§115.923. Documentation.

(a) For each source requesting a six-year extension of the compliance date for control requirements in accordance with §115.920 of this title (relating to Applicability), there shall be established an Early Reductions Plan reflecting the emission reduction for VOC which qualifies the source for the six-year extension. In lieu of preparing a site-specific State Implementation Plan (SIP) for such Early Reductions Plan, a facility owner or operator shall comply with the requirements of this undesignated head.

(b) Documentation required for approval of the extension shall demonstrate to the satisfaction of the TNRCC Executive Director that emissions data for the identified source reflects verifiable data based on information for such source. Documentation shall include but is not limited to:

(1) a listing and description of controlled equipment;

(2) a listing of postponed required controls;

(3) a listing of uncontrolled emissions identified in the 1990 Emission Inventory;

(4) specific facility identification number(s) (FIN);

(5) specific emission point number(s) (EPN);

(6) account number(s);

(7) identification of applicable permit number(s);

(8) calculation(s), test data, and test methods for all VOC emissions associated with each identified source pertaining to paragraphs (1) and (2) of this subsection including an explanation;

(9) calculation(s), test data, and test methods for VOC reductions as compared to the 1990 Emission Inventory;

(10) an emission limitation; and

(11) any other relevant information necessary to evaluate the merits and/or enforceability of the Early Reduction plan, as may be requested by the Executive Director.

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 July 13, 1994.

TRD-9445306

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 90. Nursing Facilities and Related Institutions

The Texas Department of Human Services (DHS) adopts amendments to §§90.11, 90.18, 90.42, 90.191, 90.212, 90.215, 90.232, and 90.233, concerning criteria for licensing, license fees, standards for facilities serving persons with mental retardation or related conditions, procedural requirements, incidents of abuse and neglect reportable to DHS by facilities, investigations of incidents and complaints, suspension, and revocation, in its Nursing Facilities and Related Institutions rule chapter. The amendments are adopted with changes to the proposed text as published in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3906)

The justification for the amendments is to comply with the Health and Safety Code and to ensure consistency of DHS policies for formal hearings.

The amendments will function by incorporating into rules recent changes to Chapter 242 of the Health and Safety Code. The changes include extending the duration of a license to two years, increasing the licensing fees, requiring additional notification to new employees regarding reporting abuse and neglect, and giving DHS discretion in the investigation of abuse and neglect. In addition, the amendments change the timeframe for requesting appeals from 20 to 15 days. This ensures that formal hearing requirements for long term care facilities are the same as those applicable to other DHS formal appeals.

DHS received comments on the proposal from New Avenues of Hope, Inc.; the Office of Medicaid Administration of the Texas Department of Mental Health and Mental Retardation; and the Texas Health Care Association. A summary of the comments, and DHS's responses follow:

Comment: One commenter expressed support for DHS's rule stated in §90.212(b) concerning the requirement that employees report suspected abuse to DHS. The commenter, however, suggests that employees be advised that there are penalties for making false reports of abuse as a retaliation against a facility.

Response: The amendment to §90.212(b) is required by law. While the law states that it is a misdemeanor to report abuse and neglect in bad faith, maliciously, or recklessly, there is no requirement, by law, to inform employees of this. Therefore, DHS is adopting the language as proposed.

Comment: One commenter requested DHS to specify in §90.232 and §90.233 whether the facility has 15 calendar days or 15 working days to request a hearing.

Response: DHS is adopting the sections with changes to specify calendar days.

Comment: One commenter stated that the telephone number given in §90.212(c) to report abuse conflicts with the number given in §90.42.

Response: DHS is adopting §90.212(c) with changes to clarify the numbers to call to report abuse or neglect in nursing facilities and in facilities serving persons with mental retardation or a related condition.

Comment: One commenter asked "What additional notification is referenced in the preamble?"

Response: The additional notification is found at §90.212(b).

Comment: One commenter asked "Why is a new licensure application necessary with change of administrator?"

Response: A new licensure application is not required. Chapter 242 of the Health and Safety Code requires that DHS be notified and a fee be paid. The application referred to in the rules at §90.18(a)(3) is a one-page form, and a change in rule language in response to comment is "A new facility administrator must submit DHS's Application for Change form and"

Comment: One commenter stated that "DHS should consider redesigning its investigations

similar to the system used for personal care facilities."

Response: DHS has proposed an amendment to §90.215(d) to reflect this change (Texas Register, issue of July 8, 1994).

Comment: One commenter stated that "§90.212 should contain language addressing false or malicious reporting."

Response: The Health and Safety Code addresses false and malicious reporting. It is not necessary for DHS to restate the law.

In addition to changes resulting from public comments, DHS is adopting the following sections with minor changes that clarify, but do not change the intent or function of the sections:

Section 90.11 is adopted with an editorial change which consists of deleting the last sentence of subsection (e) on the grounds that the sentence is redundant.

Section 90.18(b)(2) with an editorial change to substitute "will" for "must" concerning rounding.

Section §90.42 is adopted with a change to restore subsection (e)(1)(C) which was inadvertently omitted when the proposal was published. Subsection (e) (1)(B) is adopted with editorial changes to clarify reporting requirements after 5:00 p.m. and on weekends and holidays. Subsection (e)(6)(B) is adopted with editorial changes substituting "must" for "may" regarding residents' access to medications and individual storage space.

Section 90.191(f) is adopted with a minor editorial change

Section 90.212(c) is adopted with changes to add after-hours telephone numbers for reporting abuse or neglect. Please note that the title of §90.212 is adopted with a minor editorial change

Section 90.215 is adopted with minor editorial changes.

Subchapter B. Application Procedures

• 40 TAC §90.11, §90.18

The amendments are adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§242.001-242.186.

§90.11 Criteria for Licensing.

(a)-(d) (No change)

(e) A license is issued to a facility which meets all requirements of this chapter and is valid for two years. Each license specifies the maximum allowable number of residents to be cared for at any one time.

§90.18. License Fees.

(a) Basic fees.

(1) Initial and renewal license. The license fee is \$150 plus \$5 for each unit of capacity or bed space for which a license is sought. The fee must be paid with each initial application and with each application for renewal of the license.

(2) Increase in bed space. An approved increase in bed space is subject to an additional fee of \$5 for each unit of capacity or bed space.

(3) Change of administrator or director. A new facility administrator must submit the Texas Department of Human Services' Application for Change form and a \$20 fee to DHS.

(b) Trust fund fee

(1) In addition to the basic license fee described in subsection (a) of this section, DHS has established a trust fund for the use of a court-appointed trustee as described in the Health and Safety Code, Chapter 242, Subchapter D.

(2) DHS charges and collects an annual fee from each facility licensed under the Texas Health and Safety Code, Chapters 242 and 247, each calendar year if the amount of the nursing and convalescent trust fund is less than \$100,000. The fee is based on a monetary amount specified for each licensed unit of capacity or bed space and is in an amount sufficient to provide \$100,000 in the trust fund. In calculating the fee, the amount will be rounded to the next whole cent.

(c) Alzheimer's certification. In addition to the basic license fee described in subsection (a) of this section, a facility that applies for certification to provide specialized services to persons with Alzheimer's disease or related conditions under Subchapter K of this chapter (relating to Certification of Facilities for Care of Persons with Alzheimer's Disease and Related Disorders) must pay an annual fee of \$100.

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) 450-3765

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Subchapter C. Standards for Licensure

• 40 TAC §90.42

The amendment is adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendment implements the Health and Safety Code, §§242.001-242.186.

§90.42. Standards for Facilities Serving Persons with Mental Retardation or Related Conditions.

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

(e) Additional requirements.

(1) The facility must develop and implement policies and procedures regarding injuries, accidents, and unusual incidents which involve or affect residents. These policies and procedures must include the following provisions

(A) An investigation and report must be completed which describes the circumstances of the injury, accident, or incident and its cause, the results of the investigation, and recommended actions. Serious injuries, accidents, or unusual incidents must be reported to the resident's responsible parties and to the department.

(B) Allegations of abuse, neglect, or other mistreatment of residents must be reported to the Texas Department of Human Services, PASARR/ICF-MR/RC Department, Long-Term Care-Regulatory, at (512) 834-6671, during normal workday hours. Incidents occurring after 5:00 p.m. on weekends and holidays are reported by calling 1-800-292-2065.

(C) In the area of criminal-history checks, the provider or facility must comply with the Health and Safety Code, Title 4, Chapter 250, which requires DHS to perform criminal history checks on persons employed by certain types of facilities.

(2) In the area of behavior management, seclusion of residents may not be used. Seclusion is defined as placement of a resident in a room without staff present from which egress is prevented by a locked door

(3) (No change)

(4) In the area of pharmacy services, the following applies

(A) All pharmacy services must comply with the Texas State Board of Pharmacy requirements, the Texas Pharmacy Act, and rules adopted thereunder, the Texas Controlled Substances Act, and Health and Safety Code, Chapter 483 (relating to Dangerous Drugs).

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

(5) (No change)

(6) In the area of administration of medication, the following applies.

(A) (No change)

(B) Residents who have demonstrated the competency for self-administration of medications must have access to and maintain their own medications. They must have an individual storage space that permits them to store their medications under lock and key

(C) Residents may participate in a self-administration of medication habilitation training program if the interdisciplinary team determines that self-administration of medications is an appropriate objective. Residents participating in a self-administration of medication habilitation training program must have training in coordination with and as part of the resident's total active treatment program. The resident's training plan must be evaluated as necessary by a licensed nurse. The supervision and implementation of a self-administration of medication habilitation program may be conducted by nonlicensed personnel and is not limited to personnel who have completed an approved training program in medication administration

(7) In the area of communicable diseases, the facility must have written policies and procedures for the control of communicable diseases in employees and residents. When any reportable communicable disease becomes evident, the facility must report in accordance with Communicable Disease and Prevention Act, Health and Safety Code, Chapter 81, or as specified in §§97.1-97.13 of this title (relating to Control of Communicable Diseases) and §§97.131-97.136 of this title (relating to Sexually Transmitted Diseases) and in the publication titled, "Reportable Diseases in Texas," Publication 6-101a (Revised 1987). The local health authority should be contacted to assist the facility in determining the transmissibility of the disease and, in the case of employees, the ability of the employee to continue performing his duties. The facility must have written policies and procedures for infection control, which include implementation of universal precau-

tions as recommended by the Centers for Disease Control (CDC).

(8) (No change.)

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

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Subchapter F. Inspections, Surveys, and Visits

• 40 TAC §90.191

The amendment is adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services

The amendment implements the Health and Safety Code, §§242.001-242.186

§90.191 Procedural Requirements

(a) Texas Department of Human Services (DHS) inspection and survey personnel must perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, and other contact visits from time to time as they deem appropriate or as required for carrying out the responsibilities of licensing

(b)-(c) (No change)

(d) With respect to being unannounced or announced, inspections, surveys, and other visits must meet the following

(1) All inspections, surveys, and other visits that are routine in nature and that are made for the purpose of determining the appropriateness of resident care and day-to-day operations of a facility must be unannounced, any exceptions must be justified

(2) Call-back visits must be unannounced, although it is recognized that the schedule of a call-back visit often relates to a date of correction made known to or by a facility in advance, any exceptions must be justified

(3) Any nonroutine or special inspection, survey, and other visit involving the appropriateness of some aspect of resident care must be unannounced unless particular circumstances justify otherwise.

(4) Complaint investigations must be unannounced.

(5)-(7) (No change.)

(e) Persons authorized to receive advance information on unannounced inspections include

(1) citizen advocates invited to attend inspections, as described in subsection (f) of this section,

(2) representatives of the Texas Department on Aging serving as ombudsmen or authorized to attend or participate in inspections,

(3) (No change)

(4) representatives of DHS whose programs relate to the Medicare/Medicaid long-term care program

(f) DHS must conduct at least two unannounced inspections each licensing period for each institution licensed under Health and Safety Code, Chapter 242, except as provided for in this subsection

(1) A sufficient number of inspections must be conducted between the hours of 5:00 p.m. and 8:00 a.m. In randomly selected institutions, a cursory after-hours inspection must be conducted to verify staffing, assurance of emergency egress, resident care, medication security, food service or nourishments, sanitation, and other items as deemed appropriate. To the greatest extent feasible, any disruption of the residents must be minimal

(2) For at least two unannounced inspections each licensing period, DHS must invite to the inspections at least one person as a citizen advocate from the American Association of Retired Persons, the Texas Senior Citizen Association, the Texas Retired Federal Employees, the Texas Department on Aging Certified Long-Term Care Ombudsman, or any other statewide organization for the elderly. DHS must provide to these organizations basic licensing information and requirements for the organizations' dissemination to their members whom they engage to attend the inspections. Advocates participating in the inspections must follow all DHS protocols. Advocates must provide their own transportation. The schedule of inspections in this category must be arranged confidentially in advance with the organizations. Acceptance of the invitation or participation by the advocates is not a condition precedent to conducting the inspection.

(g) The facility must make all of its books, records, and other documents main-

tained by or on behalf of a facility accessible to DHS upon request.

(1) DHS is authorized to photocopy documents, photograph residents, and use any other available recording devices to preserve all relevant evidence of conditions found during an inspection, survey, or investigation that DHS reasonably believes threaten the health and safety of a resident.

(2) (No change.)

(3) When the facility is requested to furnish the copies, the facility may charge DHS at a rate not to exceed the rate charged by DHS for copies. The procedure of copying is the responsibility of the administrator or his designee. If copying requires the records be removed from the facility, a representative of the facility is expected to accompany the records and assure their order and preservation.

(4) DHS protects the copies for privacy and confidentiality in accordance with recognized standards of medical records practice, applicable state laws, and DHS policy.

(h) DHS must provide for a special team to conduct validation surveys or verify findings of previous licensure surveys.

(1) At DHS's discretion, based on record review, random sample, or any other determination, DHS may assign a team to conduct a validation survey. DHS may use the information to verify previous determinations or identify training needs to assure consistency in deficiencies cited and in punitive actions recommended throughout the state.

(2) Facilities are required to correct any additional deficiencies cited by the validation team but are not subject to any new or additional punitive action.

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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Subchapter G. Abuse, Neglect, and Exploitation; Complaint and Incident Reports and Investigations

• 40 TAC §90.212, §90.215

The amendments are adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§242.001-242.186.

§90.212. Incidents of Abuse and Neglect Reportable by Facilities to the Texas Department of Human Services (DHS).

(a) (No change.)

(b) Each employee of a facility must sign a statement that the employee realizes that the employee may be criminally liable for failure to report abuses and that the employee understands his rights under the Texas Health and Safety Code, §242.133, such as that the employee has a cause of action against a facility, its owner(s), or employees if he is suspended, terminated, disciplined, or discriminated against as a result of reporting abuse or neglect of a resident. These statements must be available for inspection by the Texas Department of Human Services (DHS)

(c) Reports of abuse or neglect in nursing facilities are to be made to DHS's state office, Austin, Texas, at (512) 834-6778 during normal workday hours, and to 1-800-458-9858 on weekends and holidays. Reports of abuse or neglect in facilities serving persons with mental retardation or a related condition are to be made to DHS's state office at (512) 834-6671 during normal workday hours, and to 1-800-292-2065 on weekends and holidays. The person reporting must make an oral report immediately on learning of the alleged abuse or neglect. A written investigation report must be sent no later than the fifth calendar day after the oral report.

§90.215. Investigations of Incidents and Complaints.

(a) In accordance with the memorandum of understanding which is adopted by reference in 25, TAC §111.1 (relating to Memorandum of Understanding Concerning Protective Services for the Elderly), the Texas Department of Human Services (DHS) receives and investigates reports of abuse, neglect, and exploitation of persons who are elderly and persons with

disabilities or other residents living in facilities licensed under this chapter.

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

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

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Subchapter H. Enforcement

• 40 TAC §90.232, §90.233

The amendments are adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§242.001-242.186.

§90.232. Suspension.

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

(c) Unless accompanied by an Emergency Closure Order, the facility will be notified by certified mail of the department's intent to suspend the license. The facility shall have 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §90.238 of this title (relating to Administrative Hearings).

(d) (No change.)

§90.233. Revocation.

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

(d) Unless accompanied by an Emergency Closure Order, the facility will be notified by certified mail of the department's intent to revoke a license. The facility shall have 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §90.238 of this title (relating to Administrative Hearings).

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

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Chapter 92. Personal Care Facilities

The Texas Department of Human Services (DHS) adopts amendments to §§92.102, 92.105, 92.152, and 92.153, concerning incidents of abuse and neglect reportable to DHS by facilities, investigation of incidents and complaints, and suspension and revocation of licenses, in its Personal Care Facilities rule chapter. The amendments to §§92.102, 92.152, and 92.153 are adopted with changes to the proposed text published in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3910). The amendment to §92.105 is adopted without changes to the proposed text, and will not be republished.

The justification for the amendments is to clarify the process for reporting abuse and neglect and that DHS is responsible for investigating those reports. In addition, DHS is changing timeframes for requesting appeals from 20 to 15 days. This ensures that formal hearing requirements for long term care facilities are the same as those applicable to other DHS formal appeals.

The amendments will function by improving reporting and investigating of abuse and neglect and making DHS's policies for formal hearings consistent.

During the public comment period, DHS received comments from the Texas Health Care Association. The following is a summary of the comment and DHS's response.

Comment: The commenter expressed opposition to §92.152, which decreases the number of days a facility has to request a hearing.

Response: DHS made this change so that all rules regarding DHS hearings will have the same timeframes.

DHS is adopting §92.102(c) with a change to add the after-hours telephone number for reporting abuse or neglect, and is adopting §92.152(c) and §92.153(d) with changes to clarify that the facility has 15 calendar days to request a hearing.

Subchapter F. Abuse, Neglect, and Exploitations; Complaint and Incident Reports and In- vestigations

• 40 TAC §92.102, §92.105

The amendments are adopted under the Health and Safety Code, Chapter 247, which provides the department with the authority to regulate personal care facilities, Chapter 22

of the Human Resources Code, and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§247.001-247.066.

§92.102. Incidents of Abuse and Neglect Reportable to the Texas Department of Human Services by Facilities.

(a) Any facility staff who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse or neglect caused by another person must report the abuse or neglect.

(b) Each employee of a facility must sign a statement that the employee realizes that the employee may be criminally liable for failure to report abuses. These statements must be available for inspection by the Texas Department of Human Services (DHS).

(c) Reports of abuse or neglect are to be made to DHS's state office at (512) 834-6778 during normal workday hours, and to 1-800-458-9858 on weekends and holidays. The person reporting must make an oral report immediately on learning of the alleged abuse or neglect. A written investigation must be sent no later than the fifth calendar day after the oral report.

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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Subchapter H. Enforcement

• 40 TAC §92.152, §92.153

The amendments are adopted under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §242.061.

§92.152. Suspension.

(a) When a serious violation occurs or when a series of violations occur such that the event or series of events may (or could) jeopardize the health and safety of residents, the Texas Department of Human Services (DHS) may suspend the license.

(b) Suspension of a license may occur simultaneously with any other enforcement provision available to DHS.

(c) Unless accompanied by an Emergency Closure Order, the facility will be notified by certified mail of DHS's intent to suspend the license. The facility has 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §92.156 of this title (relating to Administrative Hearings).

(d) If DHS suspends a license, the suspension remains in effect until DHS determines that the reason for suspension no longer exists. DHS conducts an on-site investigation prior to making a determination. During the time of suspension, the suspended licensee must return the license to DHS.

§92.153 Revocation

(a) When a serious violation occurs, such that the health and safety of residents is jeopardized, the Texas Department of Human Services (DHS) may revoke the license.

(b) DHS may revoke a license if the licensee

(1)-(3) (No change)

(c) Revocation of a license may occur simultaneously with any other enforcement provision available to DHS.

(d) Unless accompanied by an Emergency Closure Order, the facility will be notified by certified mail of DHS's intent to revoke a license. The facility has 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §92.156 of this title (relating to Administrative Hearings).

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

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Chapter 96. Certification of Long-Term Care Facilities

• 40 TAC §96.7

The Texas Department of Human Services (DHS) adopts an amendment to §96.7, concerning appeals, in its Certification of Long-Term Care Facilities rule chapter. The amendment is adopted with changes to the proposed text as published in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3911).

The justification for the amendment is to state that facilities desiring a formal appeal must make the appeal to DHS in writing within 15 calendar days after the effective date of the action. The amendment also states that the failure to request a formal hearing within the 15 days constitutes a waiver of the right to a hearing. The amendment ensures that formal hearing requirements for long term care facilities are the same as those applicable to other DHS formal appeals.

The amendment will function by making DHS policies for formal hearings consistent.

During the public comment period, DHS received comments from New Avenues of Hope, Inc., and the Texas Health Care Association. The following is a summary of the comment and DHS's response.

Comment: One commenter expressed opposition to §96.7, which decreases the number of days a facility has to request a hearing.

Response: DHS made this change so that all rules regarding DHS hearings will have the same timeframes.

Comment: One commenter suggested that DHS specify whether the 15 days stated in subsection (b)(2) of the rule are working or calendar days. Also, the commenter requested DHS to specify what constitutes "official notice."

Response: DHS is adopting the rule with a change to clarify that the number of days are calendar days. In regard to the reference to "official notice," DHS is adopting the section as proposed. DHS believes that DHS's official notice of action will be identifiable by facilities without additional clarification.

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

The amendment implements the Human Resources Code, §§32.001-32.042

§96.7 Appeals.

- (a) (No change.)
- (b) Formal hearing for all facilities.
 - (1) (No change.)
 - (2) A facility desiring a formal hearing must make a request to the depart-

ment, in writing, within 15 calendar days after the facility receives the department's official notice of the action. Upon receipt of the request, the department will notify the department's Office of General Counsel to institute formal hearing procedures. Failure of the facility to request a formal hearing within the 15 calendar days constitutes a waiver of the right to a hearing.

(3) (No change.)

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

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Chapter 98. Adult Day Care and Adult Day Health Care Facilities

Subchapter F. Enforcement

• 40 TAC §98.102, §98.103

The Texas Department of Human Services (DHS) adopts amendments to §98.102 and §98.103, concerning suspension and revocation, in its Adult Day Care and Adult Day Health Care Facilities rule chapter. The amendments are adopted with changes to the proposed text as published in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3912).

The justification for the amendments is to state that facilities must request a formal hearing within 15 calendar days from receiving notice of DHS's intent to suspend a license. The amendments ensure that formal hearing requirements for long-term care facilities are the same as those applicable to other DHS formal appeals.

The amendments will function by making DHS's policies for formal hearings consistent. No comments were received regarding adoption of the amendments; however, DHS is adopting §90.102(b) and §90.103(d) with changes to clarify that the 15 days are calendar days.

The amendments are adopted under the Human Resources Code, Chapter 103, which provides the department with the authority to regulate adult day-care facilities and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services

The amendments implement the Human Resources Code, §§103.001-103.011.

§98.102. Suspension.

(a) When a serious violation occurs or when a series of violations occur such that the event or series of events may (or could) jeopardize the health and safety of recipients, the Texas Department of Human Services (DHS) may suspend the license.

(b) The facility will be notified by certified mail of DHS's intent to suspend the license. The facility has 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §98.104 of this title (relating to Administrative Hearings).

(c) If DHS suspends a license, the suspension remains in effect until DHS determines that the reason for suspension no longer exists. DHS conducts an on-site investigation prior to making a determination. During the time of suspension, the suspended licensee must return the license to DHS.

§98.103. Revocation.

(a) When a serious violation occurs, such that the health and safety of clients is jeopardized, the Texas Department of Human Services (DHS) may revoke the license.

(b) DHS may revoke a license if the licensee:

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

(c) Revocation of a license may occur simultaneously with any other enforcement provision available to DHS.

(d) The facility will be notified by certified mail of DHS's intent to revoke a license. The facility has 15 calendar days from receiving the certified mail notice within which to request a hearing, in accordance with §98.104 of this title (relating to Administrative Hearings).

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

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Texas Department of
Human Services

Effective date: September 1, 1994

Proposal publication date: May 20, 1994

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 1. Management

Advisory Committee

• 43 TAC §1.85

The Texas Department of Transportation adopts an amendment to §1.85, without changes to the proposed text as published in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3050).

Section 1.85, concerning Department Advisory Committees, is amended to rename the Statewide Transportation Plan External Advisory Panel and alter its functions. State and federal law require the department to develop a statewide multimodal transportation plan and to provide for public input during the development of the plan. Federal law requires the plan to be completed by 1995. To provide for sufficient public input and to expedite development of the plan, it is necessary to amend §1.85(a)(5) to rename the Statewide Transportation Plan External Advisory Panel the Statewide Transportation Policy Committee; provide that the committee shall report to the commission; authorize the committee to appoint one or more issue committees; and authorize the department to reimburse committee members for travel expenses.

It is also necessary to amend §1.85(a) by adding paragraphs (17) and (18). Paragraph (17) establishes a Motor Transportation Advisory Committee which will provide advice to the department with respect to the issuance of permits for the movement of oversize and overweight vehicles and loads; the registration of trucks and motor buses, future truck and motor bus equipment and highway needs, coordination of regulatory and enforcement activities of state agencies affecting the trucking and motor bus industries, truck and motor bus safety, opportunities for one-stop shopping for state services and requirements of trucks and motor bus companies, and other issues concerning the department and the trucking and motor bus industries. The amendment will allow for immediate resolution of issues concerning the safety and economic welfare of the trucking and motor bus industries and the general public.

Paragraph (18) establishes a Hurricane Evacuation Route Task Force to advise and recommend design criteria and selection/

prioritization of hurricane evacuation routes. Advice and recommendations of the task force will provide the department and the commission with an enhanced understanding of local concerns in the development of hurricane evacuation routes, thus facilitating the department's and the commission's goal to promote transportation decisions with public input, at the local, regional, and state levels, and to invest in cost-effective transportation projects and programs employing innovations that increase safety, access, and mobility for the transportation of people and goods in emergency situations.

On March 28, 1994, the department conducted a public hearing on the proposed amendments to §1.85(a)(5) and (17). Amoco Oil Company submitted a comment on the proposed amendments, stating that it was in favor of the establishment of a Motor Transportation Advisory Committee.

On April 4, 1994, the department conducted a public hearing on the proposed amendment §1.85(a)(18). No written or oral comments were received concerning the proposed amendment.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Articles 6252-33, which provide that a state agency that is advised by an advisory committee shall adopt rules that state the purpose of the committee and describe the task of the committee and the manner in which the committee will report to the agency.

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 July 19, 1994

TRD-9445302 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: August 9, 1994

Proposal publication date: April 22, 1994

For further information, please call: (512) 463-8630

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Conditional Grant Program

• 43 TAC §1.404, §1.410

The Texas Department of Transportation adopts new §1.410, concerning child support statements, and an amendment to §1.404, concerning application for conditional grants, without changes to the proposed text as published in the April 22, 1994, issue of the *Texas Register* (19 TexReg 3050).

New §1.410 requires that each student provide a statement affirming that the student is not delinquent in child support payments. Texas Family Code, §14.52, states that all persons who receive monies from a state agency must sign a notarized statement which affirms that the student is not 30 days or more delinquent in providing child support payments under a court order or a written repayment agreement.

It is also necessary to amend §1.404 by incorporating the sworn child support affidavit into the grant application process and changing the application deadline from October 1st for the spring semester to March 1st for both spring and fall semesters in order to better coordinate with the school's financial aid office which determines a student's financial needs on a yearly basis.

On May 4, 1994, the department conducted a public hearing on the proposed new §1.410 and the proposed amendment to §1.404. No written or oral comments were received concerning the proposed new section or amendments.

The amendment and new section are adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and Chapter 56, Subchapter H of the Texas Education Code, which specifically requires the department to adopt rules implementing a conditional grant program.

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

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

TRD-9445068 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: August 4, 1994

Proposal publication date: April 22, 1994

For further information, please call: (512) 463-8630

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TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure1: 16 TAC <*>313.409(c)

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$599 & under	\$33	\$33	\$33	\$33
\$600-699	\$36	\$33	\$33	\$33
\$700-999	10% Win Purse	\$33	\$33	\$33
\$1,000-1,499	10% Win Purse	\$33	\$33	\$33
\$1,500-1,999	10% Win Purse	\$35	\$33	\$33
\$2,000-3,499	10% Win Purse	\$45	\$35	\$33
\$3,500-4,999	10% Win Purse	\$55	\$45	\$35
\$5,000-\$9,999	10% Win Purse	\$65	\$50	\$40
\$10,000-14,999	10% Win Purse	5% Place Purse	5% Show Purse	\$45
\$15,000-24,999	10% Win Purse	5% Place Purse	5% Show Purse	\$50
\$25,000-49,999	10% Win Purse	5% Place Purse	5% Show Purse	\$60
\$50,000-99,999	10% Win Purse	5% Place Purse	5% Show Purse	\$75 i
\$100,000 and up	10% Win Purse	5% Place Purse	5% Show Purse	\$100

FIGURE: 1 28 TAC <*>11.1403

NOTICE OF SPECIAL TOLL-FREE COMPLAINT NUMBER

TO MAKE A COMPLAINT ABOUT A PRIVATE PSYCHIATRIC HOSPITAL, CHEMICAL DEPENDENCY TREATMENT CENTER, OR PSYCHIATRIC OR CHEMICAL DEPENDENCY SERVICES[,] AT A GENERAL HOSPITAL, CALL:

1-800-228-1570 [1-800-538-6467]

Your complaint will be referred to the state agency that regulates the hospital or chemical dependency treatment center.

FIGURE: 2 28 TAC <*>11.1403

AVISO DE NUMERO TELEFONICO GRATIS ESPECIAL PARA QUEJAS

PARA SOMETER UNA QUEJA ACERCA DE UN HOSPITAL PSIQUIATRICO PRIVADO, DE CENTRO TRATAMIENTO PARA LA DEPENDENCIA QUIMICA, DE SERVICIOS PSIQUIATRICOS O DE DEPENDENCIA QUIMICA EN UN HOSPITAL GENERAL, LLAME A:

1-800-228-1570 [1-800-538-6467]

Su queja sera referida a la agencia estatal que regula la hospital o centro de tratamiento para la dependencia quimica.

Article _____. Workers' Compensation Insurance Coverage.

A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been

extended.

- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the

coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (4) obtain from each other person with whom it contracts, and provide to the contractor :
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

REQUIRED WORKERS' COMPENSATION COVERAGE

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee."

"Call the Texas Workers' Compensation Commission at 512-440-3789 to receive information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Commission for the Blind

Friday-Saturday, July 29-30, 1994, 10:00 a.m. and 8:30 a.m., respectively.

Doubletree Hotel, 6505 IH-35 North

Austin

According to the complete agenda, the Consumer Advisory Committee agenda consists of:

July 29, 1994:

Call to order and approval of minutes

Welcome new members and group activities

Meeting with executive director

Committee work session (legislative appropriations request/strategic plan update, independent living plan review, priority survey)

Adjournment

July 30, 1994:

Call to order

Committee work session (regional issues)

Update from Coordinator of Consumer Affairs

Committee discussion

Report to director

Adjournment

Contact: Margaret Little, P.O. Box 12866, Austin, Texas 78711, (512) 459-2580.

Filed: July 18, 1994, 4:38 p.m.

TRD-9445245

Texas Committee on Purchase of Products and Services of Blind and Severely Disabled Persons

Friday, July 29, 1994, 1:30 p.m.

Texas Commission for the Blind, Conference Room 320, 4800 North Lamar Boulevard

Austin

According to the agenda summary, the Rules Subcommittee will:

Call to order and introduction of subcommittee members and guests

Review of operation of Rules Subcommittee

Develop mission statement for Texas Committee

Procedure for rule changes

Adjournment

Contact: Sue Evans, 6 Red Bud Trail, Round Rock, Texas 78664, (512) 244-9500.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445288

Texas Cancer Council

Wednesday, August 3, 1994, 9:00 a.m.

May Owens Conference Room, Tenth Floor, Texas Medical Association, 401 West 15th Street

Austin

According to the complete agenda, the Board of Directors will:

Call to order

Adoption of minutes

Announcements

Fiscal year 1996-1997 Legislative Appropriations Request

Fiscal year 1994 budget update

Fiscal year 1995 budget and project policies

Texas Cancer Data Center: survey findings

Fiscal year 1995 project awards

Other Business

Adjourn

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Debra Perkins at (512) 463-3190 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily Untermeyer, P.O. Box 12097, Austin, Texas 78711, (512) 463-3190.

Filed: July 19, 1994, 11:27 a.m.

TRD-9445276

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Texas Department of Commerce

Monday, July 18, 1994, 10:00 a.m.

816 Congress Avenue, 11th Floor-
Executive Board Room

Austin

Emergency Meeting

According to the agenda summary, the purpose of the first meeting of the Texas Interagency Rural Council is to formulate initial goals of the council and collect information on currently available programs and services offered to rural communities.

Reason for Emergency: It is critical that the council organize itself in order to timely address other program objectives of the Texas Department of Commerce.

Contact: Don Cook or Christy Stehlin, P.O. Box 12728, Austin, Texas 78711, (512) 320-9621.

Filed: July 14, 1994, 3:58 p.m.

TRD-9445067

◆ ◆ ◆
Texas State Board of Examiners of Professional Counselors

Thursday, August 11, 1994, 8:30 a.m.

Room S-402, The Exchange Building, 8407
Wall Street

Austin

According to the complete agenda, the Ad Hoc Examination Committee will discuss and possibly act on: selection of new items for October, 1994 examination; item statistics on July, 1994 examination; pilot item performance; Ohio Counselor examination form; and setting of next meeting date.

Contact: Jim Zubowski, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 14, 1994, 4:36 p.m.

TRD-9445072

◆ ◆ ◆
Texas Commission for the Deaf and Hearing Impaired

Friday, July 29, 1994, 9:00 a.m.

Criss Cole Rehabilitation Center Auditorium, 4800 North Lamar Boulevard

Austin

According to the complete agenda, the Board will call to order, public comment; approval of minutes of May 20 meeting; executive director's report including financial rept. 1995 operating budget, 1996/1997 legislative appropriation request changes to enabling statutes, and expenditure approval; direct services report including reallocation of 1994 funds, additional member for educational interpreting task force, task force expiration dates, adoption of memorandum of understanding with Texas School for the Deaf, Texas Employment Commission and Mental Health and Mental Retardation, awarding of contracts for 1995; Board for Evaluation of Interpreters report including certifications and revocations, adoption of rule changes, appointment of board member to fill unexpired term, evaluation contract amendments for 1994 and awarding for 1995 and discussion of summer retreat; sharing of information items; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: July 15, 1994, 8:53 a.m.

TRD-9445078

◆ ◆ ◆
Texas School for the Deaf

Friday, July 29, 1994, 8:30 a.m.

601 Airport Boulevard

Austin

According to the complete agenda, the Governing Board Budget and Audit Committee will discuss:

1. Legislative appropriations request for 1996-1997
2. Fiscal year 1995 cash operating budget

Contact: Marvin Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 440-5332.

Filed: July 20, 1994, 4:49 p.m.

TRD-9445422

Friday, July 29, 1994, 10:30 a.m.

601 Airport Boulevard

Austin

According to the agenda summary, the Governing Board Policy Committee will discuss:

1. Policy adoption
2. Policy amendments
3. Policy review

Contact: Marvin Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 440-5332.

Filed: July 20, 1994, 4:49 p.m.

TRD-9445421

Friday, July 29, 1994, 1:00 p.m.

601 Airport Boulevard

Austin

According to the agenda summary, the Governing Board will:

1. Call to order
2. Approval of minutes of May 20, 1994 meeting
3. Business for information purposes
4. Business requiring board action
5. Comments by board members
6. Adjournment

Contact: Marvin Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 440-5332.

Filed: July 20, 1994, 4:49 p.m.

TRD-9445420

◆ ◆ ◆
Texas Education Agency

Friday, July 22, 1994, 8:30 a.m.

Texas Natural Resource Conservation Commission (TNRCC), 12100 Park 35 Circle, Building A, Room 328

Austin

According to the agenda summary, the Texas Environmental Education Advisory Committee will review environmental education initiatives and recommend changes.

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9566.

Filed: July 14, 1994, 10:44 a.m.

TRD-9445042

Friday-Saturday, July 22-23, 1994, 1:00 p.m. and 8:30 a.m., respectively.

Doubletree Hotel, 6505 Interstate 35 North
Austin

Emergency Meeting

According to the agenda summary, the Continuing Advisory Committee for Special Education agenda consists of: Friday, July 22, 1994, 1:00 p.m. good news, approval of minutes, meeting guidelines, hearing officer decisions, letter to Margaret Thompson, response from Margaret Thompson, National Agenda Conference, accountability system for students with disabilities, update on task force on the education of students with disabilities, Saturday, July 23, 1994, 8:30 a.m. communication with Local Advisory Committees, work session: develop input on the comprehensive system of personnel development leadership council's strategic

plan, work session: develop action steps identified at April 29-30 meeting, future meetings, evaluation of current meeting.

Reason for Emergency: This meeting is required by federal law and because of the number of people involved, the meeting was not confirmed in time to submit the notice within the timelines established for notification in the *Texas Register*.

Contact: Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362.

Filed: July 15, 1994, 1:38 p.m.

TRD-9445129

Thursday, July 28, 1994, 9:00 a.m.

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

Austin

According to the complete agenda, the Commission on Standards for the Teaching Profession agenda consists of: Thursday, July 28th, 9:00 a.m., opening activities: roll call, adoption of agenda, approval of minutes of May 5, 1994, and introductions. 9:15 a.m., information update: SBOE report and teacher preparation study update. 9:45 a.m., discussion items: pilot program report, pilot program requests, TEACH: program approval prototype, educator excellence indicator system input, and TEA/THECB conference on teacher education report, October 27-29, 1994. 12:30 p.m., lunch break. 1:30 p.m., action items: recommendation of ExCET framework and passing standards, procedural requests, transitional program requests, program reviews: Our Lady of the Lake University, San Felipe Del Rio CISD ACP, Stephen F. Austin State University Proposal, University of Mary Hardin-Baylor, University of St. Thomas, and Wiley College. 5:00 p.m., summary, suggestions for follow-up (items for September 8 agenda) and adjourn.

Contact: Delia Quintanilla, William B. Travis Building, Room 1-121, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: July 18, 1994, 12:27 p.m.

TRD-9445208

State Employee Charitable Campaign

Thursday, July 21, 1994, 10:00 a.m.

2201 19th Street

Lubbock

According to the complete agenda, the Local Employee Committee-Lubbock continued planning for campaign.

Contact: Jim Bob Jones, 2201 19th Street, Lubbock, Texas 79401, (806) 747-2711.

Filed: July 15, 1994, 4:03 p.m.

TRD-9445168

Texas Employment Commission

Wednesday, June 27, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the Texas Employment Commission will discuss prior meeting notes; consideration and possible approval of bid for interior renovations at Lubbock agency-owned building; consideration and possible approval of bid for interior and exterior renovations at Plainview agency-owned building; consideration and possible approval of bid for interior renovations of Odessa agency-owned building; consideration of proposed repeal of 40 TAC §302.1 concerning valid registration for work; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases listed on Commission Docket 30 and higher level appeals in unemployment compensation cases listed on Commission Dockets 29 and 30; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: July 19, 1994, 4:07 p.m.

TRD-9445312

General Services Commission

Tuesday, July 26, 1994, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

According to the agenda summary, the General Services Commission agenda consist of: 1) Briefing on Telecommunication Division; 2) Consideration of the purchase of a Digital Conferencing and Switching System; 3) Consideration and approval of the General Services Commission's 1996-1997 Appropriation Request; 4) Consideration of proposed new §§126.1-126.5, 126.20, and 126.21 concerning state and federal surplus and salvage property, and the repeal of §§113.71-113.76; 5) Consideration of final adoption of the proposed rule §123.32 concerning prevailing wage rate determinations; 6) Consideration of proposed new §§121.1-121.9 and the repeal of existing §§121.1-121.11 concerning telecommunications; 7) Construction contract change policy variance relating to Change Order Number 1 for Project Number 94-087-303, Asbestos Abatement to Upper Basement

and Second Floor, Stephen F. Austin Building, Austin; 8) Construction contract change policy variance relating to Change Order Number 5 for Project Number 91-002D-303, Phase 1-D HVAC Renovation; to Hobby Building, Austin, Texas; 9) Briefing on the Master Facilities Plan; 10) Status Report on activities at State Cemetery; 11) Consideration of delegating purchasing authority to the Texas Department of Mental Health and Mental Retardation; 12) Monthly Division Issues Report; Executive Session to consider personnel matters; Executive Session to consider the status of real property purchases; Executive Session to receive a report from counsel concerning the status of all pending litigation.

Contact: Judith Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3960.

Filed: July 18, 1994, 8:21 a.m.

TRD-9445176

Texas Department of Health

Tuesday, August 2, 1994, 1:30 p.m.

Room M-653, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Hospital Data Advisory Committee will discuss approval of the minutes of previous meeting; and discuss and possibly act on: bureau activities; annual statement of community benefits reporting form; and accompanying worksheets; Hospital Data Advisory Committee (HDAC) bylaws; HDAC composition; progress on 1993 Texas Department of Health, American Hospital Association, and Texas Hospital Association annual survey of hospitals, and hospital discharge data analysis activities; and next meeting date.

Contact: Ann Henry, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. 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: July 20, 1994, 9:45 a.m.

TRD-9445329

Texas Historical Commission

Thursday, July 28, 1994, 2:00 p.m.

1511 Colorado Street (Library)

Austin

According to the complete agenda, the Executive Committee agenda consists of:

1. Approval of the Legislative Appropriations Request

2. Sunset review
3. National Trust Assessment

4. Executive Session-personnel matter, Deputy Executive Director for agency

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-5768.

Filed: July 18, 1994, 4:37 p.m.

TRD-9445239

Friday, July 29, 1994, 7:00 a.m.

Cafe Veranda, Austin Marriott at the Capitol Hotel, 701 East 11th Street

Austin

According to the complete agenda, the Local History Programs Committee agenda consists of:

1. Call to order
2. Update on departmental activities

Contact: Frances Rickard, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: July 18, 1994, 4:38 p.m.

TRD-9445241

Friday, July 29, 1994, 7:25 a.m.

Cafe Veranda, Austin Marriott at the Capitol Hotel, 701 East 11th Street

Austin

According to the complete agenda, the Department of Antiquities Protection-Committee agenda consists of:

1. Update on GIS grant
2. Discussion on Sunset items

Contact: James E. Bruseth, P.O. Box 12276, Austin, Texas 78711, (512) 463-6096.

Filed: July 18, 1994, 4:37 p.m.

TRD-9445240

Friday, July 29, 1994, 8:00 a.m.

Austin Marriott at the Capitol Hotel, 701 East 11th Street, Capitol View, Terrace South Room

Austin

According to the agenda summary, the Workshop for Commission Members agenda consists of:

1. Introduction
2. Summary of THC assessment report
3. Issues and recommendations
4. Review of THC mission statement
5. Setting policy priorities: Apart from fulfilling state and federal mandates, what should THC do in the next three years to improve its outreach?
6. Wrap up

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: July 20, 1994, 5:12 p.m.

TRD-9445424

Friday, July 29, 1994, 1:00 p.m.

Austin Marriott at the Capitol Hotel, 701 East 11th Street (Capitol View Terrace South)

Austin

According to the agenda summary, the Board (Quarterly Meeting) agenda consists of:

1. Chairman's report
2. Action items
3. Information items
4. Executive session

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-5768.

Filed: July 18, 1994, 4:37 p.m.

TRD-9445238

House of Representatives

Wednesday, August 24, 1994, 9:00 a.m.

Capitol Extensions, E2.028

Austin

According to the agenda summary, the Subcommittee on Public Insurance Pools agenda consists of:

- I. Call to order
- II. Roll call
- III. Opening remarks
- IV. Invited testimony
- V. Public testimony
- VI. Closing remarks
- VII. Adjourn

Contact: Mance Bowden, P.O. Box 2910, Austin, Texas 78768-2910, (512) 463-0766.

Filed: July 14, 1994, 4:36 p.m.

TRD-9445073

Texas Commission on Human Rights

Tuesday, July 26, 1994, 1:00 p.m.

Red Lion Hotel, Butch Cassidy Room, 6121 IH-35 North at Highway 290

Austin

According to the agenda summary, the Texas Commission on Human Rights

agenda consists of: discussion and vote on agenda item(s) covered in executive session as necessary or required; welcoming of guests; minutes; administrative reports; administrative enforcement project; new FHIP proposal for administrative enforcement initiative; quarterly cash flow statement for 1994; cash flow statement for 1995; housing testers in selected employment cases; obtaining interpreters to assist in filing of complaints for persons with hearing impairment; proposed amendments to the commission's procedural rules on the time frame for disposal of case files; commission's EEO compliance training; implementation of Article V, §§98, 99, and 100; 1996-97 Legislative Appropriations Request; commissioner issues; unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: July 15, 1994, 9:47 a.m.

TRD-9445082

Institute of Biosciences and Technology-TAMU

Thursday, July 28, 1994, 10:00 a.m.

Room 214-M, Institute of Biosciences and Technology, 2121 West Holcombe Boulevard

Houston

According to the complete agenda, the Institutional Animal Care and Use Committee agenda consists of:

Chair: Charles P. Rafio, DVM

Old Business: Approval of February 24, 1994 minutes

New Business: Review of new protocol #94001. Project title: "Molecular Evolution of Catalysis by Protein-Tyrosine Kinases"

Other Business:

- A. Facility renovations progress report
- B. Update on controlled drug policy
- C. Equipment update on bids and purchases

Contact: Jan LeBlanc, 2121 West Holcombe Boulevard, Houston, Texas 77030, (713) 677-7778.

Filed: July 15, 1994, 1:48 p.m.

TRD-9445135

Texas Department of Insurance

Monday, July 25, 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 consider the application of Richard A. Walker, Commerce, Texas, for a Group I, Legal Reserve Life Insurance Agent's license number 454-94-1145.C to be issued by the Texas Department of Insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: July 15, 1994, 12:04 p.m.

TRD-9445100

Tuesday, July 26, 1994, 9:00 a.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 discuss rate filing outside statutory rate limitation filed by Firemen's Insurance Company pursuant to Article 5.101, §3(f). License number 454-94-1129.F.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: July 15, 1994, 12:04 p.m.

TRD-9445099

Commission on Jail Standards

Thursday, July 28, 1994, 9:00 a.m.

William P. Clements Building, Hearing Room 503, 300 West 15th Street

Austin

Revised Agenda

According to the agenda summary, the Commission on Jail Standards will discuss enforcement and compliance. New business: Gregg County.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: July 20, 1994, 11:58 a.m.

TRD-9445399

Texas Juvenile Probation Commission

Sunday, July 24, 1994, 7:00 p.m.

2015 South IH-35

Austin

According to the complete agenda, the Internal Audit Committee agenda consists of: call to order; excused absences; review of internal audit proposals and approval of an internal audit contractor; discussion of pub-

lic hearing on standards; public comments; adjourn.

Contact: Bernard Licarione, Ph.D., 2015 South IH-35, Austin, Texas 78741, (512) 443-2001.

Filed: July 14, 1994, 3:57 p.m.

TRD-9445066

Monday, July 25, 1994, 9:00 a.m.

2015 South IH-35

Austin

According to the complete agenda, the Budget Committee agenda consists of: call to order; excused absences; approval of LAR for FY 1996-97; public comment; adjourn.

Contact: Bernard Licarione, Ph.D., 2015 South IH-35, Austin, Texas 78741, (512) 443-2001.

Filed: July 14, 1994, 3:57 p.m.

TRD-9445065

Monday, July 25, 1994, 11:00 a.m.

2015 South IH-35

Austin

According to the complete agenda, the Board agenda consists of: call to order; introductions; excused absences; approval of June 17, 1994 minutes; Budget Committee report-LAR for FY 1996-97; Internal Audit Committee report-approve internal audit contractor public hearings; TJPC/TEA Joint Task Force Committee-report on El Paso meeting; TJPC/TYC Joint Subcommittee report-report on June 28, 1994 meeting in Austin; legislative update-report on interim activities; public comments; director's report-TJPC staff workshop; state auditor's report on TJPC's performance measures; Attorney General's report on juvenile justice; creative and innovative grants for FY 1995; TJPC interns; board member training; set next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: July 15, 1994, 11:00 a.m.

TRD-9445090

Lamar University System

Friday, July 22, 1994, 10:00 a.m.

Reaud Morgan and Quinn, 801 Laurel

Beaumont

According to the complete agenda, the Board of Regents agenda consists of:

Convene open meeting

Executive session-consider candidates for Chancellor position

Reconvene open meeting-consideration of appointment of Chancellor

Adjourn

Contact: James A. Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: July 18, 1994, 4:39 p.m.

TRD-9445248

Texas State Library and Archives Commission

Friday, August 19, 1994, 10:30 a.m.

Joe C. Thompson Conference Center, University of Texas at Austin, Room 2. 120 Austin

According to the complete agenda, the Local Government Records Committee will:

1. Welcome-William D. Gooch, director and librarian, Texas State Library.
2. Election of committee chairman.
3. Consider approval of the minutes of January 22, 1993 meeting.
4. Report on Sunset Commission recommendations affecting the Local Government Records Act.
5. Consideration of approval of proposed amendments to rules relating to local government records retention schedules.
6. Adjournment.

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5460.

Filed: July 20, 1994, 9:58 a.m.

TRD-9445337

Texas Department of Licensing and Regulation

Friday, July 29, 1994, 9:30 a.m.

E. O. Thompson Building, 920 Colorado, Room 1012

Austin

According to the agenda summary, the Texas Commission of Licensing and Regulation will hold a regular meeting according to the following outline: I. Call to order; II. Roll call and certification of quorum; III. Contested cases; IV. Agreed Orders; V. Appointments to the Property Tax Consultants Advisory Council; VI. Boxing/Toughman; VII. Rules submissions; VIII. Legislative Appropriations Package; IX. Staff reports; X. Legislative Appropriations Request; XI. Executive session; XII. Open session/public comments; XIII. Discussion of date, time and location of next Commission meeting; and XIV. Adjournment.

Contact: Phyllis Wilson, 920 Colorado, E. O. Thompson Building, Austin, Texas 78701, (512) 463-3173.

Filed: July 15, 1994, 8:53 a.m.

TRD-9445079

Wednesday, August 3, 1994, 10:00 a.m.
920 Colorado, Tenth Floor, Room 1012
Austin

According to the complete agenda, the Policies and Standards Division will hear public comments on the proposal to adopt the following rules:

Chapter 67—Auctioneers

Chapter 78—Talent Agencies

Contact: Jimmy G. Martin, 920 Colorado, Austin, Texas 78711, (512) 463-7348.

Filed: July 19, 1994, 10:09 a.m.

TRD-9445270

◆ ◆ ◆
**Texas State Board of License
for Professional Medical
Physicists**

Friday, July 29, 1994, 1:00 p.m.

Room 422-A, University of Texas Health
Science Center, 7703 Floyd Curl Drive
San Antonio

According to the complete agenda, the Credentials Committee will discuss and possibly act on applicants under 22 Texas Administrative Code, §601.6.

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. 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: July 15, 1994, 1:48 p.m.

TRD-9445134

◆ ◆ ◆
**Texas State Board of Examiners
of Marriage and Family
Therapists**

Sunday, July 31, 1994, 1:00 p.m.

Justice Room, Second Floor, Omni Austin
Hotel, 700 San Jacinto

Austin

According to the complete agenda, the Application Review Committee will discuss and possibly act on: pending applications (waiver requests: Robert Azzarito, Mary Ann Denton, Sharon Erickson, Archie Faires, Thomas Harrison, Bernard Logano, Glenda Miller, Dana Slater, Francisco

Villalobos, and Judy K. Young; transcript issues: Marville Flippen, Katrina Jacobson-Turek, Mark Jones, Katherine Milliken, and Denise O'Doherty; request for inactive status: Margaret A. Merrifield; request for reinstatement of expired license: Medicus D. Rentz, Jr.; denial of renewal: Emanuel Kumin, Tam Thahn Phan, and Thomas Washington; request for ratification of approved/renewed files since May 9, 1994 meeting; and request for closure of 83 deficient files).

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445294

Sunday, July 31, 1994, 3:30 p.m.

Justice Room, Second Floor, Omni Austin
Hotel, 700 San Jacinto

Austin

According to the complete agenda, the Family Therapists Complaints Committee will discuss and possibly act upon the following complaints: 092-042-0004; #093-043-0002; #093-043-0011; #094-043-0001; #094-043-0006; #094-043-0008; #094-043-0009; #094-043-0010; #094-043-0014; and #094-043-0015.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445291

Sunday, July 31, 1994, 5:00 p.m.

Justice Room, Second Floor, Omni Austin
Hotel, 700 San Jacinto

Austin

According to the complete agenda, the Family Therapists Supervision Committee will discuss and possibly act on: Licensed Marriage and Family Therapists supervisor applications; American Association of Marriage and Family Therapy-approved supervisors (96); and other applicants (80); and other issues (equivalency 45-hour graduate course in supervision; national/other state course in supervision; and type of credential—letter, certificate, etc.).

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445290

Sunday, July 31, 1994, 6:00 p.m.

Justice Room, Second Floor, Omni Austin
Hotel, 700 San Jacinto

Austin

According to the complete agenda, the Examination Committee will discuss and possibly act on: completion of additional courses of study to be prescribed James Brown, and Roland Johnson (second failure of examination); ad hoc committee to construct additional test items; forfeiture of examination fee; and reducing examination time limit to four hours.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445293

Sunday, July 31, 1994, 7:00 p.m.

Justice Room, Second Floor, Omni Austin
Hotel, 700 San Jacinto

Austin

According to the complete agenda, Rule Change Committee will discuss and possibly act on: rule changes (temporary license holder designation be changed from marriage and family therapy "intern" to marriage and family therapy "associate"; waive time period from graduation to conferment of degree on transcript to issuance of temporary license—approximately four to six weeks to allow for earlier employment; count hours of supervision in private practice if licensed in another mental health area; and face to face supervision—designate specific number of hours per day, week, month, etc.); and other items not requiring committee action.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445292

Monday, August 1, 1994, 9:00 a.m.

Room S-400, the Exchange Building, 8407
Wall Street

Austin

According to the complete agenda, the board will discuss approval of the minutes from the May 9, 1994 meeting, and discuss and possibly act on: board orders (Jimmy

Davis, Paul N. Gervais, Rick P. Moses, and Curtis O. Stockton); committee reports (application review, complaints review; supervision, examination, and rule change); board chairman report/comments; executive director's report; additional topics not requiring board action and topics for next meeting; and setting of next meeting for November 6 and 7, 1994.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445289

Texas State Board of Medical Examiners

Thursday, July 14, 1994, 3:30 p.m.
1812 Centre Creek Drive, Suite 300
Austin

Emergency Meeting

According to the agenda summary, the Disciplinary Panel will consider the temporary suspension of the license of Irwin Kurtz, M.D., San Antonio, Texas, License Number C-7021.

Reason for Emergency: Information has been received by the agency which requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: July 14, 1994, 11:00 a.m.

TRD-9445049

Texas Mental Health and Mental Retardation Board

Wednesday, July 27, 1994, 8:30 a.m.
Corpus Christi State School, 902 Airport Road (Pavillion)
Corpus Christi

According to the complete agenda, the Human Resources Committee agenda consists of:

1. Citizens comments
2. Human Resources update
3. Update regarding the Employee Fact Book

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, (voice, TDD, RELAY TEXAS), Ernest Fuentes, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: July 18, 1994, 12:04 p.m.

TRD-9445203

Wednesday, July 27, 1994, 9:00 a.m.

Corpus Christi State School, 902 Airport Road (Pavillion)

Corpus Christi

According to the complete agenda, the Business and Asset Management Committee agenda consists of:

1. Citizens comments
2. Consideration of approval of FY 1994 operating budget adjustments
3. Consideration of approval of a resolution relating to the Master Lease/Purchase Program (MELPP) and Authority
4. Consideration of approval of the FY 1996-97 Legislative Appropriations Request
5. Consideration of approval of corrections to FY 1995 operating budget including report on other sources of funds
6. Consideration of approval of a resolution endorsing the state agencies' policy regarding historically underutilized businesses
7. Consideration of approval of a resolution designating two residential lots in Sweetwater, Texas, as Surplus Real Property
8. Consideration of items related to the development of "Central Park" development lease.

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, (voice, TDD, RELAY TEXAS), Ernest Fuentes, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: July 18, 1994, 12:04 p.m.

TRD-9445204

Wednesday, July 27, 1994, 11:00 a.m.

Corpus Christi State School, 902 Airport Road (Pavillion)

Corpus Christi

According to the complete agenda, the Audit Committee agenda consists of:

1. Citizens comments
2. Audit activity update
3. Reports issued to date (07/31/94) FY 1994
4. Consideration of approval of FY 1995 workload proposal

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512)

323-3255, (voice, TDD, RELAY TEXAS), Ernest Fuentes, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: July 18, 1994, 12:04 p.m.

TRD-9445205

Wednesday, July 27, 1994, 1:00 p.m.

Corpus Christi State School, 902 Airport Road (Pavillion)

Corpus Christi

According to the agenda summary, the Planning and Policy Development Committee agenda consists of:

1. Citizens comments
2. Legislative update
3. Update to the board regarding Community Services Steering Committee
4. State school closure update
5. Discussion regarding proposed changes to agenda format
6. Update regarding the continuous quality improvement plan
7. Consideration of approval of the Citizens' Planning Advisory Committee final report on criminal justice
8. Consideration of approval of adoption of new §401.25 of Chapter 401, Subchapter A, Governing Advisory Committees

Other issues to be considered.

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, (voice, TDD, RELAY TEXAS), Ernest Fuentes, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: July 18, 1994, 12:04 p.m.

TRD-9445206

Thursday, July 28, 1994, 9:00 a.m.

Corpus Christi State School, 902 Airport Road (Pavillion)

Corpus Christi

According to the agenda summary, the Texas Mental Health and Mental Retardation Board agenda consists of:

- I. Call to order-roll call
- II. Citizens comments
- III. Approval of minutes of May 13, 1994 meeting and approval of minutes of June 14, 1994 meeting
- IV. Issues to be considered

1. Chairman's report

* Consideration of approval of a resolution honoring Dennis Jones

* Consideration of the appointment of an Acting Commissioner

Additional issues to be considered.

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, (voice, TDD, RELAY TEXAS), Ernest Fuentes, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: July 18, 1994, 12:05 p.m.

TRD-9445207

◆ ◆ ◆
**Texas Council on Offenders
with Mental Impairments**

Wednesday, August 3, 1994, 11:30 a.m.

Doubletree Hotel, 6505 North IH-35

Austin

According to the complete agenda, the Planning Committee will call the meeting to order; hear introductions; hear public comments; approve minutes; review/discuss M.O.U./action plans; review/discuss release of information; review/discuss Continuity of Care report and proposed legislative initiatives; old business-status report on other Senate Bill 252 (initiatives, mental health jail screening, specialized mental health deputy curriculum); future meeting dates; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek, Austin, Texas 78757, (512) 406-5406.

Filed: July 20, 1994, 3:20 p.m.

TRD-9445410

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Friday, July 22, 1994, 9:00 a.m.

12124 Park 35 Circle, TNRCC Building B, Room 201-A

Austin

According to the complete agenda, the Waste Reduction Advisory Committee will have their third quarterly meeting for 1994. A public comment period will be available at the beginning of the meeting. Sign up for the comment period begins at 8:30 a.m. The following are highlights that will be discussed at the Advisory Committee meeting: opening remarks/administrative items, EPA common sense initiative, definition of solid waste/recycling, pollution prevention initiatives, TRI underground injection and delisting presentation, used tire market study, WRAC Subcommittees and team reports, and WRAC planning and schedule.

Contact: Selma D'Mello, 1700 North Congress Avenue, Suite 237-1, Austin, Texas 78701, (512) 463-8794 or Fax (512) 475-4599.

Filed: July 14, 1994, 1:46 p.m.

TRD-9445064

Wednesday, July 27, 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 on the uncontested agenda: water quality amendment; temporary variance; water quality renewal; production area authorization amendment; amendments to radioactive material licenses; water district matters; water utility matters; water right permit; resolution; settled hearings; ratification of municipal solid waste Permit Number 647; 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: July 15, 1994, 2:43 p.m.

TRD-9445146

Wednesday, July 27, 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 on the contested agenda: water quality enforcement; municipal solid waste enforcement; utility enforcement; air quality enforcement; air quality matters; rules; modification of contracts; liquid waste management; enforcement report; adjudication of water rights; water well driller; executive session; in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

(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: July 15, 1994, 4:01 p.m.

TRD-9445164

Wednesday, July 27, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

Revised Agenda

According to the agenda summary, the Texas Natural Resource Conservation Commission will add to the agenda: rule preparation implementing the permitting by basin; and Emergency Order to Disposal Systems, Inc. to authorize a waiver of its monthly permitted capacity of 6,690,000 gallons at its two injection wells in Harris County, Texas.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: July 19, 1994, 3:39 p.m.

TRD-9445299

Wednesday, July 27, 1994, 9:30 a.m.

12118 Park 35 Circle, Room 201S, Building E

Austin

According to the complete agenda, the 40% Task Force, as required by Senate Bill 1051 of the 73rd Legislature, will meet to research and discuss the implications of a statewide phased-in yard trimmings disposal ban on the environment and economy of Texas and to make recommendations to the TNRCC and the state legislature based upon their findings. The final 40% Task Force meeting will be held on August 24, 1994, 9:30 a.m. to 4:00 p.m. Open files consisting of meeting notes and any additional associated material will be maintained at the Colonnade Building, 12015 Park 35 Circle, Room 1927, Austin, Texas 78753. These files will be listed as "40% Task Force".

Agenda: Discussion of the implications of a statewide phased-in yard trimmings disposal ban and consideration of other waste reduction initiatives.

Contact: Wendy Audette, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6757.

Filed: July 15, 1994, 11:00 a.m.

TRD-9445091

Wednesday, August 3, 1994, 9:00 a.m.

John H. Reagan State Office Building, Room 101, 105 West 15th Street

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application by Brushy Creek Municipal Utility District for an amendment to Permit Number 11865-01 to authorize increase in

the discharge of treated domestic wastewater effluent and to authorize a variance to the buffer zone requirements. The facilities are at the intersection of County Road 174 (Brushy Creek Road) and Great Oaks Drive in Williamson County, Texas.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:42 a.m.

TRD-9445392

Wednesday, August 3, 1994, 10:00 a.m.

Brazoria County Courthouse, Judge Wayne DuBose's Courtroom, Room 209A, On-The-Square

Angleton

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 Twin Lakes Club, Inc. doing business as Twin Lakes Club Water System in Brazoria County, Texas. Docket Number 30421-G.

Contact: Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:42 a.m.

TRD-9445390

Tuesday, August 9, 1994, 10:00 a.m.

Building A, Room 310A-D, 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 water rate increase by Tri County Water Company in Hunt County, Texas. Docket Number 30412-R.

Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:41 a.m.

TRD-9445389

Wednesday, August 10, 1994, 9:00 a.m.

El Paso City Hall, Tenth Floor Conference Room, Corner of Santa Fe and Missouri Streets

El Paso

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application by El Paso WCID for renewal of Permit Number 10167-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 157,000 gallons per day from the Westway Wastewater Treatment Facilities. The plant site is on the west side of Highway 10 and approximately 3,000 feet south of the intersection of Interstate

Highway 10 and Westway Road in El Paso County, Texas.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:42 a.m.

TRD-9445393

Thursday, August 11, 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 water rate increase by Lake Whitney Water Company, Inc., in Bosque and Hill Counties, Texas. Docket Number 30353-R.

Contact: Sylvia McClellan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:43 a.m.

TRD-9445397

Tuesday, August 16, 1994, 10:00 a.m.

Building A, Room 310A-D, 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 water rate increases by Water Services, Inc. and Water Services II, Inc. in Bexar, Comal, and Kendall Counties, Texas. Docket Number 30385-R.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:41 a.m.

TRD-9445388

Wednesday, August 17, 1994, 11:00 a.m.

County Courthouse, District Courtroom, Second Floor, 500 East San Antonio

Pearsall

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application by Hill Country Ranch, Inc. for proposed Permit Number 03617 to authorize disposal of treated wastewater from a farrow hog and cattle slaughtering operation producing meat cuts. The industrial waste routed to Pond Number One is not to exceed 4,000 gallons per day. The plant site is east of FM 3176, approximately three miles south of the intersection of IH-35 and FM 3176, Frio County, Texas.

Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:42 a.m.

TRD-9445394

Wednesday, August 17, 1994, 1:30 p.m.

Room 107W of Building C in TNRCC Park 35 Office Complex (formerly known as the TACB Main Building), 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 Application Number 18-3884A submitted by Bruce and Holly Collicie to amend Certificate of Adjudication Number 18-3884 pursuant to the Texas Water Code, §11.122 and Commission Rules 30 TAC §295.1, et seq.

Contact: Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:41 a.m.

TRD-9445387

Tuesday, August 23, 1994, 9:00 a.m.

Terlingua School Library, 2281 Road Runner Circle, Terlingua School Road

Terlingua

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on the following applications for Certificates of Convenience and Necessity: Big Bend Water Company, Inc. to provide water utility service in Brewster County in an area located approximately 70 miles south of downtown Alpine, Texas (Docket Number 30166-C); and Study Butte Water Supply Corporation to provide water utility service in Brewster County in an area located approximately 70 miles south of downtown Alpine, Texas (Docket Number 30254-C).

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:42 a.m.

TRD-9445391

Wednesday, August 24, 1994, 10:00 a.m.

Room 110-13N, Building D (formerly known as Technology Center B), 12118 North IH-35, TNRCC Park 35 Office Complex

Austin

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on Application Number 5479 submitted by City South Management Corporation. The hearing will be held under the authority of Chapter 11, Texas Water Code, and Rules of the TNRCC.

Contact: Sylvia McClellan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:41 a.m.

TRD-9445386

Tuesday, August 30, 1994, 9:00 a.m.

Theater and Court Building, 1302 Center Street

Deer Park

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner of an application by Rollins Environmental Services (Texas), Inc. for a Class Three Modification to Permit Number HW50089-001 which authorizes operation of a commercial hazardous waste treatment, storage and disposal facility. The modification would authorize adjustments to the allowable emission rates for certain metals from Rollins' incinerator, resulting in an increase in the allowable emissions of certain metals and a decrease in the allowable emissions of other metals. The facility is located at 2027 Battleground Road, Deer Park, Harris County, Texas.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:43 a.m.

TRD-9445396

Thursday, September 1, 1994, 9:00 a.m.

Weatherford City Hall, Council Chambers, 303 Palo Pinto

Weatherford

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application by Peaster Independent School District for Proposed Permit Number 13589-01 to authorize discharge of treated domestic wastewater effluent at a final volume not to exceed an average flow of 18,000 gallons per day. The plant site is southeast of the intersection of FM 2028 and FM 920 and east of FM 920 in Parker County, Texas.

Contact: Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:43 a.m.

TRD-9445398

Thursday, September 8, 1994, 9:00 a.m.

Harrison County Courthouse, Court-at-law Courtroom, New Courthouse, First Floor, Corner of Houston and Wellington Streets
Marshall

According to the agenda summary, the Office of Hearings Examiners will meet for a hearing before a hearings examiner on an application by U.S. Army/Longhorn Army Ammunition Plant for an amendment to Permit Number HW50195. The amendment would permit eight formerly interim status units for the thermal treatment of reactive wastes; allow construction of an additional

thermal treatment unit; and require submission and approval of a modification request prior to the treatment of certain wastes previously processed under interim status. The plant is on approximately 8,500 acres of land between Caddo Lake and the Town of Karnack in Harrison County, Texas. The facility is near the intersection of Highway 134 and Spur 449.

Contact: Leslie Craven, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 20, 1994, 11:43 a.m.

TRD-9445395

Texas State Board of Physical Therapy Examiners

Monday, August 8, 1994, 11:00 a.m.

3001 South Lamar Boulevard, Suite 101
Austin

According to the complete agenda, the Application Review agenda consists of:

I. Call to order

II. Consideration and possible committee recommendation re: Docket Number 522-93-906; in the matter of Linda Key

III. Adjourn

Contact: Gerard Swain, 3001 South Lamar Boulevard, Austin, Texas 78704, (512) 443-8202.

Filed: July 18, 1994, 4:38 p.m.

TRD-9445242

Texas Department of Protective and Regulatory Services

Friday, July 29, 1994, 9:00 a.m.

701 West 51st Street, First Floor, Public Hearing Room

Austin

According to the complete agenda, the Texas Board of Protective and Regulatory Services will consider approval of minutes of July 7-8, 1994, meeting; hear public testimony (presentations are limited to three minutes. Individuals testifying before the Board must complete a registration form prior to the start of the meeting); chair's comments and announcements; comments and announcements from the board; executive director's report; presentations on services offered by Hope Center for Youth, Family Outreach, and Parents Anonymous; consideration and approval of final adoption of rules for advisory committees for PRS, fiscal year 1996-1997 LAR, reimbursement for 24-hour child-care facilities, operating

budget for fiscal year 1995, and proposed rules to implement a Medicaid Psycho-Social Treatment Program for foster children; and update on status of abuse and neglect rules for state schools, hospitals, and centers operated by the TDMHMR.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 450-3645.

Filed: July 20, 1994, 10:22 a.m.

TRD-9445351

Texas State Board of Examiners of Psychologists

Friday, August 5, 1994, 8:00 a.m.

9101 Burnet Road, Suite 212

Austin

According to the agenda summary, the Psychological Associate Advisory Committee will meet to consider public comments; minutes of the last meeting; by-laws and procedures; rules; planning for the next Advisory Committee meeting; reports from the following subcommittees: Publications and Research, Public Information and Relations, Disciplinary Sanctions, Financial Advisory, Legal Issues, Professional/Ethical Standards and Development, Legislative, Professional Reimbursement Guidelines, and Supervisory Guidelines; and to seek legal advice in Executive Session pursuant to Title 5, Chapter 551, Government Code, §551.071.

Contact: Brian L. Creath, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: July 18, 1994, 12:04 p.m.

TRD-9445202

Public Utility Commission of Texas

Thursday, July 21, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

According to the complete agenda, the Public Utility Commission of Texas, in addition to the previously submitted agenda, will also consider the appeal of Examiner's Order Number 27-Denying Motion to Intervene and to postpone hearing on the merits in Docket Number 12456-Application of East Texas Electric Cooperative, Inc. to Amend Certificate of Convenience and Necessity for a Proposed Transmission Line Within Anderson, Houston, Cherokee, Smith and Van Zandt Counties.

Reason for emergency: Prompt commission action is necessary to preserve jurisdiction over the subject matter of the appeal.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 19, 1994, 3:39 p.m.

TRD-9445296

Thursday, July 21, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

According to the complete agenda, the Public Utility Commission of Texas, in addition to the previously submitted agenda, will also consider the extension of time for action on the Motion for Rehearing in Project Number 12202 (Scope of Competition Report Investigation Into Competition In Local Exchange and IntraLata Long Distance Telecommunications).

Reason for emergency: Prompt commission action is necessary to preserve jurisdiction over the subject matter.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 20, 1994, 3:37 p.m.

TRD-9445415

Thursday, July 21, 1994, 9:05 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

According to the complete agenda, in addition to the previously submitted agenda, the commissioners will also discuss in executive session litigation matters; pursuant to Texas Government Code §551.071, discussion and decision regarding pending or threatened litigation including but no limited to the following: In Re: El Paso Electric Company Case Number 92-10148 (Chapter 11) United States Bankruptcy Court for the Western District of Texas.

Reason for emergency: Anticipated imminent filing by Central and South West Corporation and El Paso Electric Company of motion seeking bankruptcy court determination of effect of bankruptcy court rulings on pending commission proceedings.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 20, 1994, 1:06 p.m.

TRD-9445400

Monday, September 19, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on

the merits in Docket Number 13139—application of Brazos Electric Power Cooperative, Inc., and Tenaska Power Partners, L.P., for certification of cogeneration agreement.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 19, 1994, 10:08 a.m.

TRD-9445269

Thursday, October 6, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Rescheduled From: Thursday, September 8, 1994, 9:00 a.m.

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12457—application of Border to Border Communication, Inc. for approval of local exchange rates and tariff.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 18, 1994, 1:20 p.m.

TRD-9445212

Monday, December 5, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12361—application of Medina Electric Cooperative, Inc. and South Texas Electric Cooperative, Inc., for reconciliation of fuel cost and refund of fuel cost overrecovery.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 18, 1994, 4:39 p.m.

TRD-9445247

Monday, January 9, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 13170—application of Gulf States Utilities Company to reconcile its fuel costs.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 19, 1994, 11:05 a.m.

TRD-9445275

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Texas Low-Level Radioactive Waste Disposal Authority

Wednesday, August 10, 1994, 6:00 p.m.

Sheraton Hotel, Creekside Room, 500 North IH-35

Austin

According to the agenda summary, the Public Information Committee Board of Directors will discuss ongoing statewide efforts to inform citizens of the authority's activities in Hudspeth County.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 20, 1994, 9:45 a.m.

TRD-9445332

Wednesday, August 10, 1994, 7:00 p.m.

Sheraton Hotel, Creekside Room, 500 North IH-35

Austin

According to the agenda summary, the Workshop of the Board of Directors will discuss methods for financing construction of a waste disposal site.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 20, 1994, 9:45 a.m.

TRD-9445331

Thursday, August 11, 1994, 8:30 a.m.

John H. Reagan Building, Room 101, 15th and Congress Avenue

Austin

According to the agenda summary, the Board of Directors will meet in executive session; approve minutes; hear the Budget Committee and Public Information Committee reports; hear the general manager's report on the year-to-date financial status, consider approval of the 1995 operating budget, and hear a report on funds consolidation; be updated on national compacts and the status of waste acceptance rules; be given status reports on the license application, site access, and agency contracts; hear a report on the community development and county working groups, public information program, and the quality assurance program. The board will consider proposed contracts for fiscal year 1995. The board will consider approval of contracts for outside legal counsel and with the Attorney General for legal services. Proposed copying charge rules will be considered; personnel action will be discussed; and approval of financial statements will be requested. The board will hear public comments and adjourn.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 20, 1994, 9:45 a.m.

TRD-9445330

Railroad Commission of Texas

Wednesday, August 17, 1994, 9:00 a.m.

1701 North Congress Avenue, Ninth Floor, Conference Room 9-147

Austin

According to the complete agenda, the LP-Gas Advisory Committee will:

9:00-9:45 a.m.-Call to order. Review of meeting minutes.

9:45-10:45 a.m.-Update of National Fire Protection Association (NFPA) 54 and 58.

10:45-11:45 a.m.-Discussion of new license qualification.

11:45-1:15 p.m.-Lunch.

1:15-2:00 p.m.-Review of new revised loose-leaf LP-Gas Safety Rule Book.

2:00-3:00 p.m.-Open discussion and comments from industry and private sector. Adjournment.

Contact: Thomas D. Petru, P.O. Box 12967, Austin, Texas 78711, (512) 463-6949.

Filed: July 19, 1994, 3:38 p.m.

TRD-9445295

Texas National Research Laboratory Commission

Friday, July 29, 1994, 2:00 p.m.

InfoMart Exhibition Hall, Room 7004, Eckert Room, Oak Lawn and Stemmons Freeway

Dallas

According to the agenda summary, the Texas National Research Laboratory Commission will convene joint meeting of Texas National Research Laboratory Commission and Governor's Superconducting Super Collider Advisory Committee.

Administrative Actions:

- 1. Motion to approve excused absences
- 2. Approval of May 23, 1994, commission meeting minutes

Welcome and introduction of special guests

Chairman's report-Shelton Smith

Action items:

Consideration, and action as may be appropriate, regarding the negotiations between Texas and the Department of Energy

Public comment

Adjourn

Contact: Karen L. Chestay, 1801 North Hampton Road, Suite 400, DeSoto, Texas 75115, (214) 709-3800.

Filed: July 20, 1994, 3:46 p.m.

TRD-9445416

Texas Senate

Thursday, July 28, 1994, 10:00 a.m.

300 West 15th Street, One Capitol Square, Committee Room One

Austin

According to the agenda summary, the Senate Interim Committee on Public School Facilities will:

I. Call to order

II. Approval of minutes from May 2, 1994 meeting

III. Public testimony

IV. Invited testimony

V. Committee review of issues document

VI. Adjournment

Contact: Lisa Ivie, P.O. Box 12068, Austin, Texas 78711, (512) 463-0131.

Filed: July 19, 1994, 3:37 p.m.

TRD-9445283

Friday, July 29, 1994, 10:00 a.m.

UT Health Science Center, Auditorium Foyer

San Antonio

According to the agenda summary, the Senate Interim Committee on Home Equity Lending agenda consist of: consideration of public testimony.

Contact: Lisa Mayes, P.O. Box 12068, Austin, Texas 78711, (512) 463-0370.

Filed: July 15, 1994, 4:13 p.m.

TRD-9445171

Monday, September 19, 1994, 9:00 a.m.

1100 Congress Avenue, State Capitol, Senate Chamber

Austin

According to the agenda summary, the Senate Committee on Health and Human Services agenda consist of:

I. Call to order

II. Roll call and opening remarks

III. Minutes of May 31-June 1 hearing

IV. Progress reports on 6 motions adopted on June 1

V. Public testimony

VI. Committee discussion and deliberation

VII. Other business

VIII. Adjourn

Contact: Sherry Wilke, P.O. Box 12068, Austin, Texas 78711, (512) 463-0360.

Filed: July 15, 1994, 4:12 p.m.

TRD-9445170

Council on Sex Offender Treatment

Wednesday, July 27, 1994, 10:00 a.m.

4140 Governor's Row, The Wyndham Hotel at Southpark, Room 102

Austin

According to the agenda summary, the Clinical Issues Committee will:

I. Convene, Dr. Linda Reyes, Chairperson

II. Standards of Practice draft, Dr. Glen Kercher

III. Registered sex offender treatment provider renewal packet, Eliza May

IV. October Sex Offender Treatment Conference

V. Registered Sex Offender Treatment Provider survey analysis, Dr. Linda Reyes

VI. Update on castration issues, Dr. Walter Meyer

VII. Other business

VIII. Public comment

IX. Adjourn

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711-2546, (512) 463-2323.

Filed: July 19, 1994, 3:39 p.m.

TRD-9445298

Wednesday, July 27, 1994, 1:00 p.m.

4140 Governor's Row, The Wyndham Hotel at Southpark, Room 102

Austin

According to the agenda summary, the Council and the Interagency Advisory Council will:

I. Convene, Dr. Collier Cole, Chairperson

II. Adoption of the minutes for the March meeting

III. Executive director report

IV. Discussion and possible action on adoption of policies and procedures for Human Resources Manual

V. Discussion and possible action on 1995 fiscal year budget

VI. Discussion and possible action on Legislative Appropriations Request

VII. Discussion and possible action on strategic planning process procedures

IX. Report from the Clinical Issues Committee

X. Discussion and possible action on Clinical Issues Committee recommendations on:

A. Standards of Practice draft,

B. Registered Sex Offender Treatment Provider renewal packet,

C. October Sex Offender Treatment Conference,

D. Registered Sex Offender Treatment Provider survey analysis

XI. Other business

XII. Public comment

XIII. Adjourn

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711-2546, (512) 483-2323.

Filed: July 19, 1994, 3:39 p.m.

TRD-9445297

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Stephen F. Austin State University

Tuesday, August 2, 1994, 9:00 a.m.

Stephen F. Austin Campus, Room 307, Austin Building

Nacogdoches

According to the agenda summary, the Board of Regents agenda consists of:

I. Executive session

II. Approval of minutes

III. Administration

IV. Personnel

V. Academic and Student Affairs

VI. Financial Affairs

VII. Buildings and Grounds

VIII. Reports

Contact: Dr. Dan Angel, P.O. Box 6078, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 20, 1994, 3:21 p.m.

TRD-9445411

◆ ◆ ◆
Texas Guaranteed Student Loan Corporation

Friday, July 22, 1994, 9:30 a.m.

13809 North Highway 183, Suite 301 Austin

According to the agenda summary, the Board of Directors agenda consists of:

1. Approval of minutes of April 22, 1994

2. Chair's report-committee assignments; future meeting dates

3. Budget/Finance/Audit Committee report

4. Contract execution resolution approval

5. Compensation guidelines for FY 1995

6. President's report

7. Executive Session: attorney's report on pending and potential litigation

8. Adjourn

Contact: Peggy Irby, 13809 North Highway 183, Austin, Texas 78750, (512) 219-5700.

Filed: July 14, 1994, 1:45 p.m.

TRD-9445059

◆ ◆ ◆
The Texas A&M University System, Board of Regents

Thursday, July 21, 1994, 8:00 a.m.

Texas A&M University, MSC, Room 292, Joe Routh Boulevard

College Station

According to the agenda summary, the Facilities Planning and Building Committee agenda consists of: authority to enter into an energy management services agreement; appropriations for designs, detailed designs and preliminary designs; action on bids; initiation of construction projects; assignment of architect/engineer contract; reports on the status of construction projects; selection of architect/engineers; report of contract actions by the Chancellor or Chief Executive Officers; report of construction project appropriations by the Chancellor.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 15, 1994, 12:39 p.m.

TRD-9445102

Thursday, July 21, 1994, 11:10 a.m.

Texas A&M University, MSC, Room 292, Joe Routh Boulevard

College Station

According to the agenda summary, the Executive Committee will consider any and all things leading to the selection of the President of Prairie View A&M University including any action the Board deems necessary and appropriate; approval of minutes; resolutions; appointment of Interim President of West Texas A&M University; appointment of Regents' Professor of Higher Education; centers; ratification of termina-

tion of TAMU's development agreement with Tenneco; approval of Honorary Degrees; appointment of Dean of the College of Agriculture and Human Sciences; appointments to the Board of Visitors; emeritus titles; appointments and promotions; academic tenure; terminations of employment; appointment of Vice President for Advancement and External Affairs; appointment of Provost and Vice President for Academic Affairs; delegation of authority to the Chancellor to approve employment agreements with Vice Chancellor and General Counsel and Vice Chancellor for Finance and Operations; adoption of system policy on purchase and consumption of alcohol; adoption of mission, objectives and goals for the Office of the Board of Regents; consider any and all things leading to the selection of the Chancellor for the Texas A&M University System including any action the Board deems necessary and appropriate.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 15, 1994, 12:39 p.m.

TRD-9445103

Thursday, July 21, 1994, 1:00 p.m.

Texas A&M University, MSC, Room 292, Joe Routh Boulevard

College Station

According to the agenda summary, the Committee for Academic Campuses agenda consists of: holiday schedules; Prairie View A&M logo; border trade institute, School of Government and Public Service, license agreements, memoranda of agreement, Master of Science Degree in Special Education, consortium for the study of Western Hemisphere Trade; discussions with Joint Steering Committee of Central Texas University and the University of Central Texas.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 15, 1994, 12:39 p.m.

TRD-9445104

Thursday, July 21, 1994, 2:10 p.m.

Texas A&M University, MSC, Room 292, Joe Routh Boulevard

College Station

According to the agenda summary, the Finance and Audit Committee agenda consists of: approval of operating budgets and athletic council budgets; approval of pay station telephone; action on proposals for on-campus housing facilities; confirmation of field trip fees; quasi-endowments; vending machine contracts; budget and fiscal transfers; gifts, grants, loans and bequests, presentation from state auditors on pending management audit.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 15, 1994, 12:39 p.m.

TRD-9445105

Friday, July 22, 1994, 8:00 a.m.

Texas A&M University, MSC, Room 292, Joe Rouff Boulevard

College Station

According to the agenda summary, the Board of Regents agenda consists of: minutes; resolutions; appointment of President of PVAMU and Interim President of WTAMU; Regents' Professor of Higher Education; Centers, Institutes, Schools and Consortiums; termination of development agreement with Tenneco; holiday schedules; budgets; pay station telephones; Honorary Degrees; appointment of Dean of the College of Agriculture; appointment of Vice President for Advancement and External Affairs and Provost and Vice President for Academic Affairs; PVAMU logo; on-campus housing facilities; Board of Visitors; license agreements; memoranda of agreement; fees; quasi-endowments; degrees; vending contracts; action on bids; initiation of construction projects; appropriations for actions; construction project appropriations; acquisition, lease, exchange, disposition and value of real estate; reports from system and university administration; pending and threatened litigation; consult with system attorneys' personnel matters; naming of streets and facilities; negotiated contracts for prospective gifts or donations; emeritus titles; appointments and promotions; terminations; academic tenure; budget and fiscal transfers; gifts, grants, loans and bequests; consider any and all things leading to the selection of the Chancellor for the Texas A&M University System including any action the Board deems necessary and appropriate; policy on purchase and consumption of alcohol; delegation of authority to the Chancellor to approve employment agreements for Vice Chancellor and General Counsel and Vice Chancellor for finance and operations; mission, objectives and goals for the Office of the Board of Regents.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 15, 1994, 12:39 p.m.

TRD-9445106

Texas State Technical College System

Saturday, July 23, 1994, 8:00 a.m.

TSTC Amarillo Conference Room Activity Center

Amarillo

Revised Agenda

According to the agenda summary, the Board of Regents agenda consists of:

Add items:

Contract between TSTC East Texas Center at Marshall and Texas Employment Commission for the formation of communities in schools program

Contract with Ranger Junior College to teach general academic courses at TSTC Sweetwater Brownwood Extension Center

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas, (817) 867-4890.

Filed: July 18, 1994, Noon.

TRD-9445199

Saturday, July 23, 1994, 8:30 a.m.

TSTC Amarillo Activity Center Conference Center

Amarillo

Revised Agenda

According to the agenda summary, the Board of Regents agenda consists of:

Add items:

Section 551.074, discuss job descriptions, assignments, and administrative responsibilities relative to Amarillo and Waco campuses. Discuss status of presidential selection process.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas, (817) 867-4890.

Filed: July 18, 1994, Noon.

TRD-9445200

Texas Department of Transportation

Thursday, July 28, 1994, 9:00 a.m.

200 East Riverside Drive, Room 101

Austin

According to the agenda summary, the Texas Transportation Committee will discuss delegations: Angelina, Denton, Dallas, Glasscock, Sterling, Tom Green, and Concho Counties. Approve minutes. Awards/recognitions/resolutions. Contract awards/rejections/amendment. Program. Routine minute orders. District/division reports. Environmental reports. Interstate, U.S., State, and FM Road projects. Transportation planning: authorize revisions to the 1994-1996 Statewide Transportation Improvement Program. Multimodal Transportation projects. Road utility districts. Discuss legislative appropriation request for the 1996-1997 biennium. Rulemaking: 43 TAC Chapters 1, 7, 9, 11, 23 and 25. Authorize the types of bid guaranties to accompany

bid proposals. Recording and maintaining commission minutes and proceedings. Authorize increased funding/continuation of the registration title system. Authorize construction of a district headquarters complex in Laredo. Executive session for legal counsel and land acquisition matters. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: July 19, 1994, 3:46 p.m.

TRD-9445301

Friday, August 5, 1994, 9:00 a.m.

Federal Aviation Administration Building, 2601 Meacham Boulevard, Room 694

Fort Worth

According to the complete agenda, the Aviation Advisory Committee agenda consists of: opening remarks; approval of minutes; review of: Aviation Facility Development Biennial Program; Texas Aeronautical facilities plan; and Airport action plans; report on: Airport Improvement Program funding; Aircraft Product Liability Legislation; TxDOT Aviation Task Force; Airport Consultants Council/Federal Aviation Administration/National Association of State Aviation Officials National Management Conference; and status report on Transportation Plan Video.

Contact: Diane L. Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: July 18, 1994, 5:11 p.m.

TRD-9445251

University of Houston System, Board of Regents

Thursday, July 21, 1994, 3:00 p.m. (by Conference Call)

1600 Smith, 34th Floor, Conference Room One, University of Houston System Offices Houston

According to the complete agenda, the Executive Committee will discuss and/or approve the following: Barnes & Noble Bookstores, Inc. Contract for UH-Downtown.

Contact: Peggy Cervenka, 1600 Smith, #3400, Houston, Texas 77002, (713) 754-7442.

Filed: July 18, 1994, 10:12 a.m.

TRD-9445195

Thursday, July 21, 1994, 3:00 p.m. (by Conference Call)

1600 Smith, 34th Floor, Conference Room One, University of Houston System Offices Houston

Revised Agenda

According to the complete agenda, the Executive Committee will discuss and/or approve the following: Award of Bookstore Contract-UH-Downtown.

Contact: Peggy Cervenka, 1600 Smith, #3400, Houston, Texas 77002, (713) 754-7442.

Filed: July 18, 1994, 1:21 p.m.

TRD-9445214

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**University of North Texas,
Board of Regents**

Wednesday, July 27, 1994, 9:00 a.m.

5505 Keller Springs Road

Dallas

According to the complete agenda, the Advancement Committee will discuss planning for Capital Campaign.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76201, (817) 369-8515

Filed: July 19, 1994, 3:37 p.m.

TRD-9445284

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**University of Texas Health
Science Center at San Antonio**

Wednesday, July 27, 1994, 3:00 p.m.

7703 Floyd Curl Drive, Room 422A, Medical School Building

San Antonio

According to the agenda summary, the Institutional Animal Care and Use Committee agenda consists of:

Approval of minutes

Protocols for review

Subcommittee reports

Other business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: July 18, 1994, 10:03 a.m.

TRD-9445189

◆ ◆ ◆
Texas Veterans Commission

Friday, August 5, 1994, 9:30 a.m.

E. O. Thompson Building, Sixth Floor, Tenth and Colorado

Austin

According to the complete agenda, the Texas Veterans Commission will hold a

regular meeting to approve the minutes of the third quarterly meeting, discuss matters concerning veterans' benefits; and receive staff reports. The Commission will also approve the agency Legislative Appropriation Request for the 1996-1997 biennium and vote on final adoption of rules specifying the charges the Commission will make for copies of public records. The Commission will also conduct routine business and any old or unfinished business that might be presented. Action may be taken by the Commission on those items which are discussed. Entire Agenda.

Contact: Douglas K. Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: July 15, 1994, 9:48 a.m.

TRD-9445083

◆ ◆ ◆
**Texas Water Development
Board**

Thursday, July 21, 1994, Noon.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

Emergency Revised Agenda

According to the complete agenda, the Texas Water Development board will add Emergency Consent Item #24.

The Board will consider requesting the transfer of funds from the Texas Water Resources Finance Authority to the board as a future payment based on the authority's obligations under its Sale and Servicing Agreement with the board in connection with the sale of the board's political subdivision bonds to the authority.

Reason for emergency: Request for transfer must occur before August 31. It was just discovered that no quorum of the board is possible between the July 21 meeting and August 31.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 21, 1994, 9:51 a.m.

TRD-9445436

◆ ◆ ◆
Texas Water Resources Finance Authority

Thursday, July 21, 1994, Noon.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

Emergency Revised Agenda

According to the complete agenda, the Texas Water Resources Finance Authority will add Emergency Consent Item #3:

The authority will consider authorizing transfer of funds to the Texas Water Development Board as a future payment based on the authority's obligations under its Sale and Servicing Agreement with the board in connection with the sale of the board's political subdivision bonds to the authority.

Reason for emergency: Transfer must occur before August 31. It was just discovered that no quorum of the authority is possible between the July 21 meeting and August 31.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 21, 1994, 9:55 a.m.

TRD-9445435

◆ ◆ ◆
**Texas Workers' Compensation
Commission**

Friday, July 22, 1994, 9:30 a.m.

4000 South IH-35, Room 910-911, Southfield Building

Austin

According to the agenda summary, the Medical Advisory Committee agenda consists of:

I. Call to order;

II. Review and approval of June 24, 1994 minutes;

III. Discussion of rules presented to Commissioners;

IV. Discussion on "Draft Eight" from the impairment rating work group;

V. Review of any active work groups;

VI. Discussion of fee and treatment guidelines;

VII. Discussion of pre-authorization rule and process;

VIII. Establish draft agenda;

IX. Establish next meeting date;

X. Adjournment.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7963.

Filed: July 18, 1994, 4:36 p.m.

TRD-9445237

◆ ◆ ◆
**Texas Workers' Compensation
Insurance Facility**

Monday, July 25, 1994, 9:45 a.m.

Guest Quarters Hotel, 303 West 15th Street
Austin

According to the agenda summary, the Governing Committee agenda consists of: approval of June 20, 1994 minutes; report on: the 1994 second quarter recovery projects, budget revisions for remainder 1994 year; consideration and possible action on: 1993 financial audit management letters, servicing company request for reimbursements, and recommendations from Appeals Committee; executive director's report; and executive session(s) regarding personnel matters and pending legal matters. Following the closed executive session(s), the Governing Committee will reconvene in open and public session and take any action as may be desirable or necessary as a result of the closed deliberations, including possible approval of settlements of potential or existing litigation, possible approval of facility transition plans and personnel policies.

Contact: Peter Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759. (512) 345-1222.

Filed: July 15, 1994, 3:41 p.m.

TRD-9445156

Texas Workers' Compensation Insurance Fund

Thursday, July 28, 1994, 8:30 a.m.

100 Congress Avenue, Suite 600

Austin

According to the agenda summary, the Board of Directors will call to order; roll call; review and approval of the minutes of the June 28, 1994, board meeting; report of the Administrative Committee; report of the Finance Committee; fund status report; financial report; consideration of contract with Jim Ray and Associates for Conduct of the Annual Employee Compensation Survey; public participation; executive session; action items resulting from executive session deliberations; announcements; and adjourn.

Contact: Beth Naylor, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3886.

Filed: July 20, 1994, 3:18 p.m.

TRD-9445407

Texas Council on Workforce and Economic Competitiveness

Tuesday, July 26, 1994, 7:00 a.m.

Higher Education Coordinating Board Offices, 7700 Chevy Chase Drive, Building I, Room 1.100

Austin

According to the complete agenda, the Consolidation Task Force agenda consists of: 7:00 a.m.—call to order, announcements; 7:15 a.m.—staff presentations on material requested by members of the Task Force; 8:00 a.m.—presentation of proposals; 9:00 a.m.—Task Force deliberations on proposals presented; 9:30 a.m.—break; 9:45 a.m.—analysis of themes and categories of proposals presented; 11:00 a.m.—Task Force deliberations on issues and proposals presented; Noon—adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kevin Faulkner, P.O. Box 2241, Austin, Texas 78769, (512) 305-7000.

Filed: July 18, 1994, 4:38 p.m.

TRD-9445244

Tuesday, July 26, 1994, 2:00 p.m.

Higher Education Coordinating Board Offices, 7700 Chevy Chase Drive, Building I, Room 1.100

Austin

According to the complete agenda, the Local Workforce Development Board Task Force agenda consists of: 2:00 p.m.—call to order, announcements; 3:00 p.m.—consideration of a process for the neg rulemaking; 4:00 p.m.—consideration of options for policy for granting waivers; 5:00 p.m.—adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Kevin Faulkner, P.O. Box 2241, Austin, Texas 78769, (512) 305-7000.

Filed: July 18, 1994, 4:38 p.m.

TRD-9445243

Regional Meetings

Meetings Filed July 13, 1994

The Edwards Central Appraisal District Board of Directors met at the New County Annex Building, Rocksprings, July 15, 1994, at 3:00 p.m. Information may be obtained from Teresa Sweeten, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189. TRD-9445044.

Meetings Filed July 14, 1994

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 420, San Antonio, July 19, 1994, at 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9445074.

The Central Texas Council of Governments Work Force Development Board of Central Texas will meet at 321 North Penelope, Belton, July 28, 1994, at 10:00 a.m. Information may be obtained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9445043.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, July 18-20, 1994, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9445071.

The Galveston Bay National Estuary Program (TNRCC) Management Committee met at the University of Houston/Clear Lake, Forest Room, 2700 Bay Area Boulevard, Houston, July 20, 1994, at 9:30 a.m. Information may be obtained from Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937. TRD-9445048.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, July 20, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9445058.

The Gulf Bend Center Board of Trustees met at the Gulf Bend Center, 1404 Village Drive, Victoria, July 21, 1994, at Noon. Information may be obtained from Sharon Prarka, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9445063.

The Johnson County Rural Water Supply Corporation Public Relations Committee met at the JCRWSC Office, Highway 171 South, Cleburne, July 19, 1994, at 5:30 p.m. Information may be obtained from Peggy Johnson, P. O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9445061.

The Johnson County Rural Water Supply Corporation Board (Regular Meeting) met at the JCRWSC Office, Highway 171 South, Cleburne, July 19, 1994, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9445060.

The Nortex Regional Planning Commission (Revised Agenda) Executive Committee met at 4309 Jacksboro Highway, Suite 200, The Galaxy Center Building, Wichita Falls, July 21, 1994, at Noon. Information may be obtained from Dennis

Wilde, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281, Fax (817) 322-6743. TRD-9445062.

The North Central Texas Council of Governments for the North Central Texas Job Training Consortium Private Industry Council will meet at 616 Six Flags Drive, Suite 200, Arlington, July 26, 1994, at 10:00 a.m. Information may be obtained from Mike Gilmore, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9445057.

The Nueces-Jim Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors met at the SCS Office, 548 South Highway 77, Suite B, Robstown, July 19, 1994, at 2:00 p.m. Information may be obtained from Denise Lawhon, 548 South Highway 77, Suite B, Robstown, Texas 78380. TRD-9445056.

The Wood County Appraisal District Board of Directors met at 217 North Main Street, Conference Room, Wood County Appraisal District, Quitman, July 21, 1994, at 1:30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9445055.



Meetings Filed July 15, 1994

The Archer County Appraisal District Appraisal Review Board met at 101 South Center, Archer City, July 20, 1994, at 9:00 a.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9445120.

The Austin-Travis County Mental Health Mental Retardation Center Finance and Control Committee met at 1430 Collier Street, Austin, July 19, 1994, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9445098.

The Austin-Travis County Mental Health Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, July 21, 1994, at 5:00 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9445169.

The Bastrop Central Appraisal District Appraisal Review Board met at 1200 Cedar Street, Bastrop, July 20, 1994, at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925. TRD-9445125.

The Bastrop Central Appraisal District Board of Directors met at 1200 Cedar Street, Bastrop, July 21, 1994, at 7:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925. TRD-9445157.

The Bosque County Central Appraisal District Appraisal Review Board met at 202 South Highway 6, Meridian, July 19, 1994, at 9:00 a.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9445119.

The Bosque County Central Appraisal District Board of Directors met at 202 South Highway 6, Meridian, July 19, 1994, at 1:00 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9445084.

The Bosque County Central Appraisal District (Revised Agenda.) Board of Directors met at 202 South Highway 6, Meridian, July 19, 1994, at 1:00 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9445121.

The Canyon Regional Water Authority Board (Regular Meeting) met at the Guadalupe Fire Training Facility, 850 Lakeside Pass Drive, New Braunfels, July 19, 1994, at 7:00 p.m. Information may be obtained from David J. Davenport, Route 2 Box 654 W, New Braunfels, Texas 78130-9579. TRD-9445175.

The Coastal Bend Council of Governments Executive Board met at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, July 22, 1994, at Noon. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9445160.

The Coastal Bend Council of Governments Membership met at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, July 22, 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-9445161.

The Deep East Texas Regional Mental Health Mental Retardation Services Board of Trustees will meet at 2001 South Medford, Lufkin, July 26, 1994, at Noon. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9445095.

The Deep East Texas Regional Mental Health Mental Retardation Services Board of Trustees will meet at 4101 South Medford Drive, Lufkin, July 26, 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-9445094.

The East Texas Council of Governments East Texas Private Industry Council met at the Texas State Technical College-East

Texas Center, Marshall, July 21, 1994, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9445163.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, July 20, 1994, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9445158.

The Ellis County Appraisal District Board of Directors met at 406 Sycamore Street, Waxahachie, July 21, 1994, at 6:00 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9445108.

The Ellis County Appraisal District Board of Directors met at 406 Sycamore Street, Waxahachie, July 21, 1994, at 6:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9445107.

The Golden Crescent Private Industry Council Oversight Committee met at 2401 Houston Highway, Victoria, July 18, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9445089.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, July 20, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9445088.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, July 21, 1994, at 6:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9445173.

The Gulf Bend Center (Revised Agenda.) Board of Trustees met at the Gulf Bend Center, 1404 Village Drive, Victoria, July 21, 1994, at Noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9445172.

The Hays County Appraisal District Appraisal Review Board met at 21001 North IH-35, Kyle, July 21, 1994, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9445087.

The Heart of Texas Council of Governments Executive Committee met at 300 Franklin Avenue, Waco, July 21, 1994, at 10:00 a.m. Information may be obtained

from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9445136.

The Heart of Texas Council of Governments Private Industry Council met at 300 Franklin Avenue, Waco, July 21, 1994, at 5:30 p.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9445137.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth, Lampasas, July 21, 1994, at 6:30 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9445122.

The Lampasas County Appraisal District (Revised Agenda.) Board of Directors met at 109 East Fifth, Lampasas, July 21, 1994, at 6:30 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9445167.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, July 27, 1994, at 9:30 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9445101.

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, July 19, 1994, at 2:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445145.

The Lower Colorado River Authority Board of Directors met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445138.

The Lower Colorado River Authority Energy Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445139.

The Lower Colorado River Authority Natural Resources Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445140.

The Lower Colorado River Authority Conservation and Environmental Protection Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445141.

The Lower Colorado River Authority Finance and Administration Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445142.

The Lower Colorado River Authority Audit Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445143.

The Lower Colorado River Authority Ad Hoc Committee on Community Resources and Development met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1994, at 9:00 a.m., and reconvening, if necessary, at 9:00 a.m. on Thursday, July 21, 1994. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445144.

The Lower Neches Valley Authority Industrial Development Corporation met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, July 19, 1994, at 10:00 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9445085.

The Lower Neches Valley Authority (Revised Agenda.) Board of Directors met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, July 19, 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-9445086.

The Texas Municipal League (TML) Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool met at the Sheraton South Padre Beach Resort, South Padre Island, July 21, 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-9445123.

The Riceland Regional Mental Health Authority Board of Trustees (Joint Com-

mittee Meeting) met at 3007 North Richmond Road, Wharton, July 21, 1994, at 11:00 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9445093.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, July 21, 1994, at Noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9445092.

The Central Appraisal District of Taylor County Appraisal Review Board met at 1534 South Treadaway, Abilene, July 18-19, 1994, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9445165.

The Central Appraisal District of Taylor County Appraisal Review Board met at 1534 South Treadaway, Abilene, July 20, 1994, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9445166.

The West Central Texas Council of Governments Executive Committee will meet at 1025 EN Tenth Street, Abilene, July 27, 1994, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9445097.

◆ ◆ ◆ Meetings Filed July 18, 1994

The Austin-Travis County Mental Health Mental Retardation Center (Emergency Revised Agenda.) Finance and Control Committee met at 1430 Collier Street, Austin, July 19, 1994, at Noon. Reason for Emergency: Item requiring immediate board action. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9445252.

The Coryell City Water Supply District Board of Directors met at the District Office, FM 929, Coryell, July 21, 1994, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, Box 93, Gatesville, Texas, (817) 865-6089. TRD-9445211.

The Deep East Texas Council of Governments Solid Waste Task Force will meet at the Fin and Feather Lodge, FM 2928, Hemphill, July 28, 1994, at 10:00 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9445188.

The Eastland County Appraisal District Board of Directors will meet in the Com-

missioners' Courtroom, County Courthouse, Eastland, July 27, 1994, at 1:00 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9445185.

The Education Service Center-Region 17 Board of Directors will meet in the Board Room, 1111 West Loop 289, Lubbock, August 18, 1994, at 2:00 p.m. Information may be obtained from Virgil (Ed) Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4854. TRD-9445184.

The Garza Central Appraisal District Appraisal Review Board met at the Appraisal District Office, 124 East Main, Post, July 22, 1994, at 2:00 p.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9445201.

The Hansford Appraisal District Appraisal Review Board met at 709 West Seventh Street, Spearman, July 25, 1994, at 9:00 a.m. Information may be obtained from Lovida Giblin, P.O. Box 519, Spearman, Texas 79081-0519, (806) 659-5575. TRD-9445190.

The Central Appraisal District of Johnson County Board of Directors met at 109 North Main, Cleburne, July 21, 1994, at 4:30 p.m. Information may be obtained from Priscilla A. Bunch, 109 North Main, Cleburne, Texas 76031, (817) 558-8100. TRD-9445232.

The Appraisal District of Jones County Appraisal Review Board met at the District's Office, 1137 East Court Plaza, Anson, July 22, 1994, at 9:00 a.m. Information may be obtained from Susan Holloway, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9445182.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, July 27, 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-9445192.

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, July 21, 1994, at Noon. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9445198.

The Texas Municipal League (TML) Group Benefits Risk Pool (Revised Agenda) Board of Trustees, Group Benefits Risk Pool met at the Sheraton South Padre Beach Resort, South Padre Island, July 21, 1994, at 1:30 p.m. Information may be obtained from Suzanne Steindorf, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, (512) 719-6521. TRD-9445210.

The Central Appraisal District of Nolan County (Emergency Meeting) Board of Directors met at the Nolan County Courthouse-Third Floor, 100 East Third Street, Sweetwater, July 21, 1994, at 7:00 a.m. Reason for Emergency: Only day a Quorum can be present. Information may be obtained from Ansa Lee Lane, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9445246.

The Northeast Texas Municipal Water District Board of Directors met at Highway 250, South, Hughes Springs, July 25, 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-9445181.

The Sabine River Authority Board of Directors met at the Fredonia Hotel, 400 Fredonia Street, Nacogdoches, July 22, 1994, at 10:00 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-3200. TRD-9445236.

Meetings Filed July 19, 1994

The Austin-Travis County Mental Health Mental Retardation Center (Emergency Revised Agenda) Board of Trustees met at 1430 Collier Street-Board Room, Austin, July 21, 1994, at 5:00 p.m. Reason for Emergency: Item added that needs Board action. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9445268.

The Brazos Valley Development Council Personnel Committee met in the Oxford Street Restaurant Meeting Room, 1710 Briarcrest, Bryan, July 20, 1994, at 11:30 a.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9445255.

The Brazos Valley Development Council Solid Waste Management Advisory Committee will meet in the BVDC Conference Room, 1706 East 29th Street, Bryan, July 27, 1994, at 2:00 p.m. Information may be obtained from Robert Gresham, P.O. Drawer 4128, Bryan, Texas 77805, (409) 775-4244. TRD-9445256.

The Brazos Valley Development Council Regional Review Committee will meet in the BVDC Conference Room, 1706 East 29th Street, Bryan, July 28, 1994, at 3:00 p.m. Information may be obtained from Jill Hyde, P.O. Drawer 4128, Bryan, Texas 77805, (409) 775-4244. TRD-9445307.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway, Abilene, July 27-28, 1994, at 1:30 p.m. Information may

be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9445282.

The Central Texas Council of Governments Killeen-Temple Transportation Study will meet at the Inn at Scott & White, 2625 South 31st Street, Temple, July 27, 1994, at 10:00 a.m. Information may be obtained from Mike Morgan, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9445253.

The Laredo Urban Transportation Study Metropolitan Planning Organization will meet at 1110 Houston Street, Laredo, July 29, 1994, at 10:00 a.m. Information may be obtained from Audrey Alonso, P.O. Box 579, Laredo, Texas 78040-0579, (210) 791-7441. TRD-9445313.

The Liberty County Central Appraisal District (Revised Agenda) Board of Directors will meet at 315 Main Street, Liberty, July 27, 1994, at 9:30 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9445273.

The Lower Rio Grande Valley Development Council Board of Directors will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, July 26, 1994, 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9445286.

The Mason County Appraisal District Appraisal Review Board will meet at 202 Westmoreland, Mason, July 26, 1994, at 9:00 a.m. Information may be obtained from Deborah Geistweidt, Box 1119, Mason, Texas 76856, (915) 347-5989. TRD-9445300.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, August 11, 1994, at 7:00 p.m. Information may be obtained from Ronald E. Procter, Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9445254.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the International Conference Center, Convention Center Complex, San Antonio, July 25, 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-9445285.

The Trinity River Authority of Texas Central Regional Wastewater System Right-Of-Way Committee will meet at 5300 South Collins, Arlington, July 26, 1994, at 10:30 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9445314.

The West Central Texas Council of Governments Private Industry Council will

meet at the Stagecoach Inn, Salado, July 29, 1994, at 11:00 a.m. Information may be obtained from Mary Ross, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9445274.

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Meetings Filed July 20, 1994

The Brazos Valley Quality Work Force Planning Committee will meet at 715 University Drive, College Station, July 26, 1994, at 11:30 a.m. Information may be obtained from Patty Groff, Post Office Street, Bryan, Texas 77801, (409) 821-2505. TRD-9445404.

The Deep East Texas Council of Governments Board of Directors will meet at FM 2928, Fin and Feather Lodge, Hemphill, July 28, 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-9445405.

The Fisher County Appraisal District Board of Directors will meet in the Court Room, Fisher County Courthouse, Roby, August 9, 1994, at 7:00 p.m. Information may be obtained from Betty Mize, Box 516, Roby, Texas 79543. TRD-9445403.

The Grayson Appraisal District Board of Directors will meet at 205 North Travis, Sherman, July 27, 1994, at Noon. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9445350.

The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Graham Building, Corner of Highway 7 and Highway 75, Centerville, July 25, 1994, at

7:00 p.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252, Fax: (903) 536-2377. TRD-9445382.

The Liberty County Central Appraisal District (Revised Agenda.) Board of Directors will meet at 315 Main Street, Liberty, July 27, 1994, at 9:30 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9445409.

The Panhandle Regional Planning Commission Board of Directors will meet in the PRPC Board Room, 415 West Eighth Avenue, Amarillo, July 28, 1994, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9445419.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, July 25, 1994, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9445408.

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Meetings Filed July 21, 1994

The Barton Springs/Edwards Aquifer Conservation District (Called Meeting.) Board of Directors met at 1124-A Regal Row, Austin, July 25, 1994, at 3:00 p.m. Information may be obtained from Bill E. Crouch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax: (512) 282-7016. TRD-9445427.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the Fin and Feather Lodge, FM 2928, Hemphill, July 28, 1994, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9445428.

The North Central Texas Council of Governments Executive Board will meet at 1401 Pacific, Room 1C, Dallas Area Rapid Transit, Dallas, July 28, 1994, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9445431.

The Pecan Valley Mental Health Mental Retardation Region Board of Trustees will meet at the Pecan Valley MHMR Region Clinical Office, 104 Pirate Drive, Granbury, July 27, 1994, at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9445426.

The San Jacinto River Authority Board of Directors will meet in the Hawthorne Room, Woodlands Executive Center and Resort, 2301 North Millbend, The Woodlands, July 27, 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-9445429.

The Uniforce, Alamo Quality Workforce Planning Committee met at the Koehler Cultural Center, San Antonio College, 310 West Ashby, San Antonio, July 25, 1994, at 3:00 p.m. Information may be obtained from Walter Ague, 1300 San Pedro, San Antonio, Texas 78212, (210) 731-0071. TRD-9445430.

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 Department of Agriculture Notice of Public Hearings

The Texas Department of Agriculture (the department) will conduct public hearings to take public comment on proposed new §§2.1-2.6, concerning the establishment of a field citation system for assessment of administrative penalties for certain minor violations of the Texas Agriculture Code, including violations of the Texas Pesticide Law, the Texas Agriculture Code, Chapter 76. The new sections were published in the June 21, 1994, issue of the *Texas Register* (19 TexReg 4797). Persons who will be affected by the proposed sections are persons required to obtain permits from the department to apply herbicides, persons licensed to sell or distribute pesticides, persons required to register or obtain certification or licensure under the department's weights and measures, agricultural protective act, plant quality and egg quality programs, persons required to maintain grain warehouse records and persons required to pay seed quality inspection fees.

In accordance with the Texas Agriculture Code, §76.004, the department will hold five regional public hearings to receive public comment on the proposed sections as follows: On Wednesday, August 3, 1994, beginning at 10:00 a.m., at the Texas Department of Agriculture, 2626 South Loop West, Suite 130, Houston, Texas. On Wednesday, August 3, 1994, beginning at 1:00 p.m., at the Texas Department of Agriculture, 2820 South Padre Island Drive, Suite 208, Corpus Christi, Texas. On Thursday, August 4, 1994, beginning at 10:00 a.m., at the Texas Department of Agriculture, Regal Tech Center, 1720 Regal Row, Suite 118, Dallas, Texas. On Thursday, August 4, 1994, beginning at 10:00 a.m., at the Texas Department of Agriculture, 4502 Englewood Avenue, Lubbock, Texas. On Friday, August 5, 1994, beginning at 10:00 a.m., at the Texas Department of Agriculture, 1700 North Congress Avenue, Room 924-A, Austin, Texas.

Written comments on the proposed sections will be accepted until August 22, 1994, and should be sent to Esther Hadjar, Chief of Enforcement and Assistant General

Counsel, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

For further information regarding the hearings or to obtain copies of the proposed regulations, please contact Kevin Zarling, Assistant General Counsel, P.O. Box 12847, Austin, Texas 78711, (512) 463-7450. Persons with special seating or communication or other needs, who are planning to attend, are requested to contact (512) 463-7450 or RELAY Texas at 1 (800) 735-2989 (TDD) or 1-800-735-2988 (voice) as far in advance of the hearing as possible in order for the department to accommodate these needs.

Issued in Austin, Texas, on July 18, 1994

TRD-9445197

Dolores Alvarado Hibbe
Chief Administrative Law Judge
Texas Department of Agriculture

Filed: July 18, 1994

Texas Alternative Fuels Council Notice of Successful Applicants

(Editor's Note: The following document was inadvertently omitted from publication in the July 19, 1994, issue of the Texas Register. The Texas Register regrets the error.)

On June 17, 1994, the Texas Alternative Fuels Council approved nearly \$4 million in grants to put 1,871 alternatively-fueled vehicles on the road in Texas and further develop the fueling infrastructure.

More than half the money, \$2,108,588, will go to fund conversion programs for natural gas and propane at 30 school districts throughout the state. A total of \$1,276,710 will fund natural gas, propane and electric vehicle projects at 20 municipal government agencies.

The council, created by the 1993 Legislature, distributes federal oil overcharge funds to help eligible public and private organizations finance fleet conversion and encourage the increased use of alternative fuels like natural gas and propane.

Texas Alternative Fuels Council Grant Program

Grantee	Grant Amount	Project Description
Aldine Independent School District	\$43,056.00	Fund 80% of conversion cost for 39 buses.
Alice Independent School District	\$45,600.00	Fund 80% of conversion costs for 38 buses.
Amarillo Independent School District	\$77,328.00	Fund 80% of conversion costs for 27 buses.
Austin Independent School District	\$100,000.00	Fund 80% of costs for upgrading of equipment.
Austin, City of	\$11,520.00	Fund 80% of conversion costs for eight LPG vehicles.
Austin, City of	\$34,320.00	Fund 80% of conversion costs for 13 CNG vehicles.
Baytown, City of	\$40,500.00	Fund 80% of conversion costs for 18 existing and nine new vehicles.
Bexar Metropolitan Water District	\$90,533.00	Fund 80% of conversion costs for 34 vehicles.
Brazoria, County of	\$24,000.00	Fund 80% of conversion costs for 15 vehicles.
Brownsville Independent School District	\$112,560.00	Fund 80% of conversion costs for 60 buses.
Bryan, City of	\$25,200.00	Fund 80% of conversion costs for 21 late model vehicles.
Canadian Independent School District	\$19,040.00	Fund 80% of conversion costs for 14 buses.
Canutillo Independent School District	\$24,480.00	Fund 80% of conversion costs for 18 vehicles.
Comal Independent School District	\$30,240.00	Fund 80% of conversion costs for 21 buses.
Commerce Independent School District	\$33,600.00	Fund 80% of conversion costs for 11 buses and vehicles.
Dallas County Schools	\$125,000.00	Fund 80% of conversion costs for 126 buses.
Dallas Independent School District	\$77,462.40	Fund 80% of conversions costs for 25 mini-vans

Grantee	Grant Amount	Project Description
Denton Independent School District	\$89,111.00	Fund 80% of conversion costs for 60 buses.
DFW Airport - Mesa, Inc. & Lone Star Energy	\$200,000.00	Fund incentives of up to 50% for 115+ vehicle conversions. Grantee to provide public refueling facility.
DFW Airport - SuperShuttle	\$40,000.00	Fund \$1,000 of conversions cost for 40 vans.
Donna Independent School District	\$100,000.00	Fund 80% of conversion costs for 26 buses.
Edinburg Independent School District	\$125,000.00	Fund 80% of conversion costs of 37 buses.
El Paso Independent School District	\$50,160.00	Fund 80% of conversion costs for 38 vehicles.
El Paso, County of	\$35,360.00	Fund 80% of conversion costs for 26 vehicles.
Fort Bend, County of	\$27,920.00	Fund 80% of conversion costs for 10 pursuit vehicles.
Garland Independent School District	\$100,000.00	Fund 80% of conversion costs for 20 buses.
Grapevine, City of	\$38,400.00	Fund 80% of conversion costs for 30 vehicles.
Harlingen Independent School District	\$130,000.00	Fund 80% of conversion costs for 38 buses.
Harris, County of (Pct. 1)	\$95,352.00	Fund 80% of conversion costs for 30 vehicles.
Harris, County of (Pct. 4)	\$24,000.00	Fund 80% of conversion costs for 20 vehicles.
Houston, City of	\$180,640.00	Fund 80% of incremental costs for 53 OEM vehicles.
Katy Independent School District (2)	\$35,500.00	Fund conversion kits for 15 support vehicles.
Katy Independent School District (3)	\$10,080.00	Fund 80% of incremental costs for three carpool vans.
Katy Independent School District (4)	\$58,500.00	Fund conversion kits for 25 buses.
Killeen Independent School District	\$175,000.00	Fund 80% of conversions costs for 38 buses.
Kingsville, City of	\$30,320.00	Fund 80% of conversions costs for 18 vehicles.

Grantee	Grant Amount	Project Description
Longview, City of	\$72,000.00	Fund 80% of conversion costs for 22 police sedans.
Love Field - Mesa, Inc. & Lone Star Energy	\$200,000.00	Fund incentives of up to 50% for 115+ vehicle conversions. Grantee to provide public refueling facility.
Northside Independent School District	\$30,475.00	Fund 80% of conversion costs for 21 new buses.
Odessa, City of	\$116,565.00	Fund equipment costs of 57 vehicles.
Orange, City of	\$200,000.00	Fund seven motor sets, controller sets, tooling and two charger systems. Funding represents 37% of project costs.
People for Progress, Inc.	\$25,120.00	Fund 80% of conversion costs for 16 vehicles.
Pharr-San Juan-Alamo Independent School District	\$50,000.00	Fund 80% of conversion costs for 20 buses and 14 support vehicles.
Rio Grande City Consolidated Independent School District	\$65,000.00	Fund 80% of conversion costs for 16 buses.
San Antonio, City of	\$50,000.00	Fund requested monies for converting 54 vehicles in 1994.
San Benito Independent School District	\$23,520.00	Fund 80% of conversion costs for six buses.
Sherman, City of	\$44,400.00	Fund 80% of conversion costs for 37 vehicles.
Socorro Independent School District	\$43,132.00	Fund conversion kit installations for 13 buses and 80% of conversion costs of one support vehicle and four buses.
South Plains Community Association, Inc.	\$112,500.00	Fund requested monies for conversion of 35 NGVs.
South Plains Community Association, Inc.	\$69,000.00	Fund requested monies for conversion of 62 propane vehicles.
Southwest Independent School District	\$77,800.00	Fund 80% of conversion costs for 28 buses and 17 support vehicles.
Sulphur Springs Independent School District & Hopkins County	\$19,584.00	Fund 80% of conversion costs for 18 buses and vehicles.
Texas Fuel Methanol Corporation	\$27,337.00	Fund 50% of public methanol fueling facility in Dallas/Fort Worth.

Grantee	Grant Amount	Project Description
Texas Fuel Methanol Corporation	\$27,337.00	Fund 50% of public methanol fueling facility in Houston.
Travis, County of	\$39,200.00	Fund 80% of conversion costs for 14 CNG conversions.
Travis, County of	\$24,480.00	Fund 80% of conversion costs for 17 LPG conversions.
Victoria Independent School District	\$64,160.00	Fund 80% of conversion costs for 26 buses and support vehicles.
Victoria, City of	\$54,300.00	Fund 80% of conversion costs for 32 vehicles.
Ysleta Independent School District	\$83,200.00	Fund 80% of conversion costs for 65 buses.
Zavala, County of	\$17,700.00	Fund 80% of conversion costs for 15 vehicles.
\$3,996,592.40		

Issued in Austin, Texas, on July 15, 1994.

TRD-8443875 Deborah B. Schilling
Staff Services Officer
Texas Alternative Fuels Council

Filed: July 12, 1994

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**Office of the Attorney General
Consulting Services Contract
Amendment-Invitation for Offers**

The Office of the Attorney General gives notice of its intent to amend a consulting services contract entered into on August 26, 1991, pursuant to the provisions of the Texas Government Code, §2254.021 et seq., otherwise known as the "Consulting Services Act." The value of the amendment exceeds \$10,000. The consulting services contemplated both by the contract to be amended and the amendment itself are for the enhancement, design, development and installation of a computerized system for the initiation, management, accounting and enforcement of child support obligations in compliance with the requirements of Title IV, Part D, of the federal Social Security Act of 1935, as amended.

The contract to be amended is with Andersen Consulting, 701 Brazos Street, Suite 1020, Austin, Texas 78701. The contract to be amended was awarded pursuant to the Consulting Services Act after public competition in response to a notice published in the February 16, 1990, issue of the *Texas Register* (15 TexReg 893).

Invitation and Disclosure. As required by the Consulting Services Act, an invitation for private consultants to provide offers of consulting services is hereby given. How-

ever, as required by the Consulting Services Act, it is hereby disclosed that the consulting services desired pursuant to the amendment relates to the service previously performed pursuant to the contract to be amended and that the Office of the Attorney General intends to award the amendment to the contractor with whom the contract to be amended was awarded (Andersen Consulting) unless a better offer is submitted.

Description of Services under Proposed Amendment. A description of the services under the proposed amendment are specified as performances required in Phases II through IV of a draft of the proposed amendment.

Obtaining Copies of Proposed Amendment. Copies of the draft proposed amendment will be available beginning on or after the date of this issue of the *Texas Register*. Requests for copies of the draft proposed amendment must be in writing, and sent by either overnight courier service or hand delivered to the Texas Attorney General, CSE New System Development, Stan Clements, Project Manager, 1524 South IH-35, Suite 300, Austin, Texas 78704. Each request must include the name, mailing address and telephone number of the entity or person requesting the copy. The request must also identify a specific contact person designated by the requestor to receive communications from the Attorney General. No other method of requesting a copy of the draft proposed amendment is permissible.

Closing Date for Receipt of Offers. The Attorney General will accept offers until and including the fourteenth day following the date of this issue of the *Texas Register*. Offers must be in writing and delivered by either overnight courier service or hand delivered to the Texas Attorney General, CSE New System Development, Stan Clements, Project Manager, 1524 South IH-35, Suite 300, Austin, Texas 78704. No other method of transmission is permissible.

Procedure for Awarding Amendment. The Attorney General intends to award the amendment to its current contractor unless a better offer is submitted. In determining whether an offer is better, Attorney General will consider the competence, knowledge and qualifications of the offeror to perform the services described by this notice and the reasonableness of the fee proposed for such services as such competence, knowledge, qualifications, and fee reasonableness are demonstrated by the offers submitted.

If a better offer be selected, then the offeror selected must execute a contract with the Attorney General specifying substantially the same performances described by this notice and subject to substantially the same terms and conditions as specified in the proposed draft amendment.

The Attorney General reserves the right to reject any and all proposals.

Issued in Austin, Texas, on July 13, 1994.

TRD-9445096

Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: July 15, 1994

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Texas Commission for the Blind

Computer Access Technology Training for Federal Fiscal Year 1995 Request for Proposals

Pat D. Westbrook, Executive Director of the Texas Commission for the Blind, has announced the availability of funds to contract for individualized computer and software program training to consumers receiving services from the Commission and staff of the Commission who are blind or severely visually impaired.

Objectives. The Commission intends to enter into contracts with individuals and organizations to provide computer access technology interfacing services and training on a fee-for-service basis to staff and consumers (who are determined eligible by the Commission). The primary objective of the contract is to enable consumers and staff who are blind or severely visually impaired to have access to work-place, task-specific, advanced training in the use of access hardware and software systems and to the integration of software programs and hardware systems for employment, education, and training applications. This is achieved by the provision of computer access technology training by individuals familiar with computer technology, applications of this technology for consumers and staff who are blind or severely visually impaired, and methods of instructing consumers and staff who are blind or severely visually impaired, as well as the ability to set software environments and create windows/macros (Form Fill) specific to an individual's needs on the job. Preference will be given to applicants with skills in computer interfacing and training. The following examples are provided as guides. They are not meant to be inclusive.

- (a) Computer interfacing:
- (1) software customization to access mainframe or personal computer via adaptive software and devices,
 - (2) integration of adaptive software and hardware within a local area network.
- (b) Training:

- (1) advanced skills with computer hardware/software,
 - (2) advanced skills with DOS,
 - (3) advanced skills with specific software, e.g., WordPerfect, Lotus 1-2-3, PC-File+, and other off-the-shelf software.
- (c) Adaptive technology:
- (1) large print programs, e.g., Vista, ZoomText, LPDOS,
 - (2) speech screen review software, e.g., Vert, Vocal-Eyes, Artic, JAWS,
 - (3) braille systems, e.g., Navigator, ALVA, Brailloterm.

Targeted Population. Consumers served under these contracts are persons who are legally or totally blind or severely visually impaired and have met the basic requirements for receiving services and have been referred by an authorized agency representative. Staff served under these contracts would be persons referred by a regional supervisor or program supervisor.

Who is Eligible to Apply. Organizations and individuals that provide computer technology training are eligible to apply for contracts.

Application Procedures. Submit to Glenda Embree, Supervisor of Program Specialists, Texas Commission for the Blind, 4800 North Lamar, Suite 220, Austin, Texas 78756, a narrative no longer than five typed pages which describes:

- (a) individual or organization applying,
- (b) proposed geographic coverage,
- (c) quality and extent of services to be provided (list specific software and adaptive devices for visual loss),
- (d) experience in providing adaptive technology interface and training to persons with visual loss, and
- (e) cost per person per hour for proposed training and method used to calculate cost. Also include qualifications of key personnel and additional information about you or your organization and past achievements in serving the consumer who is visually impaired or blind.

Deadline. All applications must be postmarked no later than August 5, 1994.

Inquiries. Interested parties are urged to contact the Texas Commission for the Blind with related questions prior to drafting proposals to facilitate the request for proposal process. Inquiries should be directed to Cathy Duvall at (512) 459-2573.

Method of Payment. The service provider will be reimbursed monthly via monthly submission of a voucher with a detailed listing of services provided; after agency review and approval of submitted material.

Review Criteria. Reviewers will use the following criteria to evaluate proposals:

- (a) The proposal addresses the explicit purpose of the request for proposal.
- (b) The applicant addresses their expertise with the subject matter.
- (c) The applicant provides evidence of their professional and organizational capacity to achieve the objectives in a timely manner.
- (d) The applicant agrees to provide services to the consumer or staff at their work place. In addition to the

written criteria, the applicant may be requested by the Commission to demonstrate their proficiency in providing training in the use of adaptive technology with application software.

Issued in Austin, Texas, on July 19, 1994

TRD-9445318 Pat D. Westbrook
Executive Director
Texas Commission for the Deaf

Filed: July 20, 1994

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**Texas School for the Blind and
Visually Impaired**
Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas School for the Blind and Visually Impaired announces the availability of \$15,437 for a 12-month project of training and support on implementation of the Quality Programs for Students with Visual Impairments process. Training is designed for Educational Service Center consultants for the visually impaired and Outreach staff at the Texas School for the Blind and Visually Impaired.

Quality Programs for Students with Visual Impairments (QPVI) is a model for providing technical assistance to public schools in developing and/or improving services for students with visual impairments. The process is directed by a trained Education Service Center or Texas School for the Blind and Visually Impaired Outreach Consultant along with a member of the district or co-op special education administrative staff. With the VI staff, this comprises the 'work team' who act jointly to complete the process.

For administrators, the process allows their programs serving students with visual impairments to become process-driven, rather than personnel-driven, resulting in program strength and continuity. Teachers will see their effectiveness and job satisfaction increase dramatically as the program is designed to meet the needs of students. Parents and student should see more consistency in instruction, improved student outcomes, and successful integration of the student in the mainstream of public school education.

The program was developed in and for Texas and has been in use successfully since 1985. The guide has been field-tested in regions across the state. It is being used in single districts, large and small, and by co-ops and special VI co-ops.

The process typically begins in early fall. Approximately one-half day a month for ten months is the estimated time required by district/co-op staff to participate in this process. The time devoted to the process is equivalent to that allocated to traditional program supervision. The process generally takes three years to develop a cohesive 'work team' and to effect change and growth.

TSBVI is soliciting proposals for the provision of services including 40 days at \$300 per day honorarium plus travel expenses for meals, hotel, mileage, rental cars or plane tickets in accordance with State rules and regulations. These days will include presentations to Education Service Centers and special education directors, meetings with TEA staff, TSBVI Outreach staff and other Quality Programs implementors, and additions or revisions to the program guides. Those Proposals that demonstrate the respondents' ability and willingness to work with organi-

zations, schools, and agencies representing or providing services to individuals who are blind or visually impaired will be viewed favorably. These services are for a 12-month period which begins September 1, 1994, and ends August 31, 1995.

TSBVI will award the contract to Nancy Toelle, Richardson, Texas, unless another person or organization can demonstrate superior knowledge and expertise in the training and implementation of the Quality Programs for Student with Visual Impairments process.

Contact person: Requests for application packets and for further information regarding the provision of the above state services may be directed to Cyral Miller, Outreach Director, TSBVI, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631.

Deadline for Submission of Proposals. Deadline for the receipt of proposals in the office of TSBVI is August 25, 1994 at 4:00 p.m. Proposals received after 4:00 p.m. will not be considered. Proposals are to be addressed to Cyral Miller, Outreach Director, TSBVI, 1100 West 45th Street, Austin, Texas 78756.

Issued in Austin, Texas on July 19, 1994.

TRD-9445277 Cyral Miller
Outreach Director
Texas School for the Blind and Visually Impaired

Filed July 19, 1994

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Coastal Coordination Council
Complete List of Comments on CMP

The Coastal Coordination Council publishes the following list of the names of entities and organizations that commented on 31 TAC Chapters 501, 504, 505 and 506 (CMP Rules), as published in the March 18, 1994, edition of the *Texas Register* (19 TexReg 1895). The CMP rules were revised based on public comment, and the revised version was published in the July 5, 1994, edition of the *Texas Register* (19 TexReg 5195) for additional public review and comment. All comments received on the March 18, 1994, proposed CMP rules were addressed; responses to those comments are provided in the preambles to the chapters, published at 19 TexReg 5195 (Chapter 501), 19 TexReg 5230 (Chapter 504); 19 TexReg 5237 (Chapter 505); and 19 TexReg 5257 (Chapter 506).

This list contains the names of organizations and entities that commented on any portion of the CMP rules. In addition, many commenters commented on the CMP document, not the rule; however, comments on the CMP document chapters that corresponded to Chapters 501, 504, 505 and 506 were treated as comments on the CMP rule chapters. The names of individuals that commented on the CMP rules are not included in this list, as the *Texas Register* only allows publication of the names of entities and organizations.

List of commenters: American Sheep Industry Association, The American Waterways Operators, Amoco Chemical Company, Appraisal Institute, Armand Bayou Nature Center, Arroyo Colorado Conservation Watch, Office of the Texas Attorney General, Barge Transport Company, Inc., Bayou Preservation Association, City of Baytown, Bonus Crop Fertilizer, Inc., Brazoria County, Calhoun County Navigation District, Calhoun County Resource

Watch, Cameron County Parks Advisory Board, Central Power and Light, Champion International Corporation, Chevron U.S.A. Production Company, Citgo Refining and Chemicals, Clean Water Action, Coastal Bend Bays Foundation, Inc., Coastal Bend Environmental Coalition, Coastal Bend Sierra Club, Coastal States Management Corporation, Colorado County Water Council, Corpus Christi Area Builders Association, Corpus Christi Board of Realtors, Corpus Christi Chamber of Commerce, Corpus Christi City Council, Corpus Christi Geological Society, R.C. Deal and Associates, Dixie Chemical Company, ENSR Consulting and Engineering, East Matagorda Bay Foundation, Exxon Chemical Company, Exxon Company, U.S.A., The Fordyce Company, Fort Bend Economic Development Council, Fort Worth Audubon Society, Freese and Nichols, Inc., Friendswood Development Company, Frontera Audubon Society, G&A Environmental, G&W Engineers, Galveston Bay Conservation and Preservation Association, Galveston Bay Foundation, Galveston Bay National Estuary Program, Galveston County Beach Park Board of Trustees, Galveston County Beach Preservation Committee, Greater Houston Builders Association, City of Groves, Gulf Coast Rod, Reel and Gun Club, Gulf Coast Waste Disposal Authority, Harris County Mayors and Council Association, Help Endangered Animals-Ridley Turtles, Higman Barge Lines, Hoechst-Celanese Corporation, Hollywood Marine, Inc., Houston Audubon Society, City of Houston, Houston-Galveston Area Council, Houston Lighting and Power Company, Houston Mayor's Advisory Committee on the Environment, King Fisher Marine Services, Kocurek Farms, City of Lake Jackson, Lavaca-Navidad River Authority, League of Women Voters, State of Louisiana, Lower Colorado River Authority, Lower Laguna Madre Foundation, Lundberg Operating Company, Maryland Marine, Inc., Matagorda County Navigation District, Megafleet Ltd., Mitchell Energy and Development Corporation, Mobil Oil Corporation, Montgomery Central Appraisal District, Mueller Engineering Corp., National Audubon Society, Natural Gas Pipeline Company of America, Nueces County Commissioners Court, Nueces County Coastal Management Committee, Offshore Operators Committee, Organization for the Preservation of an Unblemished Shoreline, Oryx Energy Company, Outdoor Nature Club, Padre Island Business Association, Pennzoil Company, People's Action Coalition, Phillips Petroleum Company, Port of Brownsville, Port of Corpus Christi Authority, Port of Houston Authority, Reynolds Metals Company, Rio Grande Valley Sugar Growers, Inc., Society of Independent Professional Earth Scientists, Sabine Neches Channel Association, San Jacinto River Association, Sargent Area Chamber of Commerce, City of Seabrook, Shell Western E&P, Inc., Sierra Club, Sportsmen Conservationists of Texas, South Texas Cotton and Grain Association, Inc., Southern Rolling Plains Cotton Growers Association, Inc., Southmost Soil and Water Conservation District, SpectraOne, Terrell County, Texaco Inc., City of Texas City, Texas A&M University, Texas Agricultural Cooperative Council, Texas Association of Business, Texas Beneficial Use Coalition, Texas Cattle Feeders Association, Texas Center for Policy Studies, Texas Chapter of the Wildlife Society, Texas Chemical Council, Texas Citrus Mutual, Texas Committee on Natural Resources, Texas Cotton Producers, Inc., Texas Department of Agriculture, Texas Department of Transportation, Texas Ecologists, Texas Farm Bureau, Texas Historical Commission, Texas Independent Producers and Royalty Owners Association, Texas Mid-Continent Oil and Gas Association, Texas Municipal League, Texas Parks and Wildlife Commission, Texas Parks and Wildlife

Department, Texas Ports Association, Texas Poultry Federation, Texas Railroad Commission, Texas Rice Improvement Association, Texas Sheep and Goat Raisers' Association, Texas Shrimp Association, Texas and Southwestern Cattle Raisers Association, Texas State Soil and Water Conservation Board, Texas Water Conservation Association, Texas Water Development Board, Texas Waterways Operators, Trans Texas Heritage Association, Trinity Improvement Association, Tug Josephine, Incorporated, Turner Collie and Braden, Inc., United States Department of the Army, United States Department of Commerce (National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management and National Marine Fisheries Service), United States Environmental Protection Agency (Region VI), United States Department of the Interior (Fish and Wildlife Service and Minerals Management Service), United States Department of the Navy, United States Department of Transportation (United States Coast Guard), Union Carbide, Valero Energy Corporation, Valero Refining Company, Waste Management, Inc., Western Towing Company, The Woodlands Corporation.

Issued in Austin, Texas, on July 15, 1994.

TRD-8445174 Deborah B. Schilling
Staff Services Officer
Coastal Coordination Council

Filed: July 15, 1994

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Comptroller of Public Accounts
Notice of Cancellation of Request for
Proposals

The Comptroller of Public Accounts (Comptroller) announces that the Request for Proposals (RFP) for Developing a Cost Model and Methodology for State Agency Data Center Insourcing, Outsourcing and Consolidation Opportunities which was to be issued on July 8, 1994, has been cancelled. The Comptroller has determined that it is in the best interest of the state to cancel the RFP. The notice of issuance of the RFP was published in the July 8, 1994, edition of the *Texas Register* (19 TexReg 5385).

Issued in Austin, Texas, on July 20, 1994.

TRD-8445328 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: July 20, 1994

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Texas Department of Criminal Justice
Request for Consultant Services

Pursuant to Texas Government Code, §2254.021 et seq, the Texas Department of Criminal Justice hereby requests all interested parties to submit a proposal for consulting services to assist the Community Justice Assistance Division of the Texas Department of Criminal Justice (TDCJ-CJAD) to develop a long-term plan for improving the efficiency and effectiveness of community corrections in Texas. The consultant will be expected to facilitate discussions between state and local officials for the establishment of partnerships between the local and state levels of community corrections. These discussions will focus on the development of an infrastructure to manage commu-

nity corrections in the state. To guide the planning process, TDCJ-CJAD has established a Steering Committee of state, judicial and legislative representatives. A Working Committee of TDCJ-CJAD staff and community corrections field representatives will develop recommendations and strategies for issues identified by the Steering committee. The consultant will facilitate the meetings and provide products as requested by TDCJ-CJAD. It is expected that the consultant will be involved in the project through December 1994.

To be considered for the requested consultant services, interested parties must submit three copies of their proposal containing a statement of interest, a listing of qualifications and past experience, and hourly or daily fees or rates. TDCJ-CJAD is particularly interested in consultants with a demonstrated history of working with management staff and management issues of large organizations. Experience preferred in the criminal justice field, particularly adult corrections, adult probation and/or adult parole services at the state level.

Proposals must be received no later than 5:00 p.m. on August 3, 1994 at the following address: Dimitria D. Pope, Division Director, Community Justice Assistance Division, 209 West 14th Street, Suite 400, Austin, Texas 78701.

All proposals must be sealed and clearly marked Consultant Services. Questions relating to this request for consulting services should be addressed to Michele Moczygemba at (512) 305-9338. Proposals will be reviewed by TDCJ-CJAD, who will select the consultant whom they deem most qualified to perform the requested services. Factors serving as the basis for selection will be the consultant's qualifications, expertise, and past experience in working with large organizations related to criminal justice and/or state government. A contract will then be negotiated with the selected consultant. This consulting service is a continuation of a service previously performed by a private consultant. This consulting service is a continuation of a service previously performed by a private consultant. The TDCJ-CJAD intends to award this contract to the private consultant performing service unless a better offer is submitted by an equally or better qualified consultant. The determination of the most qualified consultant shall be at the sole discretion of TDCJ-CJAD.

Issued in Austin, Texas, on July 20, 1994.

TRD-9445338 Carl Reynolds
General Counsel
Texas Board of Criminal Justice

Filed: July 20, 1994

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**Interagency Council on Early
Childhood Intervention**
**Interagency Council on Early Childhood
Intervention Funding**

The Interagency Council on Early Childhood Intervention (ECI) announces an application for inflationary funding for all current Milestones programs. The available funding for inflationary needs for all existing Milestones programs is not to exceed 3.0% of the program's fiscal year 1995 continuation award. The inflationary funding is intended to cover increased costs for continued operations.

All applications to be considered for funding must be received at Early Childhood Intervention by 5:00 p.m. on

Friday, July 29, 1994 or be postmarked by Thursday, July 28, 1994. Applications should be mailed to: Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756. Inquiries regarding this application should be directed to the ECI administrative office at (512) 502-4930. Funding is available contingent upon continued state and federal legislative appropriations. Funding will be effective September 1, 1994.

Issued in Austin, Texas, on July 18, 1994.

TRD-9445179 Tammy Tiner, Ph.D.
Chairperson
Interagency Council on Early Childhood
Intervention

Filed: July 18, 1994

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Texas Education Agency
**Notice of Withdrawal of Request for
Applications**

The Texas Education Agency (TEA) is withdrawing from consideration Request for Application (RFA) #701-94-016, published in the July 15, 1994, issue of the *Texas Register* (19 TexReg 5541). The TEA is revising the request and intends to file a new RFA at a later date.

For clarifying information about RFA #701-94-016, contact Connie Stout, Texas Education Network (TENET) Project Director, University of Texas at Austin, Computation Center, (512) 471-3241.

Issued in Austin, Texas, on July 19, 1994.

TRD-9445325 Criss Clout
Associate Commissioner for Policy Planning
and Evaluation
Texas Education Agency

Filed: July 20, 1994

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Request for Applications

RFA #701-94-038. This request for application is filed in accordance with the Carl D. Perkins Vocational and Applied Technology Education Act, Public Law 101-392, Title II, §222.

Eligible Applicants: The Texas Education Agency (TEA) is requesting applications (RFA #701-94-038) from public school districts, regional education service centers, institutions of higher education, and consortia of the foregoing from Education Service Center Regions 1 and 20. The purpose is the development of regional projects to promote the elimination of sex bias.

Description. The purpose of these projects is to provide preparatory programs, services, activities, and comprehensive career guidance and counseling designed to eliminate sex bias and stereotyping in vocational and applied technology education in the public schools in Education Service Center Regions 1 and 20. Students, especially females, will be encouraged to participate in career and technology education programs which are nontraditional for their gender.

Project Funding. The total amount available to support these projects is \$121,132. The Texas Education Agency will fund a project in each education service center regional specified to promote the elimination of sex bias. These projects are 100% federally funded.

Dates of Project. The funding period will begin no earlier than September 1, 1994, and end no later than June 30, 1995. These projects may be extended for a second year contingent on the availability of funds and the successful completion of the objectives and specifications established for the first year of the projects. The Texas Education Agency is under no obligation to approve an application, provide funds, or endorse any application submitted in response to this Request for Applications. This Request for Applications does not commit the Texas Education Agency to pay any costs incurred prior to the approval of an application. The issuance of this Request for Applications in no way obligates the Texas Education Agency to award a grant or to pay any costs incurred in the preparation of a response.

Selection Criteria. Applications will be funded based on scores awarded through a formal review process. Applications must address all requirements and specifications set forth in the request for application. The Texas Education Agency reserves the right to reject any and all applications and to negotiate portions thereof.

Requesting the Application: A copy of the complete Request for Application (RFA #701-94-038) may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 or by calling the Document Control Center at (512) 463-9304.

Deadline for Receipt of Application. The deadline for submitting an application is 5:00 p.m., Friday, August 26, 1994. Applications should be sent to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

Further Information. For clarifying information about this request, contact Liz Haywood, Career and Technology Education, at (512) 463-9285.

Issued in Austin, Texas, on July 13, 1994.

TRD-9443848 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: July 13, 1994

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Request for Proposal #701-94-036

This request for proposals ("RFP") is filed under the authority of the Individuals with Disabilities Education Act ("IDEA"), 20 United States Code §1400 et seq, and its implementing regulations, 34 Code of Federal Regulations, Part 300, and the Texas Education Code, §21.501 and §32.33, and 19 TAC Chapter 157, Subchapter A.

Eligible Proposers: The Texas Education Agency (TEA) is requesting proposals from individuals, corporations, and organizations to provide services as independent hearing officers for administrative hearings brought under IDEA.

Description: As hearing officers, the selected proposers will preside over administrative hearings concerning the identification, evaluation, or educational placement of students with disabilities or the provision of free and appropriate education to students with disabilities. The hearing officers have authority to administer oaths, call and examine witnesses, make rulings on discovery and dispositive

motions, determine admissibility of evidence and amendments to pleadings, maintain decorum, schedule and recess proceedings, and issue final decisions appealable to state or federal district courts.

Dates of Contract: Proposers should plan for a starting date of no earlier than September 1, 1994, and an ending date of August 31, 1995.

Contract Amount and Source: The selected proposers will be compensated at the hourly rate of \$85 and reimbursed for expenses at state rates. Any contracts resulting from this RFP are funded 100% from IDEA-B federal funds.

Selection Criteria: Proposals will be selected on the ability of each proposer to carry out all the requirements in this RFP. The TEA will base its selection on, among other things, demonstrated competence and qualifications. The selected proposers must be attorneys who: are licensed in Texas; in good standing with the State Bar; have at least five years of practice; have at least two years of experience in special education, disability law, administrative law, or civil rights law; possess good research skills; and demonstrate clarity of written expression. The selected proposers must be independent in that they: cannot be employees of a public agency that is involved in the education or care of students; cannot have any professional or personal interests that would conflict with their objectivity in the hearing; and have not represented parents, students, or school districts in matters involving students with disabilities in the 12 months prior to being selected.

Special consideration will be given to proposers who have served as administrative hearing officers or who have been actively involved in contested administrative cases. Historically underutilized businesses, as defined by Texas Civil Statutes, Article 601b, §1.02(3), are encouraged to submit proposals.

The TEA reserves the right to select from the highest ranking proposals that address all requirements in this RFP. The TEA is under no obligation to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP in no way obligates TEA to award a contract or pay any costs incurred in preparing a response.

Requesting the RFP: A copy of the complete RFP #701-94-036 may be obtained by writing the Document Control Center of TEA in Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304.

Further information: For clarifying information number about this RFP, contact Margaret O. Thompson, Office of Legal Services, Texas Education Agency, (512) 463-9720.

Deadline for Receipt of Proposals: Proposals must be received in the Document Control Center of TEA by 5:00 p.m., Tuesday, August 12, 1994, to be considered.

Issued in Austin, Texas, on July 11, 1994.

TRD-9443778 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: July 11, 1994

Request for Proposals Concerning the State Engineering and Science Recruitment (SENSR) Program Evaluation Project

RFP #701-94-033. This request for proposals is filed under the Texas Education Code, §51.601, Engineering and Science Recruitment Fund.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from Texas colleges and universities, with predominantly female or minority populations, that offer undergraduate programs in science, engineering, mathematics, or computer science or technology, or are involved in superconductivity research. A college or university with a predominantly female or minority population is defined as an institution where: (a) the majority of the total student population is female or minority; or (b) the largest population in the institution is female or minority. For the purposes of this RFP, minority groups are: (1) African-American, not of Hispanic origin; (2) Hispanic; (3) Asian or Pacific Islander; or (4) American Indian or Native Alaskan. The TEA will contract with one institution.

Description. The objective of this project is to establish a formal process for using eligible female or minority colleges and universities in Texas to conduct on-site evaluations of the operations and results of the project organizations that operate programs funded under the Texas Education Code, §51.601. These project organizations and the individual programs they manage are funded by the TEA to recruit females and underrepresented minority groups into the disciplines of science, engineering, mathematics, computer science or technology, or superconductivity research at institutions of higher education. The results of program evaluations will be reported to the TEA.

Dates of Project. The SENSR Program Evaluation Project will be implemented during school year 1994-1995. Proposers should plan for a starting date of not earlier than October 4, 1994, and an ending date of not later than August 31, 1995.

Project Amount. For fiscal year 1994-1995, this project will distribute a total amount of approximately \$16,000, subject to the approval of the commissioner of education. Funding will be provided to the contractor institution by previously funded project organizations for conducting on-site evaluations of the approved and funded programs managed by those project organizations. The total amount paid for the evaluation project may not exceed \$16,000.

Selection Criteria. Proposals will be considered based on each proposer's ability to satisfy all requirements in the RFP. The TEA will base its selection on, among other things, demonstrated competence and qualifications of the proposer. The TEA reserves the right to select from the highest ranking proposals the evaluation contractor whose proposal best meets the specified objectives. Other project indicators are specified throughout the RFP.

The TEA is under no obligation to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit the TEA to pay any costs incurred prior to the execution of a contract. The issuance of this RFP in no way obligates the TEA to award a contract or pay any costs incurred in the preparation of a response.

Requesting the Proposal. A copy of the RFP may be obtained by writing to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to RFP #701-94-033 in your request.

Further Information. For clarifying information about this RFP, contact Rebecca Patterson, Education Specialist, Office of Education of Special Populations and Adults, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9661.

Proposers will be provided only one opportunity to publicly review, with the TEA project administrator, any requirements, documents, forms, etc., in the RFP and to be provided information about the scope of the SENSR fund. This conference will be on Thursday, August 25, 1994, from 10:00 a.m. until noon in Room 1-110 of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas. Each person attending will be required to sign a register setting out the representative's name, the firm or organization represented, and the organization's name, address, and telephone number.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the TEA no later than 5:00 p.m., Friday, September 9, 1994, to be eligible for consideration.

Issued in Austin, Texas, on July 19, 1994.

TRD-8445326 **Crisis Cloudt**
Associate Commission for Policy Planning
and Evaluation
Texas Education Agency

Filed: July 20, 1994

General Services Commission, State Energy Conservation Office Consultant Proposal Request

Pursuant to the provisions of Texas Civil Statutes, Article 6252-11c, the State Energy Conservation Office (SECO) invites proposals from qualified firms, state agencies or individuals to provide monitoring activities for all energy programs administered by SECO and its satellite offices in the State of Texas. Potential proposers who are employed or who have been employed within the last 12 months by the State Energy Conservation Office or other governmental agencies which are the subject of this invitation, or whose members have vested interests which would conflict with the performance of the contract resulting from this invitation, shall not be considered to be eligible. No more than one proposal may be submitted by any single proposer, i.e., firm, state agency or individual.

The State Energy Conservation Office (SECO), pursuant to the authority vested in the Governor under §3 and §4 of the Oil Overcharge Restitutionary Act (Texas Civil Statutes, Article 4413(56) and Chapter 447 of the Texas Government Code), Governor Ann Richards has designated the General Services Commission (GSC) as the supervising agency responsible for general oversight and monitoring of the competitive and direct grant programs prescribed by the Act. GSC has established the SECO, formally the Governor's Energy Office, to carry out these responsibilities. SECO, alone and in collaboration with other state and federal entities, administers a variety of

federal grants and oil overcharge funds to promote energy programs throughout the state.

These dollars fund programs to make Texas' public buildings more energy efficient, to weatherize the homes of low-income citizens, to bolster recycling efforts, to demonstrate new technologies in renewable energy and alternative motor fuels, as well as various highway traffic management programs.

While the core group of energy programs and staff are at the State Energy Conservation Office, some programs and staff have been transferred by legislative action to other state agencies with congruent missions. School energy management programs have moved to the Texas Education Agency. Low-income residential energy efficiency programs have moved to the Department of Housing and Community Affairs. Energy-related transportation efficiency programs have moved to the Department of Transportation. Renewable and Alternative energy programs have moved to the newly created Sustainable Energy Development Council.

Oil Overcharge Funds are restitutionary dollars returned to Texas that resulted from overcharges at the gas pumps by various oil companies between 1973-1981, when federal price controls were in effect. President Jimmy Carter's administration sued the oil companies, and the subsequent court settlements resulted in more than \$300 million being returned to the people of Texas.

In response to federal court orders, U.S. Department of Energy regulations, and direction from the Governor and the Texas Legislature, the State Energy Conservation Office returns the money to Texans by means of 31 energy efficiency and renewable energy programs (see Exhibit C). The primary sources of oil overcharge funds are Exxon and Stripper Well. Exxon funds may be spent in four federal grant categories:

State Energy Conservation Program (SECP) includes measures which improve energy efficiency in buildings, transportation, agriculture and industry, including demonstration projects;

Institutional Conservation Program (ICP) offers matching grants for technical assistance and energy-saving capital improvements for public schools, institutions of higher education and hospitals;

Weatherization Assistance Program (WAP) provides grantees with installation of energy saving home improvements for low-income and elderly clients; and

Low-Income Home Energy Assistance Program (LIHEAP) provides energy bill subsidies to households.

Stripper Well funds permit states to spend money on a broader range of energy related programs, including some administrative expenses. Types of projects funded are:

Transportation-traffic light synchronization management programs, fleet maintenance programs, studies to improve transportation efficiencies and transit provider program;

Residential-weatherization, retrofits, and energy audits; and

Commercial-energy loans, energy audits and cogeneration projects;

Renewable Energy-projects utilizing wind and solar technologies.

Travel

All Travel expenses will be paid according to the State of Texas approved rates for mileage, per diem, air fare and lodging as follows:

Mileage-28 cents per mile for privately owned vehicles

Lodging-actual expenses not to exceed \$55 per day (receipts required)

Meals-actual expenses not to exceed \$8.33 per meal or \$25 per day

Airfare-lowest available rate below first class

Reimbursement

All contracts are administered through a cost reimbursement system. Expenses must be properly documented, allowable under the contract, and subject to approval by SECO. No advance payments are possible.

Historically Underutilized Businesses (HUBs) are encouraged to bid and all businesses that bid are encouraged to give particular attention in preparing their bids to include HUBs as subcontractors and material providers at the first tier. The State of Texas operates under the basic principle of free and vigorous competition. In accordance with House Bill 2626, 73rd Legislature, all state agencies are to give a good faith effort to award at least thirty percent of the total value of all contracts to certified HUBs. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers, or material providers.

Services to be Performed

The contractor selected will possess a comprehensive knowledge of energy-using and energy-producing systems, including energy auditing and energy saving calculations and methodologies for state agencies, institutional buildings and public education facilities, as well as weatherization techniques and renewable energy technologies. Besides the technical knowledge necessary for this task, the contractor will possess knowledge required to thoroughly assess and evaluate the financial, administrative and programmatic elements of selected contracts and recommend procedures to improve the efficiency and effectiveness of the programs.

The successful proposers will be expected to conduct a minimum of 140 desk audits and on-site reviews of selected contracts for compliance with contractual requirements and applicable state and federal regulations. The process to accomplish these goals is summarized as follows:

Pre-visit review-First step is to perform a preliminary review of contract files to include status of deliverables, program status reports and financial records. The results of this review shall be documented on SECO's desk audit form, attached as Exhibit A. Next, the monitor will telephone the contractor to arrange a mutually satisfactory date for the monitoring site visit, preferably with three to four weeks notice. Finally, the contractor shall be sent a letter confirming the date of the site visit. (Note: some desk reviews may not warrant an on-site visit.)

On Site Monitoring Visit-During this formal site visit, the monitor will discuss project accomplishments versus projected milestones, personnel responsibilities and previously identified problem areas. The monitor will then inspect work products and purchased equipment. This may include photographic documentation. Finally, a financial audit should be conducted based on the questions prepared

during the pre-site visit review. The monitor will review the contractor's accounting process, audits, property management procedures and procurement practices. Each visit will be documented by using SECO's site visit form (see Exhibit B).

Once the review is completed, the monitor shall conduct an exit interview with the contractor's project director (or designee) to discuss any contractor concerns or corrective action required to resolve any noted discrepancies as well as project accomplishments.

Post monitoring action—Within two weeks of the on-site visit, the monitor shall submit a letter along with a copy of the completed on-site visit to SECO's monitoring manager to report on trip results and provide reminders of deadlines and corrective action required. Upon SECO's request, a second site-visit shall be conducted.

In addition to the above requirements, the contractor shall provide SECO with two copies of a quarterly report, which will summarize all the monitoring activities for each quarter. The report shall also include a work plan for monitoring activities for the following quarter. These requirements shall be addressed throughout the contract term.

Finally, within 30 days of contract completion, the contractor shall submit to SECO two copies of a final report that will include a list of call contractors monitored and copies of all monitoring documents during the contract performance period.

Contact Person

Prior to the preproposal conference, additional information concerning this project may be obtained by contacting: Marvin Barr, State Energy Conservation Office, 221 East 11th Street, (P.O. Box 13047), Austin, Texas 78711-3047; (512) 463-1860.

Closing Date

Seven copies of the sealed proposal should be directed to by in-hand delivery or by the U.S. Postal Service, by first-class certified mail, return receipt requested. The SECO is located in the Insurance Annex Building, Suite 200, 221 East 11th Street, Austin, Texas 78711-3047. To be considered, proposals must be received by 4:00 p.m. on August 24, 1994. Proposals which are postmarked but not received by this time and those submitted by facsimile will not be considered.

Preproposal Conference

All potential proposers are encouraged to attend a preproposal conference to be held on August 9, 1994 from 1:30 p.m. until 3:00 p.m. at the Central Services Building, conference room number 402, located at 1711 San Jacinto, Austin, Texas. Reserved state parking arrangements are being finalized at time of publication. Please call Mr. Barr for update. Inquiries to SECO staff regarding this invitation following the pre-proposal conference shall be entertained only if in writing. (It is anticipated that contractor selection will be made on about September 30, 1994. The contract period will extend from the date of signing through August 31, 1995.)

Format

The submittal shall be organized in the sequence described below, and where appropriate should include reference to the specific section, be addressed by number and title.

Proposer's Organizational Structure

Business Organization

State the full name and address of the Proposer's organization and identify parent company, if applicable. Specify the branch office or other subordinate element that will perform, or assist in performing, the work described herein. Indicate whether the firm is operated as a partnership, corporation, or sole proprietorship. Identify the State in which organization is incorporated or licensed to operate. State the number of years the firm has been in business.

Project Management Structure and Management Plan

Provide an explanation, using charts or other exhibits if necessary, which specifies project leadership and reporting responsibilities with SECO. Describe methods which under the Proposer's control, will be employed to organize, direct, monitor, costs, and otherwise manage resources in the performance of the work. Specify the number of personnel, both technical and clerical, who will be assigned to this project. State the primary tasks assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title. If subcontractors are being considered, identify their placement in the primary project structure and provide an internal management description for each subcontractor.

Finally, please identify proposer's current workload and staffing levels.

Authorized Negotiator

List the name, address, and telephone number of the person authorized to negotiate contract terms and render binding decisions on contractual matters.

Demonstrated Project Experience

List Proposer's relevant prior experience and proven success in evaluating contract monitoring projects, to include any subcontractors employed. The degree to which the Proposer demonstrated expertise and technical competence related to the monitoring of contracts will be considered. The statement of the qualifications should list the Proposer's personnel conducting the monitoring activities, project title, year(s) monitoring was performed, type and purpose of the program. (Minimum of three program or project examples.) Also, please include as references, the name(s) and phone number(s) of the firm's personnel who were responsible for approving your work, along with a brief description as to the nature and degree of their involvement in the project. (Minimum of three references)

Proposer's Personnel Experience

Describe only relevant corporate and/or individual experience for personnel who will be actively engaged in this project. Do not include corporate experience unless personnel assigned to this project actively will participate in it. Include names, qualifications and copies of resumes for all professional personnel who will be assigned to this project. Detailed experience of the project manager will be closely scrutinized.

Soundness of Budget

The proposed budget should be detailed and reasonable. The budget shall be formatted to address costs in at least the following categories: Personnel (includes salaries and fringe benefits), Travel and Other Direct Operating Expenses.

Conflicts of Interest

Describe the quantity and nature of any work, vested interest in any work, partnership interest or other interest in any property or business arrangement, which may give cause to a potential conflict of interest in the proper execution of this work. Proposer must complete the Conflicts of Interest/Nepotism certification (see Exhibit D).

Selection and Evaluation Criteria

This procurement will comply with applicable SECO policy. The successful Proposer will be selected by SECO based on demonstrated qualifications. Selection of finalists may be made without discussion with Proposers after submittals are received. Submittals should, therefore, be developed on the most favorable terms. SECO reserves the right to reject any or all responses with or without cause. SECO will negotiate and enter into contract(s) with the firm(s) determined to be best qualified to successfully perform the services described above, however, SECO is not precluded from entering into separate negotiations with multiple responding firms.

Criteria outlined below will be used to evaluate and compare proposals:

Proposer's Organizational Structure (0-25 points)

The proposer's organizational and management structure and management plan will be reviewed to determine the flow of information and the responsible parties. The response provided will be evaluated to determine that all requested information is presented.

Demonstrated Project Experience (0-25 points)

The evaluation will include a determination that the proposer has demonstrated the required expertise and technical competence related to the monitoring of contracts. The response will be reviewed to insure that all items of the statement of qualifications were addressed, a minimum of three programs or projects were listed and three references were provided.

Proposer's Personnel Experience (0-25 points)

Evaluation will include the Proposer's demonstrated experience of the proposed project team and review of resumes. Also, a review of the proposed project manager's qualifications will be made to determine that there is sufficient prior experience documented to perform the duties in managing projects similar to the subject assignment.

Soundness of Budget (0-10 points)

Contractor's budget will be reviewed to determine if sufficient details were provided and addressed costs for prescribed categories.

Conflicts of Interest (0-5 points)

Information will be reviewed to determine that this section was addressed and the certification was completed.

Interviews (0-10 points)

SECO anticipates requesting interviews with the three to five highest ranking Proposers after initial evaluation of the submittals. These Proposals will be allowed up to one hour to make presentations utilizing criteria furnished to the proposers prior to the interviews. The interview process, in addition to the proposal, will be utilized when making the final selection.

No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal.

Issued in Austin, Texas, on July 20, 1994.

TRD-9445327

David A. Talbot
General Counsel
General Services Commission, State
Energy Conservation Office

Filed July 20, 1994

Office of the Governor Budget and Planning Legislative Budget Board Budget Execution Proposal

(Editor's Note: The following document was inadvertently omitted from the July 15, 1994, issue of the Texas Register. The Texas Register regrets the error.)

Pursuant to Texas Government Code, §317.002, this budget execution order is hereby proposed for the following actions affecting items of appropriation made in Senate Bill 5, 73rd Legislature, 1993. We find that there is an imperative need to purchase additional textbooks for the school children of Texas, creating an emergency.

We propose that excess appropriations made to the Treasury Department, in Rider 4, Appropriation for Statutory Obligations, page I-319, for the fiscal biennium ending August 31, 1995, shall be transferred in the amount of \$11,800,000 to the Central Education Agency for the fiscal biennium ending August 31, 1995, for the purchase of textbooks used by the school children of Texas.

Bob Bullock

Lieutenant Governor

Chairman

Legislative Budget Board

Pete Laney

Speaker of the House

Vice Chairman

Legislative Budget Board

I certify that this Budget Execution Proposal was adopted by the Legislative Budget Board on July 7, 1994, by the following vote:

On the part of the Senate Yeas: 4 Nays: 0

On the part of the House Yeas: 4 Nays: 0

John Keel

Director

Legislative Budget Board

Issued in Austin, Texas, on July 7, 1994

TRD-9445177

Ann W. Richards
Governor of Texas
Office of the Governor

Filed July 18, 1994

Texas Department of Health Correction of Errors

The Texas Department of Health proposed new §37.185, concerning standards of practice of midwifery by documented midwives in this state. The rule appeared in the July 8, 1994, issue of the *Texas Register* (19 TexReg 5314).

Due to an error in the department's submission, §37.185(3) should read: "(3) Standard III. Midwifery care shall be based upon the knowledge, skill, and judgment that foster the delivery of safe and competent care to mother and newborn, giving the newborn the opportunity for a good beginning. The midwife shall:"

The Texas Department of Health submitted a "Athletic Trainer Public Hearing". The notice appeared in the July 8, 1994, issue of the *Texas Register* (19 TexReg 5389).

Due to an error in the department's submission, the date of the hearing was published as Friday, July 16, 1994. The correct date should be Friday, July 15, 1994.

The Texas Department of Health adopted repealed and new §741.1 and §741.2. The rules appeared in the April 8, 1994, issue of the *Texas Register* (19 TexReg 2490 & 2491).

Due to submission the following errors were published.

All throughout the rules, the correct title of the board is "State Board of Examiners for Speech-Language Pathology and Audiology", not "State Committee..."

On page 2492, definition of "Intern in audiology," the language should read as follows: "...as required by §741.81(12) of this title (relating to Requirements for an Audiology License) and licensed..."

On page 2492, definition for "Registration to fit and dispense hearing instruments," the section number reference is wrong. Reference to "§741.88" should be "§741.87."

On page 2492, definition for "Sale or purchase," the term "hearing aid/hearing instrument" should be "hearing instrument."

On page 2494, concerning §741.41(a)(1)(B)(vii), the clause should end with a semi-colon.

On page 2495, concerning §741.41(a)(2)(B)(ii), the clause should end with a semi-colon.

On page 2496, concerning §741.41(b)(3), the reference to "§741.88" should be "§741.87."

On page 2498, concerning §741.62(m), in the last sentence the word "occur" should be "occurs."

On page 2498, concerning §741.62(o), in the last sentence the phrase "an audiologist" should be "a speech-language pathologist."

On page 2500, concerning §741.65(i), the language should read as follows: "...in consultation with and direction of a fully licensed..."

On page 2500, the entire §741.87 should be removed because it is an exact duplication of §741.66.

On page 2502, §741.81(9)(D), the language should read "...outlined in paragraph (11)(G) of this section."

On page 2502, §741.82(i), the last sentence should read as follows: "...a graduate degree with six hours in the area of speech-language pathology."

On page 2504, §741.85(b)(4), the paragraph should read as follows: "An assistant may not provide audiology services without an approved supervisor."

On page 2504, §741.85(j)(4)(C) and (H), the term "speech-language pathologist" should be "audiologist."

On page 2505, §751.87(b), the reference to "§741.62(r)" should be "§741.62(q)".

On page 2505, the entire §741.88 should be deleted because it is an exact duplicate of §741.87.

On page 2506, concerning §741.103(b)(1)(D), the words "int he" should be "in the."

On page 2508, concerning §741.103(f), the reference to "§741.67" should be "§741.66" and the reference to "§741.87" should be "§741.86."

On page 2508, concerning §741.103(g), the reference to "§741.88" should be "§741.87."

On page 2510, concerning §741.142(e), the reference to "§741.67" should be "§741.66" and the reference to "§741.87" should be "§741.86."

On page 2510, concerning §741.142(f), the reference to "§741.88" should be "§741.87."

Due to publishing error on page 2510, concerning the repeal of §§741.161-741.163, the proposal publication date is November 12, 1993 not 1994.

Due to publishing error on page 2514, concerning the repeal of §§741.191-741.199, the proposal publication date is November 12, 1993 not 1994.

On page 2514, concerning §741.192(a)(4), the reference to "Article 45123j" is incorrect, and should be "Article 4512j."

On page 2518, concerning the repeal of §§741.208-741.210 and 741.301, new §§741.301-741.303, and new §§741.191-741.199, the proposal publication is November 12, 1993 not 1994.

Extension of Grant Application Deadline

The application deadline for the Texas Department of Health, Bureau of Emergency Management's EMS Local Projects Grants has been extended from 5:00 p.m. on Monday, August 1, 1994 to 5:00 p.m. on Wednesday, August 31, 1994. The original grant application notice was published in the June 21, 1994 issue of the *Texas Register* (19 TexReg 4835).

The application and letter of intent (proposal) must be submitted by 5:00 p.m. August 31, 1994 in order to be considered for a grant. The application and proposal may be mailed or faxed to the following location: Gene Weatherall, Chief, Bureau of Emergency Management, Texas Department of Health, Attention: Local Projects Grants Program, 1100 West 49th Street, Austin, Texas 78756. The fax number is (512) 834-6736. Any application and proposal that is faxed will still require the original to be sent by mail to the address listed above. Any

application and proposal received or postmarked after August 31, 1994, 5:00 p.m. will not be considered for a grant.

Issued in Austin, Texas, on July 18, 1994.

TRD-8445180 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: July 18, 1994



Licensing Action 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
-----	----	-----	----	-----	-----
Odessa	Golder Cat Scan and MRI Center	L04770	Odessa	0	06/30/94
Throughout Texas	WESTEX Inspection, Inc.	L04775	Odessa	0	06/30/94

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Amarillo	High Plains Baptist Hospital	L01259	Amarillo	45	07/08/94
Amarillo	Panhandle Nuclear Rx, Ltd.	L04683	Amarillo	3	07/12/94
Austin	IBM Corporation	L02340	Austin	15	07/05/94
Austin	Austin Heart, P.A.	L04623	Austin	3	07/12/94
Beaumont	Reuben A. Isern, M.D.	L04516	Beaumont	4	07/07/94
Bowie	Bowie Memorial Hospital	L02327	Bowie	6	07/14/94
Brownwood	Brownwood Regional Medical Center	L02322	Brownwood	23	07/07/94
Carrollton	NME Hospitals Dallas	L03765	Carrollton	15	07/14/94
Carrollton	OSRAM SYLVANIA, Inc.	L04691	Carrollton	1	07/14/94
Corpus Christi	Doctors Regional Medical Center	L02816	Corpus Christi	32	07/12/94
Dallas	Maxum Diagnostic Center	L03125	Dallas	29	07/01/94
Denton	Texas Woman's University	L00304	Denton	41	07/11/94
Domino	International Paper Company - Texarkana Mill	L01686	Texarkana	23	07/11/94
Duncanville	The Center	L03717	Duncanville	10	07/11/94
Houston	Syncor International Corporation	L01911	Houston	88	06/30/94
Houston	T. L. James & Company, Inc.	L04162	Houston	7	07/06/94
Houston	Texas Children's Hospital	L04612	Houston	5	07/11/94
Houston	West Houston Medical Center	L02224	Houston	25	07/12/94
Houston	Crown Central Petroleum Corporation	L01344	Houston	15	07/07/94
Houston	Tanox Biosystems, Inc.	L04094	Houston	4	07/11/94
Lancaster	Midway Park Medical Center	L03342	Lancaster	12	07/01/94
Midlothian	Texas Industries, Inc.	L01421	Midlothian	29	07/06/94
Orange	Inland Container Corporation	L01029	Orange	39	07/12/94
Pasadena	Lyondell Petrochemical Company	L02153	Pasadena	18	07/01/94
Pasadena	Phillips Pipe Line Company	L02083	Bartlesville, OK	10	06/27/94
San Antonio	Baptist Imaging Center	L04506	San Antonio	3	06/30/94

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Sweetwater	Rolling Plains Memorial Hospital	L02550	Sweetwater	9	06/30/94
Throughout Texas	Goolsby Testing Laboratories, Inc.	L03115	Humble	44	06/30/94
Throughout Texas	San Antonio Development Agency	L04174	San Antonio	6	06/10/94
Throughout Texas	Gilbert Texas Construction Corp.	L04569	Fort Worth	4	07/01/94
Throughout Texas	Tucker Wireline Services, Inc.	L04751	Victoria	1	06/27/94
Throughout Texas	H.B.C. Engineering, Inc.	L04776	Houston	1	07/01/94
Throughout Texas	Texas Department of Transportation	L00197	Austin	70	07/06/94
Throughout Texas	Royal Wireline, Inc.	L03110	Riviera	18	07/06/94
Throughout Texas	Solus Schall, U.S.A.	L04463	Houston	6	07/06/94
Throughout Texas	Austin Bridge and Road	L04629	Dallas	4	07/06/94
Throughout Texas	Pro Inspection Inc.	L03906	Odessa	9	07/11/94
Throughout Texas	Berry Fabricators	L01575	Corpus Christi	26	07/11/94
Throughout Texas	Houston, Inc.	L04362	Andrews	2	07/07/94
Throughout Texas	Wrenco Wireline Services, Inc.	L04411	White Oak	9	07/11/94
Throughout Texas	Ebasco Services Inc.	L02662	Houston	42	07/11/94
Throughout Texas	The Dow Chemical Company	L00451	Freeport	53	07/07/94
Throughout Texas	H & G Inspection Company Inc.	L02181	Houston	84	07/08/94
Throughout Texas	A & A Tubular Inspection, Inc.	L04314	Houston	2	07/13/94
Waller	Progressive Metals	L02831	Waller	33	07/07/94

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Austin	AMBION, Inc.	L04307	Austin	4	07/05/94
Carlos	Texas Municipal Power Agency	L02913	Bryan	14	07/08/94
Dallas	Isolite Corporation, Inc.	L04179	Dallas	2	07/06/94
Mauriceville	S & T International, Inc.	L03652	Mauriceville	23	07/06/94
San Antonio	Advanced Medical Imaging	L04305	San Antonio	8	06/30/94

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Throughout Texas	Dallas City Homes, Inc.	L04394	Dallas	1	07/01/94
Throughout Texas	International Pipe Inspectors Association	L03736	Houston	6	07/05/94
Throughout Texas	Sundance Wireline Services, Inc.	L04433	Liberty	3	07/06/94
Tyler	Women's Diagnostic Center	L03883	Tyler	7	07/11/94

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. Ratiiff, 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, 8407 Wall Street, Austin, Texas from 8:00 a.m. to 5:00 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on July 15, 1994.

TRD-8445235 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 18, 1994

Notices of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered North Main Dental Center (registrant-R19088) of Houston to cease and desist using the S.S. White dental x-ray unit (Model A, Serial Number M07485) to perform dental intraoral x-ray procedures until all health-related violations found during a recent inspection of the facility are corrected. The bureau determined that continued radiation exposure to patients in excess of that required to produce a diagnostic image constitutes an immediate threat to public health and safety, and the existence of an emergency. The registrant is further re-

quired to provide evidence satisfactory to the bureau regarding the actions taken to correct these violations and the methods used to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

YRD-8445131 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 15, 1994

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered William A. Stellenwerf, D.D.S. (registrant-R16326) of Kingwood to cease and desist using the Siemens dental x-ray unit located in room 1 (Fabrication Number 774/08627), and the Siemens dental x-ray unit located in room 3 (Fabrication Number 774/06942) to perform dental intraoral x-ray procedures until all health-related violations found during a recent inspection of the facility are corrected. The bureau determined that continued radiation exposure to patients in excess of that required to produce a diagnostic image constitutes an immediate threat to public health and safety, and the existence of an emergency. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to correct these violations and the methods used to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-8445132 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 15, 1994

Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued June 8, 1994, to John Grinaldi, D.D.S., 6757 Arapaho, Suite 753, Dallas, Texas 75248, holder of Certificate of Registration Number R06659.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-8445133 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 15, 1994

Notices of Revocation of Certificates of Registration

The Texas Department of Health, having duly filed a complaint pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following certificate of registration: Universal X-Ray Sales and Service, Arlington, R16007, June 17, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-8445199 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 15, 1994

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following certificates of registration: Repka and Associates PC, Pleasanton, R10960, July 15, 1994; Medical Diagnostics, Inc., Houston, R12887, July 15, 1994; Day Chiropractic Center, Lubbock, R17110, July 15, 1994; Ingleside Industrial Med., Inc., Ingleside, R17161, July 15, 1994; William Love James, D.D.S., San Angelo, R17855, July 15, 1994; North Main Chiropractic Associates, Fort Worth, R18517, July 15, 1994; H L Electronic, Tucson, Arizona, Z00806, July 15, 1994; Laser Arts, Corcoran, California, Z00807, July 15, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on July 19, 1994.

TRD-8445380 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 20, 1994

Notice of Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following radioactive material licenses: Cappsco International Corporation, Aledo, L03999, July 13, 1994; Browning Construction Company, San Antonio, L04537, July 13, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on July 19, 1994.

TRD-8445381 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 20, 1994

Public Comments on Block Grant Funding

Under the authority of the Omnibus Budget Reconciliation Act of 1981, the Texas Department of Health (TDH) is making application for funds to continue the Preventive Health and Health Services (PHHS) and Maternal and Child Health Services (MCHS) Block Grants during federal fiscal year (FFY) 1995.

Public hearings were held in four of TDH's public health regions, and public comments received from these hearings have been summarized. This summary is available for public review and comment by any person (including any federal, state, local, or other public agency) and may be viewed at TDH and the following regional offices:

Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, Telephone (512) 458-7261;

Public Health Region 1, 1109 Kemper, Lubbock, Texas 79403, Telephone (806) 744-3577;

Public Health Regions 2 & 3, 2561 Matlock Road, Arlington, Texas 76015, Telephone (817) 460-3032;

Public Health Regions 4 & 5 North, 1517 West Front Street, Tyler, Texas 75702, Telephone (903) 595-3585;

Public Health Regions 5 & 6 South, 10500 Forum Place, Suite 200, Houston, Texas 77036-8599, Telephone (713) 995-1112;

Public Health Region 7, 2408 South 37th Street, Temple, Texas 76504-7168, Telephone (817) 778-6744;

Public Health Region 8, 1015 Jackson Keller Road #222, San Antonio, Texas 78213, Telephone (210) 342-3300;

Public Health Regions 9 & 10, 6070 Gateway East, Suite 401, El Paso, Texas 79905-2060, Telephone (915) 774-6200; and

Public Health Region 11, 601 West Sesame Drive, Harlingen, Texas 78550, Telephone (210) 423-0130.

In addition, the summary may be viewed at the following local health departments:

Angelina County & Cities, Health District, 202 S. Bynum, Lufkin, Texas 75901, Telephone (409) 632-1372;

Corpus Christi-Nueces County, Public Health District, 1702 Horne Road, Corpus Christi, Texas 78416, Telephone (512) 851-7200;

Grayson County Health Department, 515 North Walnut, Sherman, Texas 75090, Telephone (903) 893-0131;

Harris County Health Department, 2501 Dunstan, Houston, Texas 77005, Telephone (713) 526-1841;

Laredo (City of) Health Department, 2600 Cedar Street, Laredo, Texas 78040, Telephone (210) 723-2051;

San Angelo-Tom Green County, Health Department, 2 City Hall Plaza, San Angelo, Texas 76903, Telephone (915) 657-4214;

San Antonio Metropolitan Health District, 332 West Commerce Street, San Antonio, Texas 78285, Telephone (210) 299-8780;

Texarkana-Bowie County Family Health Center, 902 West 12th Street, Texarkana, Texas 75501, Telephone (903) 798-3255;

Victoria County Health Department, 107 West River Street, Victoria, Texas 77902, Telephone (512) 578-6281; and

Wichita Falls-Wichita County Public Health District, 1700 Third Street, Wichita Falls, Texas 76301, Telephone (817) 761-7800.

Written comments regarding the PHHS Block Grant may be submitted prior to August 22, 1994, to Dora McDonald, M.P.A., Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Written comments regarding the MCHS Block Grant may be submitted prior to August 22, 1994, to Patti J. Patterson, M.D., Chief, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Written comments regarding the genetics resource allocation plan may be submitted through August 22, 1994, to Joseph D. Martinec, J. D., Chairman, Interagency Council for Genetic Services, c/o Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

Issued in Austin, Texas, on July 20, 1994.

TRD-9445321 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 20, 1994

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Texas Department of Human Services
Notice of Consultant Contract
Amendment

In Accordance with the Texas Government Code, Chapter 2254, Subchapter B, Texas Department of Human Services (TDHS) publishes this notice of amendment to two consultant contracts. The notice of awards for the original contracts was published in the August 17, 1993 issue of the *Texas Register* (18 TexReg 5522).

The contracts were awarded to two consultants to provide expertise in information resources for the completion of two separate, but related, consulting projects for the Texas Nursing Facility Medicare Case Mix and Quality Demonstration.

The Texas Department of Human Services awarded one consultant contract to Austin Data Management Associates, 313 West 37th Street, Austin, Texas 78705. The total dollar amount of the original contract was \$65,000, and was effective from September 1, 1993 through August 31, 1994. TDHS intends to extend this contract through August 31, 1995 and increase the total amount of the contract by \$80,000, for a revised total not to exceed \$145,000.

The Texas Department of Human Services awarded a second consultant contract to Red Bluff Computing Con-

sultants, P.O. Box 90892, Austin, Texas 78709. The total dollar amount of the contract was \$40,000, and was effective from September 1, 1993 through August 31, 1994. TDHS intends to extend this contract through August 31, 1995 and increase the total amount of the contract by \$54,000, for a revised total not to exceed \$94,000.

Each consultant must provide all deliverables under the amended contracts no later than September 30, 1995.

Issued in Austin, Texas, on July 20, 1994.

TRD-9445324 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Human Services

Filed: July 20, 1994

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Public Notices of Open Solicitation

Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Armstrong Number 006, identified in the January 4, 1994, issue of the *Texas Register* (19 TexReg 117). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced area must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Certification, Provider Enrollment, and Billing Services, Long Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on July 15, 1994.

TRD-9445127 Nancy Murphy
Section Manager, Media and Policy
Services
Texas Department Human Services

Filed: July 15, 1994

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Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility in Crockett County Number 053, identified in the May 31, 1994, issue of the *Texas Register* (19 TexReg 4282). This county is also listed in this public notice. Potential contractors desiring to construct a 90-bed nursing facility in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Certification, Enrollment, and Billing Services, Long Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m. August 26, 1994, the last day of the open solicitation period. Potential contractors will be allowed 90 days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors must demonstrate an intent and ability to begin construction of a facility and to complete

contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation: First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §19.2004(q) are not met. The signed agreement must also require the potential contractor to provide, within ten working days after the date of selection, a surety bond or other financial guarantee acceptable to TDHS ensuring payment in the event of default. If the 180-day deadline is

not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are an additional 5.0% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Architectural Section of TDHS. Each application must be complete at the time of its receipt. TDHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Occupancy rates for identified threshold counties are listed below:

County Number	County Name	Number of Months Over	DEC	JAN	FEB	MAR	APR	MAY
053	Crockett	6	91.8	92.4	91.3	93.3	93.3	93.3

Issued in Austin, Texas, on July 15, 1994.

TRD-9445126 Nancy Murphy
Section Manager, Media and Policy
Services
Texas Department Human Services

Filed: July 15, 1994

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**Texas Department of Insurance
Company License Applications**

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission in the State of Texas for All Savers Insurance Company, a foreign life, accident and health company. The home office is in Indianapolis, Indiana.

Application for name change in Texas for Accountable Health Care of Texas, Inc., a domestic health maintenance organization. The proposed new name is Accountable Health Plans of Texas, Inc.. The home office is in Arlington, Texas.

Application for incorporation in the State of Texas for Affiliated Health Plans, Inc., a domestic health maintenance organization. The home office is in Houston, Texas.

Application for name change in Texas for Belvedere America Reinsurance Company, a foreign life, accident and health company. The proposed new name is Allstate National Insurance Company. The home office is in Northbrook, Illinois.

Application for name change in Texas for Summit Fidelity and Surety Company, a foreign property and casualty company. The proposed new name is Evergreen National Indemnity Company. The home office is in Columbus, Ohio.

Application for admission in the State of Texas for Gem Insurance Company, a foreign life, accident and health company. The home office is in Salt Lake City, Utah.

Application for incorporation in Texas for Healthsource North Texas, Inc., a domestic health maintenance organization. The home office is in Fort Worth, Texas.

Application for admission in the State of Texas for NAMIC Insurance Company, Inc., a foreign property and casualty company. The home office is in Indianapolis, Indiana.

Application for admission in the State of Texas for PAULA Insurance Company, a foreign property and casualty company. The home office is in Pasadena, California.

Application for name change in Texas for Dreyfus Consumer Life Insurance Company, a foreign life, accident and health insurance company. The proposed new name is PHL Variable Insurance Company. The home office is in Hartford, Connecticut.

Application for incorporation in Texas for Seton Health Plan, Inc., a domestic health maintenance organization. The home office is in Austin, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on July 18, 1994.

TRD-9445335 D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: July 20, 1994

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Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for incorporation in Texas for Glass Insurance Administrators, Inc., a domestic third party administrator. The home office is in Austin, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 105-6A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on July 18, 1994.

TRD-9445178

D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: July 18, 1994

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Legislative Budget Board

Budget Execution Proposal--Legislative Budget Board

(Editor's Note: The following Budget Execution Proposals were published under the authority of the Legislative Budget Board in the July 15, 1994, issue of the Texas Register. Due to an error on the part of the Texas Register, the governor was inadvertently included among the certifying officials. The governor is not a member of the Legislative Budget Board. The Texas Register regrets the error.)

Pursuant to the Texas Government Code, §317.002, this budget execution order is hereby proposed for the following actions affecting items of appropriation made in Senate Bill 5, 73rd Legislature, Regular Session, 1993. We find that the backlog of offenders confined in the county jails awaiting transfer to state prisons creates an emergency requiring additional funding, including funding for additional payments to counties.

We propose that appropriations made to the Treasury Department in rider provision 4., Appropriation for Statutory Obligations, in the amount of \$33,400,000 be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

We also propose that appropriations made for Higher Education Employees Group Insurance Contributions for the University of Texas System, in the amount of \$7,758,216 for the fiscal year 1995 be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency. The various items of appropriation in Objective "A.1.: State Contribution, University of Texas and Texas A&M Systems" on pages I-103 and I-104 relating to the University of Texas System and its various components shall be reduced as necessary to provide for this transfer.

We also propose that appropriations made for Higher Education Employees Group Insurance Contributions for the Texas A&M University System, in the amount of \$3,980,162 for fiscal year 1995 be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency. The various items of appropriation

in Objective "A.1., State Contribution, University of Texas and Texas A&M Systems" on pages I-103 and I-104 relating to the Texas A&M University and its various components shall be reduced as necessary to provide for this transfer.

We also propose that appropriations made for Higher Education Employees Group Insurance Contributions for fiscal year 1994, in the appropriation items and amounts indicated as follows, be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency: A.1.1., UT System Administration-\$4,908; A. 1.12., UT Medical Branch at Galveston-\$306,904; A.1.28, Texas Agricultural Extension Service-\$342,156; A.1.31., Texas Engineering Extension Service-\$200,137.

We also propose that none of the General Revenue Fund amounts appropriated to the Employees Retirement System for fiscal year 1994 in appropriation item B.1.1., Uniform Group Insurance Program-General State Employees, in excess of \$200,458,681 be available for expenditure by the Employees Retirement System.

We also propose that the General Revenue Fund appropriations made to the Employees Retirement System for fiscal year 1994 in appropriation item B.1.1., Uniform Group Insurance Program-General State Employees, but which the Employees Retirement System would be prohibited from expending pursuant to this order, in the amount of \$50,464,817 be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency.

We also propose that none of the funds appropriated to the Employees Retirement System and that none of the funds appropriated for Higher Education Employees Group Insurance Contributions be expended during fiscal year 1995 to pay group health insurance contributions at rates which exceed the rates established for fiscal year 1994 by Senate Bill 5, 73rd Legislature, 1993, in rider 5, State Contribution to Group Insurance for General State Employees, page I-101, and in rider 1, State Contribution to Group Insurance for Higher Education Employees, page I-105, respectively.

We also propose that appropriations made for Higher Education Employees Group Insurance Contributions for fiscal year 1994, in the various items of appropriation in Objective "A.2: State Contributions, Other Institutions," pages I-104 and I-105, in the amount of \$18,151,901 be transferred to the Department of Criminal Justice for the fiscal biennium ending August 31, 1995, for the purposes necessary to meet this emergency. Authority to expend funds from the various items of appropriation in Object A.2 shall be reduced on a proportionate basis to provide for this transfer.

We also propose that non of the funds appropriated for Higher Education Employees Group Insurance Contributions for fiscal year 1994 in the various items of appropriation in Objective "A.2: State Contributions, Other Institutions," pages I-104 and I-105, in excess of \$95,042,084 be available for expenditure. Authority to expend funds from the various items of appropriation in Objective A.2 shall be reduced on a proportionate basis to provide for this limitation.

Consultant: Neal and Associates

Title: Interim Report: Preliminary Assessment of Alternate Data Sources to Support the SPRE Data Collection System
Issued in Austin, Texas, on July 18 1994.

TRD-9445191
Raymond Hitt
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: July 18, 1994

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**Nominations for Vacancy on Local
Government Records Committee**

Notice is hereby given, pursuant to Texas Government Code, §441.163, for the purpose of accepting nominations to fill a vacancy on the Local Government Records Committee.

Nominations will be accepted for 30 days from the date of the publication of this announcement to fill the position of a county auditor and a municipal tax collector.

A nomination may be made by an organization representing officers of the type to be appointed and that has 50 such officers as members. In choosing between two or more nominees, the director and librarian is required by law to give preference to a nomination or nominations received from organizations whose membership consists primarily of the type of officer to be appointed.

Nominations should be sent to William D. Gooch, Director and Librarian, Texas State Library, P.O. Box 12927, Capitol Station, Austin, Texas 78711.

Issued in Austin, Texas, on July 19, 1994

TRD-9445271
Raymond Hitt
Assistant State Librarian
Texas State Library

Filed: July 19, 1994

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**Texas Lottery Commission
Request for Proposal**

The Texas Lottery has postponed the issuance of its Request for Proposals for Instant Ticket Vending Machines as published in the July 19, 1994, *Texas Register*. The revised date of issuance of the RFP will be July 25, 1994.

The Texas Lottery is inviting responses from qualified Proposers to provide Instant Ticket Vending Machines (ITVMs) for the Texas Lottery. For the purpose of this RFP, an instant ticket vending machine is described as a ticket dispensing machine that dispenses instant tickets to Texas Lottery players without the assistance of retailers' personnel.

As a part of this RFP, the Texas Lottery will conduct a test of up to 12 weeks to determine the mechanical reliability and player acceptance of ITVMs, under actual operating conditions. The Texas Lottery will evaluate the results of this test and other information to determine if it is in the best interest of the State to issue a contract under this RFP. The Texas Lottery may decide, based on its evaluation, that it is not in the best interest of the state to issue a contract under this RFP.

During the test period the Texas Lottery will evaluate ITVMs in the following areas: reliability of machines,

response from retailers, response from consumers and additional instant game sales.

At the end of the test period, the Texas Lottery will evaluate the test results and determine if the machines should be procured for the Texas marketplace. Proposers will be notified within 30 days of the end of the test period of the Texas Lottery's decision.

This RFP is issued by the Texas Lottery. The Texas Lottery is the sole point of contact with regard to all procurement and contractual matters relating to the services described herein. The Texas Lottery is the only office authorized to clarify, modify, amend, alter or withdraw the specifications, terms and conditions of this RFP and any contract awarded as a result of this RFP.

Schedule of Events

The revised time schedule for awarding a contract under this RFP is shown as follows. The Texas Lottery reserves the right to amend the schedule. If significant changes are made, all potential Proposers will be notified.

July 25, 1994-Issuance of RFP.

August 3, 1994 (4:00 p.m. CDT)-Letter of Intent to Propose Due (Late letters of intent will not be considered).

August 9, 1994 (4:00 p.m. CDT)-Written Questions Due.

August 23, 1994-Answers to Written Questions Issued.

August 26, 1994 (4:00 p.m. CDT)-Receipt of Proposals. (Late proposals will not be considered).

August 31-September 3, 1994-Delivery of Machines.

September 4, 1994-Machine Testing Begins.

December 7, 1994-Notification of determination regarding whether ITVMs will be procured by the Texas Lottery.

December 21, 1994-Announcement of Apparent Successful Proposer (or as soon as possible thereafter)

To obtain a copy of the RFP, please contact: Ridgely C. Bennett, Staff Attorney, Texas Lottery Commission, 6937 North IH-35, Austin, Texas 78752 (512) 371-4935 or fax (512) 371-4935

Issued in Austin, Texas, on July 20, 1994

TRD-9445320
Ridgely C. Bennett
Staff Attorney
Texas Lottery Commission

Filed: July 20, 1994

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**Texas Low-Level Radioactive Waste
Disposal Authority
Correction of Error**

The Texas Low-Level Radioactive Waste Disposal submitted a request for consulting services under provision of Texas Civil Statutes, Government Code, Chapter 2254 on June 15, 1994. The request appeared in the June 24, 1994, issue of the *Texas Register* (19 TexReg 4997).

The paragraph outlining proposal submission guidelines contained the wrong date for receipt of the submission. The correct date is July 25, 1994. Also, the issuance date for the proposal was in error. The correct date is June 15, 1994.

Texas Natural Resource Conservation Commission

Enforcement Orders

An agreed enforcement order was entered regarding Montague County (Permit Number 13513-01) on July 7, 1994, assessing \$7,600 in administrative penalties with \$3,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Helen Stovall, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0578.

An agreed enforcement order was entered regarding Southern Clay Products, Inc. (Permit Number 02973) on July 7, 1994, assessing \$50,000.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0678.

Issued in Austin, Texas, on July 8, 1994.

TRD-8443841

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: July 11, 1994

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 of Kamira Property Owners Association, Inc. to Purchase A. B. Phillips doing business as Kamira Joint Venture and to Transfer Water CCN Number 12176 in Kerr and Gillespie Counties, Texas; (Application Number 30347-S, Albert Holck).

Approval of Application Number 30358-C of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity Number 10675 and to decertify a portion of CCN Number 10640 of San Antonio Water System in Bexar County, Texas; (Application # 30358-C, Guillermo Zevallos).

Minor Amendments to Elf Atochem North America, Inc., Permit Numbers WDW-122 and WDW-230 which authorize operation of two Class I non-commercial non-hazardous injection wells. The amended permits incorporate non-hazardous process waste generated in the newly constructed Multi-Purpose Unit, and staff have determined that the new wastes will be substantially the same as wastes currently being injected. The amendments also incorporate rainwater, runoff and vessel washdown fluid from within containment areas, which were being injected under an Agreed Order of July 23, 1992. Injection is into the Frio and Upper Vicksburg Formations between the subsurface depths of 4,600 feet and 6,700 feet for WDW-122 and between the subsurface depths of 4,600 and 6,850 feet for WDW-230. The maximum rate of injection is 150 gallons per minute for each well. The combined volume of wastewater injected into both wells shall not exceed 6,696,000 gallons per month, or 78,840,000 gallons annually. The operating surface injection pressure shall not exceed 1,200 psig. The wells are currently used to dispose of non-hazardous petrochemical waste generated on-site by the permittee's facility near Crosby, Texas.

Issued in Austin, Texas, on July 11, 1994.

TRD-8443840

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: July 11, 1994

Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017; Texas Government Code Annotated, Subchapter B, Chapter 2061; 40 Code of Federal Regulations §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning a petition from the Outdoor Power Equipment Institute (OPEI) to rescind or amend the TNRCC Utility Engine Rule.

On March 9, 1994, OPEI petitioned the TNRCC to rescind §§115.621-115.625. The rules establish emission standards for small internal combustion engines of 25 horsepower or less normally used in lawn and garden equipment, generators, and other light industrial applications. The rules were adopted by the TNRCC in November 1993 as part of a program of reductions of volatile organic compounds in the ozone nonattainment areas as required under the 1990 Federal Clean Air Act Amendments.

The OPEI petition followed a lawsuit filed by the same organization in December 1993 against the TNRCC. One

of the claims is that the Utility Engine rule was illegal in that it does not contain an implementation schedule identical to that of a similar rule enacted by California.

In an appearance before the Commission on May 25, 1994, counsel for OPEI verbally modified the petition requesting that the TNRCC rescind the rule or modify it according to the issues and concerns raised in the OPEI petition. The staff is proposing an amendment to the rule which would make it applicable to engines manufactured after January 1, 1996. The staff believes that this addresses one of the major points of the OPEI petition. This amendment should also address the concerns of retail distributors who feel the current TNRCC rule would make much of their inventory illegal for sale or lease in Texas on January 1, 1996.

Simultaneously, the staff is working with OPEI and EPA to obtain EPA approval of emission factors for new engines now entering the market. The emission credits received as a result of this approval could be applied toward the amount that TNRCC must document as part of the rate of progress SIP. If the credits are approved, it would allow the TNRCC to consider rescinding the rule. The staff believes that this amendment would allow the TNRCC to claim a portion of the emission reduction credits should EPA not approve the OPEI emission factors.

A public hearing on the proposal will be held on August 22, 1994 at 10:00 a. m. in Room 201S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin.

Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through September 2, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin. Please mail written comments to Mr. Beecher Cameron, Regulation Development Section, Air Quality Planning Division, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Mr. Beecher Cameron at (512) 239-1495.

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

Issued in Austin, Texas, on July 13, 1994.

TRD-9445303 Mary Ruth Holder
Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: July 19, 1994



Notices of Receipt of Applications and Declaration for Administrative Completeness for Sludge Registrations

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of June 27-July 1, 1994.

These applications have 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 these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, P O Box 13087, Austin, Texas 78711. The request should contain: the name, mailing address and phone number of the person making the request, and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P O Box 13087, Austin, Texas 78711, (512) 463-7898.

Bell County WCID #2, located approximately 0.5 mile north of the intersection of Highway 95 and FM 436 on FM 436 in Bell County, Texas; new beneficial sludge use site; 710699.

City of Brenham; located one mile south of the intersection of Highway 105 and New Years Creek Road on the west side of New Years Creek Road, approximately 3.5 miles east of the City of Brenham, Washington County, Texas; new beneficial sludge use site, 710291.

John J Mackey, Jr., located approximately 0.25 mile west of the intersection of FM 1954 and FM 2650, approximately 3.5 miles east of the City of Holiday, Archer County, Texas, new beneficial sludge use site, 710692.

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

TRD-9443842 Glona A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed July 11, 1994



Notices of Receipt of Application for Municipal Solid Waste Permit Applications

Attached are Notices of Receipt of Application and Declaration of Administrative Completeness for municipal solid waste permits issued during the period of July 5-8, 1994.

These applications have 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 applications are 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 Commission. 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.

City of Pampa; Pampa; Type 1; approximately 1.5 miles northeast of Pampa, 1.0 mile north of Santa Fe Railroad and 0.5 mile east of Loop 171 in Gray County, Pampa, Texas; new MSW2238.

University of Texas Medical Branch at Galveston; Type V; 700 block of Port Industrial, Galveston County, Galveston, Texas; new; MSW2232.

Issued in Austin, Texas, on July 8, 1994.

TRD-9443843
Gloria A Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: July 11, 1994

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Public Notice

The Texas Natural Resource Conservation Commission published in the April 7, 1992, issue of the *Texas Register* (17 TexReg 2493), the first Priority Enforcement List (PEL) identifying illegal tire sites for which no responsible party had been identified. The following is an update to the first PEL published to include additional sites identified and to delete sites cleaned up. Thirty-four additional sites have been added and 36 sites have been cleaned up since the last publication and are being deleted. Copies of the PEL can be obtained from the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Waste Tire Recycling Fund Program (WTRF) at 12015 Park 35 Circle Austin, Texas 78753

Any questions regarding the implementation or operation of this program should be directed to the staff of the WTRF at (512) 239-6001.

Issued in Austin, Texas, on July 20, 1994

TRD-9445315
Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed July 20, 1994

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Request for Proposal

The Corpus Christi Bay National Estuary Program (CCBNEP) invites interested parties to submit proposals for a "Characterization of Nonpoint Sources and Loadings to the Corpus Christi Bay National Estuary Program Study Area" to be conducted during fiscal year 1995 (Starting date: September 1, 1994)

The CCBNEP is funded through a Cooperative Agreement between the Texas Natural Resource Conservation Commission (TNRCC) of the State of Texas and the United States Environmental Protection Agency (EPA). The EPA

provides for 75% of the Program's funding and requires a 25% match of non-Federal funds. All contracts will be with the TNRCC. Contractors are encouraged, but not required, to provide cost sharing. The CCBNEP and TNRCC anticipate receiving funds totalling \$60,000 for the project.

Potential contractors must submit 40 copies of a Proposal Work Plan. The Proposal Work Plan should describe the potential contractor's approach to the project and should be submitted to the CCBNEP Program Office by no later than 5:00 p.m., September 8, 1994. It is the responsibility of the potential contractor to verify that the Proposal Work Plan has been received by the Program Office by the deadline. Faxed Proposal Work Plans will not be accepted.

Appropriate Management Conference Committees will review the Proposal Work Plans and forward initial recommendations to the Management Committee for award. The Management Committee will then require verbal summary presentations of Proposal Work Plans which meet the minimum requirements as described in the "Scope of Services and Schedule of Deliverables" and the Guidelines for Proposal Work Plans. Presentations to the Management committee are scheduled to occur during their October 1994 meeting.

Copies of the Scope of Services and Schedule of Deliverables, Guidelines for Proposal Work Plans, and Guidelines for Verbal Presentations may be obtained by contacting the Program Office. Any and all expenses incurred during the Development and/or presentation of Proposal Work Plans shall be the responsibility of the potential contractor. Contract execution is contingent upon funding appropriation to the granting agency.

Send copies of Proposal Work Plan by 5:00 p.m., September 8, 1994 to Corpus Christi Bay National Estuary Program, TAMU-CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, ATTENTION: Proposal Work Plan (FY 1995).

Any questions regarding these projects or the review process should be directed to Richard Volk, CCBNEP Program Director, at (512) 985-6767.

Issued in Austin, Texas, on July 20, 1994.

TRD-9445316
Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: July 20, 1994

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**North Central Texas Council of
Governments**

Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the North Central Texas Council of Governments publishes this notice of consultant contract award. The consultant proposal request appeared in the October 29, 1993, issue of the *Texas Register* (18 TexReg 7578). The consultant is to conduct a Workplace Travel Survey in the Dallas-Fort Worth Metropolitan Area.

The consultant selected for this project is Barton-Aschman Associates, Inc., 5485 Belt Line Road, Suite 199, Dallas, Texas 75240. The maximum amount of this contract is \$380,000. The contract began July 6, 1994, and will terminate March 10, 1995.

Products of this product include pilot workplace surveys, final survey design, and a workplace/special generator survey report.

Issued in Arlington, Texas, on July 8, 1994.

TRD-9445311 Mike Eastland
Executive Director
North Central Texas Council of
Governments

Filed: July 19, 1994

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Medina Community Hospital, Hondo, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for Medina Community Hospital pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13213.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for Medina Community Hospital. The geographic service market for this specific service is the Hondo, 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 July 20, 1994.

TRD-9445322 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 20, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the State of Texas Auditor, Austin, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for the State of Texas Auditor pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13212.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for the State of Texas Auditor. The geographic service market for this specific service is the Austin, 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 July 20, 1994.

TRD-9445323 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 20, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for General Services Administration, Amarillo, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for General Services Administration pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13194.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for General Services Administration. The geographic service market for this specific service is the Amarillo, 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 July 15, 1994.

TRD-9445149 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 15, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Southside State Bank, Tyler, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for Southside State Bank pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13203.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for Southside State Bank. The geographic service market for this specific service is the 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 July 15, 1994

TRD-9445150

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

Filed: July 15, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for General Services Administration, San Antonio, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for General Services Administration pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13204.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for General Services Administration. The geographic service market for this specific service is the San Antonio, 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. Public

Issued in Austin, Texas, on July 15, 1994

TRD-9445151

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

Filed July 15, 1994

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Notice of Proceedings for Approval of Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of a joint petition on July 1, 1994, seeking approval of optional, one-way extended area service (EAS) pursuant to § 23.49(b)(8) of the Public Utility Commission of Texas substantive rules. The following is a summary of the joint petition:

Docket Title and Number Joint Petition for Extended Area Service from the Anna Exchange to the Dallas and Allen Exchanges, Project Number 13178

The Joint Petition. In Project Number 13178, Southwestern Bell Telephone Company (SWB), GTE Southwest Incorporated (GTESW), Collin County, and the City of Anna exchange seek approval of a joint petition to offer optional, one-way EAS to customers residing within the telephone exchange boundary of the Anna exchange on a flat-rate basis. Customers choosing to subscribe to EAS will pay the currently approved rates, in addition to basic local service, as follows: Class of Service Monthly Rate Residence per line \$15 Business per line \$30.

Persons who wish to intervene in the proceeding or 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 by September 24, 1994.

Issued in Austin, Texas, on July 15, 1994.

TRD-9445147

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

Filed: July 15, 1994

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Notice of Proceeding for Approval of SmartTrunk Protection

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application seeking approval of SmartTrunk Protection pursuant to Public Utility Commission Substantive Rule 23.26.

Tariff Control Number and Title: Application of Southwestern Bell Telephone Company to Offer SmartTrunk Protection Pursuant to Public Utility Commission Substantive Rule 23.26. Tariff Control Number 13182.

The Application. Southwestern Bell Telephone Company seeks to introduce, under the SmartTrunk Service, a new optional feature, Loop Protection. The Loop Protection feature will provide SmartTrunk Service customers with automatic restoration capabilities which will prevent SmartTrunk service interruption in the event of a single facility break or a single electronics failure in the SmartTrunk Interface facility.

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, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf by August 19, 1994.

Issued in Austin, Texas, on July 15, 1994.

TRD-9445148

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

Filed: July 15, 1994

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Texas Department of Transportation Requests for Proposals

Notice of Invitation. The Texas Department of Transportation (TxDOT) intends to engage engineering firms, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services:

Project 1. Inspection of highway bridges in Brazoria, Fort Bend, Galveston, Harris, Montgomery and Waller counties. There will be approximately 10 contracts and each contract will contain approximately 250 bridges. The engineering firm shall inspect bridges, complete required forms, make photographs, and enter computer data as required.

Pre-selection Meeting. There will be a pre-selection meeting August 23, 1994, at 9:00 a.m. in the TxDOT District Conference room located at 7721 Washington Avenue, Houston, Texas 77707.

Project 2. Performance of bridge scour studies at selected bridge sites in Brazoria, Fort Bend, Galveston, Harris, Montgomery and Waller counties. There will be four

contracts and each contract will contain approximately 100 bridges. The engineering firm shall perform an initial screening of the channel condition and then, where required, perform a concise analysis as given in a State publication.

Pre-selection Meeting. There will be a pre-selection meeting August 23, 1994, at 10:30 a.m. in the TxDOT District Conference room located at 7721 Washington Avenue, Houston, Texas 77707.

Deadline. Proposals for both projects will be accepted at the office of Milton M. Dietert, P.E., District Engineer, TxDOT Houston District, 7721 Washington, Houston, Texas 77007 (for delivery) or P.O. Box 1386, Houston, Texas 77251-1386 (for mail), until 5:00 p.m. on August 31, 1994.

Agency Contact. Requests for additional information regarding the request for proposals should be addressed to R. L. Holsomback, P.E., (713) 802-5236, FAX (713) 802-5640. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact the agency contact at least two days prior to the meeting so that appropriate arrangements can be made.

Issued in Austin, Texas, on July 13, 1994.

TRD-9443869 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: July 13, 1994



Notice of Invitation. The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services: surveying, route and design studies, economic and environmental studies, public involvement, determination of right of way requirements, preparation of right of way plans, and preparation of plans, specifications and estimates for the widening of SH 21 in Bryan between FM 158 and BS 6-R.

Deadline. Proposals will be accepted at 1300 North Texas Avenue, Bryan, Texas, 77803 until 4:00 p.m., Thursday, August 4, 1994. Proposals received after the deadline will not be considered.

Agency Contact. Requests for additional information regarding the request for proposals should be addressed to Bob Appleton, P.E. at (409) 778-9707/FAX 778-9702.

Issued in Austin, Texas, on July 13, 1994.

TRD-9443870 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: July 13, 1994



Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

City of Kingsville, P.O. Box 1458, Kingsville, Texas, 78363, received 06/06/94, application for financial assis-

tance in the amount of \$2,000,060 from the State Water Pollution Control Revolving Fund.

Brazos River Authority, 4400 Cobbs Drive, Waco, Texas, 76710, received 05/31/94, application for financial assistance in the amount of \$1,400,000 from the State Water Pollution Control Revolving Fund.

Live Oak Underground Water Conservation District, P.O. Box 980, George West, Texas, 78022, received 06/20/94, application for financial assistance in the amount of \$100,000 from the Agricultural Water Conservation Fund.

Marion County, 102 North Polk, Jefferson, Texas, 75657, received 03/18/94, application for financial assistance in an amount not to exceed \$45,000 from the Research and Planning Fund.

Bexar-Medina-Atascosa Counties Water Control and Improvement District Number 1, P.O. Box 170, Natalia, Texas, 78059, received 07/05/94, application for financial assistance in an amount not to exceed \$100,000 from the Research and Planning Fund.

City of Fort Worth Water Department, P.O. Box 870, Fort Worth, Texas, 76101-0870, received 06/17/94, application for financial assistance in the amount not to exceed \$150,000 from the Research and Planning Fund.

Texas Engineering Experiment Station, Texas A&M University, 301 Royce E., Wissenbaker Engineering Research Center, College Station, Texas, 77843-3126, received 06/13/94, application for additional funding in an amount not to exceed \$43,288 from the Research and Planning Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas, 78711.

Issued in Austin, Texas, on July 13, 1994.

TRD-9445080 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: July 15, 1994



Texas Workers' Compensation Commission

Notice of Change in Injury Monitoring Period in the Extra-Hazardous Employer Program

Pursuant to the provisions of 28 TAC §164.14 (regarding Values Assigned for Computation of Extra-Hazardous Employer Identification), the Texas Workers' Compensation Commission hereby provides notice of a change in the 12-month period designated by the commissioners for counting injuries. For designating Extra-Hazardous employers after August 15, 1994, the 12-month period shall be the period from January 1, 1993-December 31, 1993. The Commission will use the 1992 publication of the Bureau of Labor and Statistics Survey of Occupational Injuries and Illnesses as a source for expected injury rates and will use the 1992 National Safety Council publication.

Issued in Austin, Texas, on July 15, 1994.

TRD-9445152 Susan Cory
General Counsel
Texas Workers' Compensation Commission

Filed: July 15, 1994