

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**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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

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

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

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

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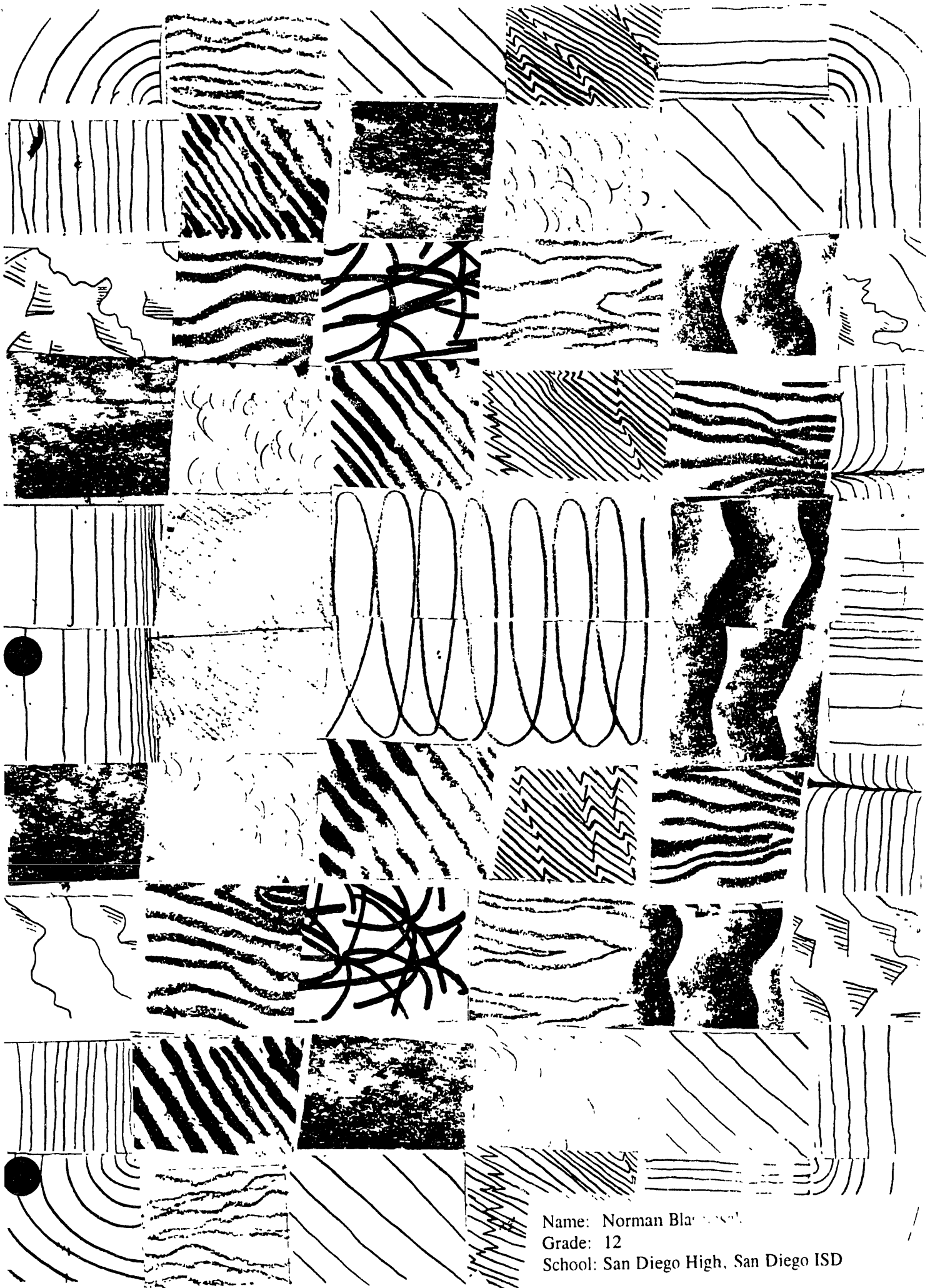
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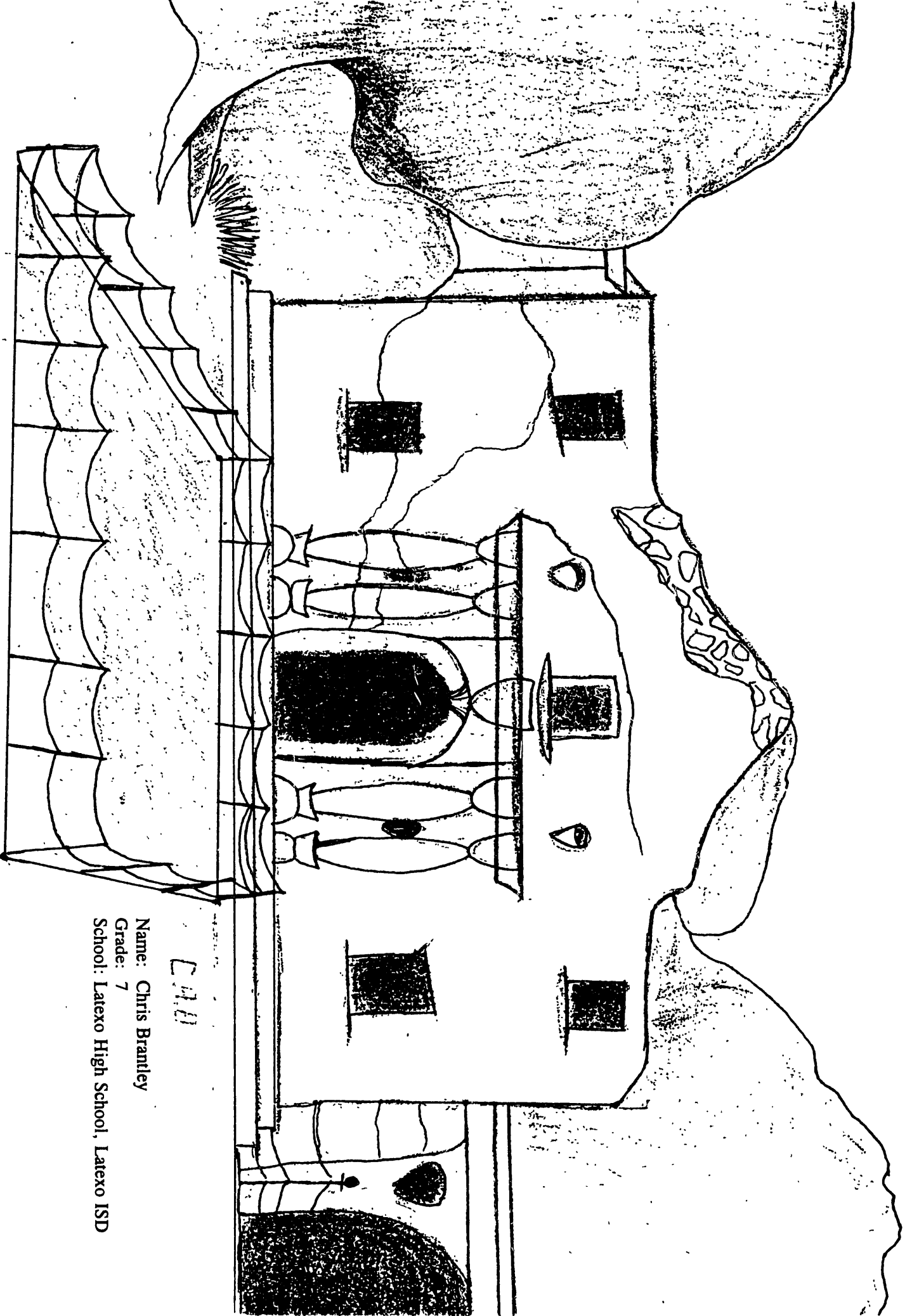


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CMAA

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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 August 15, 1994

To be a member of the Texas Commission on Law Enforcement Officer Standards and Education for a term to expire August 30, 1999: Horace L. O'Neal, 6713 First Street, Lubbock, Texas 79416. Mr. O'Neal will be replacing Maxine Hannifin of Midland, whose term expired.

To be a member of the Texas Commission on Law Enforcement Officer Standards and Education for a term to expire August 30, 1999: Sally Ann Werst, 5509 Timber Green Drive, Fort Worth, Texas 76016. Mr. Werst will be replacing John E. Clark of San Antonio, whose term expired.

## Appointments Made August 18, 1994

To be a member of the Texas Council on Workforce and Economic Competitiveness for a term to expire September 1, 1995: Thomas Anselin Reed, 201 East State Street, Eagle Lake, Texas 77434. Mr. Reed is being appointed to a new position pursuant to Senate Bill Number 642, 73rd Legislature.

To be a member of the Southern Regional Education Board for a term to expire June 30, 1995: Dr. JoAnn Horton, President, Texas Southern University, 3100 Cleburne Avenue, Houston, Texas 77004. Dr. Horton will be filling the unexpired term of Dr. Julius Becton of Prairie View, who resigned.

To be a member of the Southern Regional Education Board for a term to expire June

30, 1998: Rene Nunez, 819 Lakeshore Drive, El Paso, Texas 79932. Mr. Nunez is being reappointed.

To be a member of the Lower Concho River Water and Soil Conservation Authority Board of Directors for a term to expire February 1, 1999: Leroy Beach, Box 95, Millersview, Texas 76862. Mr. Beach is being reappointed.

## Appointments Made August 19, 1994

To be a chairman of the Texas Commission for the Deaf and Hearing Impaired for a term at the pleasure of the Governor: Dr. Milburn L. Coleman, III, of Port Aransas.

To be a member of the Texas Commission for the Deaf and Hearing Impaired for a term to expire January 31, 1997: Paula Bartone-Bonillas, Route 1, Box 177, Ingleside, Texas 78362. Ms. Bartone-Bonillas will be filling the unexpired term of Ruth Seeger of Austin, who resigned.

## Appointments Made August 22, 1994

To be a member of the Texas State Board of Medical Examiners District Review Committee for District IV for a term to expire January 15, 2000: Larry Hufford, Ph.D., 2508 Hiawatha, San Antonio, Texas 78210. Dr. Hufford will be replacing Janet McGlasson of Rockport, whose term expired.

To be a member of the Texas State Board of Medical Examiners District Review

Committee for District IV for a term to expire January 15, 2000: Julian Gomez, III, M.D., 721 South "G" Street, McAllen, Texas 78501. Dr. Gomez will be replacing Dr. Vincente Tavaréz of McAllen, whose term expired.

To be a member of the Texas State Board of Medical Examiners District Review Committee for District I for a term to expire January 15, 2000: A. David Axelrad, M.D., 7800 Fannin, #400, Houston, Texas 77054. Dr. Axelrad will be replacing Dr. Richard Eppright of Houston, whose term expired.

## Appointments Made August 24, 1994

To be a member of the Texas Workers' Compensation Research Center Board of Directors for a term to expire February 1, 1995: Dubravka H. Romano, 4105 Sinclair Avenue, Austin, Texas 78756. Ms. Romano will be replacing Jackson B. Floyd of Austin, who resigned.

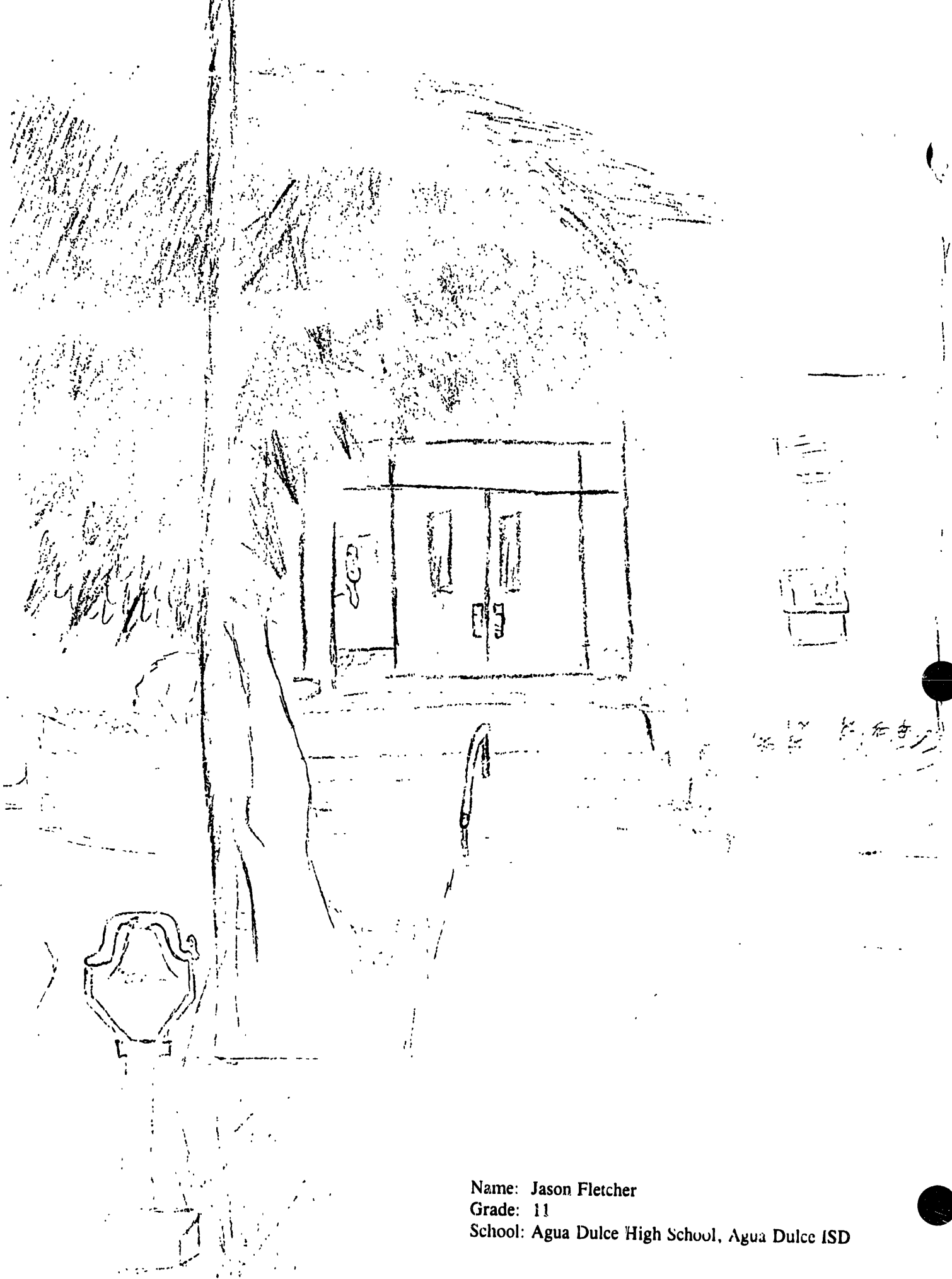
To be a member of the Texas State Board of Plumbing Examiners for a term to expire September 5, 1995: Nolene Sykora, Route 7, Box 296, Waco, Texas 76705-7614. Ms. Sykora will be replacing Michael Joseph Warren who is deceased.

Issued in Austin, Texas, August 30, 1994.

TRD-9447341

Ann W. Richards  
Governor of Texas





Name: Jason Fletcher  
Grade: 11  
School: Agua Dulce High School, Agua Dulce ISD

# EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

**Symbology in amended emergency sections.** 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 25. HEALTH SERVICES

### Part 1. Texas Department of Health

#### Chapter 38. Chronically Ill and Disabled Children's Services Program

##### • 25 TAC §38.6

The Texas Department of Health (department) adopts on an emergency basis an amendment to §38.6, concerning providers in the Chronically Ill and Disabled Children's Services (CIDC) Program. The amendment will allow the commissioner of health to reimburse an out-of-state provider when a CIDC provider (a Texas physician), the CIDC program, and the patient, parent or guardian have determined that an out of state provider is the provider of choice, that the service cannot be obtained in Texas, and that obtaining the service out of state is cost effective to the CIDC Program. The amendment requires that the treatment must be accepted medical practice, not an experimental procedure. Travel costs will be negotiated, with approval based on the overall cost effectiveness of the out of state treatment.

The amendment is adopted for the following reasons. Although infrequently, a medical or surgical procedure is sometimes available out of state, but not currently in Texas, which could significantly improve the quality of life for a CIDC-eligible child and also could reduce CIDC expenditures. The CIDC Program has projected budget shortfalls for fiscal years 1995 through 1997. Currently §38.6 restricts payment to Texas physicians only. Reimbursement for transportation, meals, and lodging is restricted to in-state travel.

The amendment to §38.6 is adopted on an emergency basis to prevent a particular child now eligible for CIDC services which are not available in Texas from being forced to consider undergoing less effective and possibly more expensive treatment, due to CIDC funding restrictions.

This amendment is proposed for permanent adoption in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis under Health and Safety Code,

§35.004, which authorizes the Texas Board of Health (board) to adopt rules concerning the selection of providers in the CIDC program; and under Health and Safety Code, §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and on the commissioner of health. The amendment is adopted on an emergency basis under Government Code §2001.034, which provides the board with the authority to adopt rules on an emergency basis.

##### §38.6. Providers.

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

(g) Out-of-state coverage. The commissioner of health may allow CIDC payment to out-of-state providers in unique circumstances in which a CIDC provider (Texas physician) and the patient, parent or guardian and the CIDC medical director agree that an out of state provider is the provider of choice for quality care, the same treatment or another treatment of equal benefit or cost is not available through Texas CIDC providers, and the treatment results in a decrease in the patient's cost of treatment to the CIDC program. The medical literature must indicate that the out of state treatment is accepted medical practice and is anticipated to improve the patient's quality of life. The cost of transportation, meals and lodging may be reimbursed for the CIDC-approved out-of-state treatment. Travel costs will be negotiated, with approval based on overall cost effectiveness.

Issued in Austin, Texas, on August 29, 1994

TRD-9447297

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: August 29, 1994

Expiration date: December 27, 1994

For further information, please call: (512) 458-7355

## Chapter 98. HIV and STD Control

### Subchapter C. Texas HIV and Medication Program

#### General Provisions

##### • 25 TAC §98.104, §98.105

The Texas Department of Health (department) adopts on an emergency basis amendments to §98.104 and §98.105, concerning the Texas HIV Medication Program. The amended sections implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85.063, Subchapter C, concerning the Texas HIV Medication Program. The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the Texas Board of Health (board) that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover eligibility for participation and medication coverage. The amendments expand coverage of the program to include Stavudine for eligible participants.

The amendments are adopted on an emergency basis in order to provide medications to HIV infected individuals expeditiously. It is imperative to address this serious and imminent peril to public health by providing approved medications as soon as possible.

The amendments are adopted on an emergency basis under the Health and Safety Code, §85.063, which provides the board with the authority to adopt rules concerning the Texas HIV Medication Program; under Health and Safety Code, §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health; and under Government Code, §2001.034, which provides the board with the authority to adopt rules on an emergency basis.

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

(1) Zidovudine capsules must be provided in increments of 100 not to exceed

400 capsules per month. Zidovudine syrup must be provided in eight ounce bottles. IV Zidovudine must be provided intrapartum in 10mg/ml-2 ml vials.

(2)-(15) (No change.)

(16) Dapsone must be provided in increments of 100 not to exceed 100 tablets per month.

(17) Stavudine must be provided in increments of 60 not to exceed 60 capsules per month.

§98.105. *Drug Specific Eligibility Criteria.* A person is eligible for:

(1) Zidovudine, Didanosine, and Zalcitabine if he or she is younger than 18 years of age and has a diagnosis of HIV infection; or, has a positive HIV antibody test and is classified in Category B or C [Group III or IV] according to the Centers for Disease Control 1993 Revised Classification System for HIV Infection;[,] or, pending available funding, is classified in [Group I or II with a CD4 cell count of 500 or less] Category A2 or A3 according to the Centers for Disease Control 1993 Revised Classification System for HIV Infection;

(2) Zidovudine if she has a positive HIV antibody test and is a female in the second trimester or later of pregnancy, regardless of classification according to the Centers for Disease Control 1993 Revised Classification System for HIV Infection; or, is the biological newborn infant of a female with a diagnosis of HIV infection;

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

(A) [all children who have had a] previous episode of *Pneumocystis carinii* Pneumonia (PCP);

(B) [all children less than 13 years of age who] meet the Centers for Disease Control (CDC) definitions of HIV infection in children and who have CD4 counts less than 400/mm<sup>3</sup>;

(C) all children less than 15 months of age who have HIV isolated from blood, cerebrospinal fluid (CSF), or tissues; or P24 antigen detected in blood/plasma or CSF, regardless of CD4 count; and

(D) all children less than 15 months of age who are HIV-seropositive and have symptoms as defined by CDC class P2, regardless of CD4 count. Children will qualify in class P2a if they have one symptom and persistent hypergammaglobulinemia (2 measurements, one month apart);

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

(4)-(5) (No change.)

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

(7) (No change.)

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

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

(9)[(10)] Interferon-Alpha for the treatment of disseminated Kaposi's sarcoma in HIV infected persons with T-cell counts over 200. The total amount to be expended on this drug is up to \$122,600. The requesting physician must complete a form to be returned to the program which will allow the program to evaluate the benefits of providing this medication;

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

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

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

(13)[(14)] Itraconazole for the treatment of Blastomycosis and Histoplasmosis.

(14) Stavudine for the treatment of adults with advanced HIV infection who are unable to tolerate Zidovudine, Didanosine, or Zalcitabine or who have experienced significant clinical or immunologic deterioration while receiving these antiretrovirals or for whom such antiretrovirals are contraindicated.

Issued in Austin, Texas, on August 29, 1994

TRD-9447327

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date: August 30, 1994

Expiration date: December 28, 1994

For further information, please call: (512) 458-7357

## Chapter 122.

### Sedation/Anesthesia Permits for Dentists

#### • 25 TAC §§122.1-122.5

The Texas Department of Health (department) adopts on an emergency basis new §§122.1-122.5 concerning sedation/anesthesia permits for dentists. The emergency adoption is effective September 1, 1994.

The new section is being adopted on an emergency basis due to imminent peril to public health, safety and welfare and to carry on certain functions after the sunset of the Texas State Board of Dental Examiners on September 1, 1994. Without these new sections, the public receiving dental/oral and maxillofacial surgical procedures would not be adequately protected. The sections will insure that individuals are qualified to administer sedation/anesthesia in dental settings.

These new sections are proposed for permanent adoption in this issue of the *Texas Register*.

The new sections are adopted on an emergency basis under the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health and the commissioner of health.

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

Analgesia—The diminution or production of increased tolerance to pain in the conscious patient.

General anesthesia—A controlled state of unconsciousness accompanied by partial or complete loss of protective

reflexes, including inability to independently maintain an airway and respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

**Direct supervision**—The dentist responsible for the sedation/anesthesia procedure shall be physically present in the office and shall be continuously aware of the patient's physical status and well being.

**Local anesthesia**—The elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.

**May or could**—Indicates freedom or liberty to follow a suggested alternative.

**Must or shall**—Indicates an imperative need and/or duty; an essential or indispensable item; mandatory.

**Nitrous oxide/oxygen inhalation conscious sedation**—The administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and/or verbal command.

**Parenteral conscious sedation**—A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

**Parenteral deep sedation**—A controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

**Personal supervision**—The dentist responsible for the sedation/anesthesia procedure shall be physically present in the room with the patient at all times during the induction and maintenance of the procedure.

**Should**—Indicates the recommended manner to obtain the standard; highly desirable.

#### §122.2. Minimum Standard of Care.

(a) This section describes the standard of care for patients on whom a dentist will utilize nitrous oxide/oxygen inhalation conscious sedation, parenteral conscious sedation, parenteral deep sedation or general anesthesia.

(b) Each dentist licensed and practicing in Texas shall conduct his or her practice in a manner consistent with that of a reasonable and prudent dentist under the same or similar circumstances. Further, each dentist:

(1) shall maintain a patient record:

(A) from which a diagnosis may be made;

(B) which includes a description of treatment rendered;

(C) includes the date on which treatment is performed; and

(D) which includes any information a reasonable and prudent dentist in the same or similar circumstances would include;

(2) shall maintain and review an initial medical history and limited physical evaluation for all dental patients.

(A) The initial medical history shall include, but shall not necessarily be limited to, known allergies to drugs, serious illness, current medications, previous hospitalizations and significant surgery, and a review of the physiologic systems obtained by patient history. A "check list," for consistency, may be utilized in obtaining initial information. The dentist shall review the medical history with the patient at any time a reasonable and prudent dentist in the same or similar circumstance would so do

(B) The initial limited physical examination shall include, but shall not necessarily be limited to, blood pressure and pulse/heart rate as may be indicated for each patient.

(3) shall obtain and review an updated medical history and limited physical evaluation when a reasonable and prudent dentist under the same or similar circumstances would determine it is indicated;

(4) shall for office emergencies

(A) maintain a positive pressure breathing apparatus including oxygen which shall be in working order,

(B) maintain other emergency equipment and/or currently dated drugs as a reasonable and prudent dentist with the same or similar training and experience in the same or similar circumstances would maintain, and

(C) provide training to dental office personnel in emergency procedures which shall include, but not necessarily be limited to, basic cardiac life support, inspection and utilization of emergency equipment in the dental office, and office procedures to be followed in the event of an

emergency as determined by a reasonable and prudent dentist in the same or similar circumstances; and

(5) shall complete a course in basic cardiopulmonary resuscitation every two years offered by either the American Heart Association or the American Red Cross; and

(6) shall obtain an informed consent in all situations where required by law.

#### §122.3. Sedation/Anesthesia Permit.

(a) From the effective date of these sections, each dentist licensed and practicing in Texas who desires to utilize nitrous oxide/oxygen inhalation conscious sedation, parenteral conscious sedation, and/or parenteral deep sedation, and general anesthesia, must obtain a permit of authorization from the Texas Department of Health for the requested procedure.

(b) Any dentist approved by the former Texas State Board of Dental Examiners under previous rules prior to the effective date of this section for the utilization of nitrous oxide/oxygen inhalation conscious sedation, parenteral conscious sedation, or general anesthesia may qualify for a new permit.

(c) Each holder of an existing permit shall be required to complete and submit a new application for the procedure(s) desired within one year from the effective date of these sections to the department. If the new permit application is not received within this designated period, the prior permit shall be cancelled. Each new application shall be reviewed to determine if the permit holder meets the standard of care requirements for the permit requested. If the requirements are met, a new permit shall be issued. If the requirements are not met, the permit applicant shall be notified and provided an appropriate period, at the discretion of the department, to correct the deficiency

(d) For new applicants who are otherwise properly qualified, a temporary provisional permit may be issued for one year by the department, based solely upon the credentials contained in the application.

(e) Prior to or after the issuance of any permit, the department may, at its discretion, require an on-site office evaluation to determine if all standards of these sections are being met

(f) Once a permit is issued, the department shall automatically renew the permit annually unless the holder of said permit is informed by the department that an evaluation of the permit is required. Prior to an evaluation of an existing permit, the department shall consider factors to in-

clude patient complaints, morbidity, mortality, and staff recommendations.

(g) New permit issuances will be charged a \$25 fee payable with the application for permit.

(h) The department may contract with another state agency to administer this chapter. Enforcement of this section shall be done by the Office of the Attorney General

#### §122.4. Permit Requirements

(a) Nitrous oxide/oxygen inhalation conscious sedation To induce and maintain this type of conscious sedation on patients having dental/oral and maxillofacial surgical procedures in the State of Texas, the following requirements must be met.

##### (1) Professional requirements.

(A) Each dentist wishing to utilize this technique must produce satisfactory evidence of completion of a didactic and clinical course of instruction in this technique. Such courses of instruction shall:

(i) be directed by qualified instructors with advanced education in comprehensive pain control and with broad clinical experience in this technique;

(ii) include a minimum of four hours of didactic work in pharmacodynamics of nitrous oxide/oxygen inhalation conscious sedation; and

(iii) include a minimum of six hours of clinical experience under personal supervision.

(B) Each dentist must produce satisfactory evidence of completion of a continuing education course in the nitrous oxide/oxygen inhalation conscious sedation which includes the prevention and management of emergencies in the dental office; or

(C) Each dentist must have successfully completed qualifications governing the use of parenteral conscious sedation as noted in subsection (b) of this section or deep sedation/general anesthesia as noted in subsection (c) of this section.

(2) Standard of care requirements.

(A) Each dentist must maintain the minimum standard of care as noted in §122.2 of this title (relating to Minimum Standard of Care)

(B) Each dentist shall induce, monitor, and provide continuous personal supervision of the inhalation conscious sedation procedure, or the dentist

shall induce and may delegate under direct supervision, as defined in §122.1 of this title (relating to Definitions), the monitoring of the nitrous oxide inhalation conscious sedation procedure to a dental auxiliary who has successfully completed a written examination on said subject offered by the former Texas State Board of Dental Examiners or the department.

(b) Parenteral conscious sedation (intravenous, intramuscular, subcutaneous, submucosal. To induce and maintain this type of conscious sedation of patients having dental/oral and maxillofacial surgical procedures in the State of Texas, the following requirements must be met.

(1) Parenteral conscious sedation shall be induced and maintained by a dentist licensed by the State of Texas and practicing in Texas, a physician anesthesiologist licensed by the Texas State Board of Medical Examiners, or a certified registered nurse anesthetist licensed in Texas (see paragraph (3)(G) of this subsection).

(2) Professional requirements are as follows.

(A) has satisfactorily completed an intensive course that meets the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry published by the American Dental Association Council on Dental Education for the parenteral conscious sedation technique requested; or

(B) has satisfactorily completed an approved graduate program by the Commission on Dental Accreditation of the American Dental Association where training to competence in parenteral conscious sedation is a minimum standard required in the training guidelines (oral and maxillofacial surgery, pediatric dentistry, periodontics, and some general practice residencies); or

(C) has satisfactorily completed qualifications governing use of general anesthesia.

(3) Standard of care requirements. Each dentist shall utilize the following standard of care in addition to the minimum standards noted in §122.2 of this title (relating to Minimum Standard of Care) for each parenteral conscious sedation procedure:

(A) maintain an informed conscious sedation consent by each dental patient on whom each procedure is performed, which consent shall specify that the risks related to the procedure include brain damage and death,

(B) maintain an adequate written sedation record which shall include

physiologic vital sign monitoring during the course of the procedure;

(C) maintain continuous direct supervision of the sedation procedure and patient vital sign monitoring during the course of the procedure;

(D) maintain current certification in basic cardiopulmonary resuscitation for the assistant staff by having them pass a course sponsored by the American Heart Association or the American Red Cross;

(E) in utilizing parenteral conscious sedation via an intravenous route of administration, the dentist shall:

(i) maintain personal supervision of the patient during the induction of conscious sedation and for a period of time necessary to establish pharmacologic and physiologic vital sign stability. When a certified registered nurse anesthetist provides the conscious sedation care, he/she shall be under the direct supervision of the dentist. Delegation of personal supervision may occur if a second dentist or anesthesiologist is delivering the anesthesia care; and

(ii) utilize visual and mechanical methods for vital sign monitoring which shall include, but shall not necessarily be limited to, pulse rate, patient color/texture, blood pressure respiration, blood, and tissue oxygenation. Mechanical monitoring shall include a minimum of pulse oximetry;

(F) maintain direct supervision of auxiliary personnel who shall be capable of reasonably assisting in the procedures, problems, and emergencies incident to the use of parenteral conscious sedation, and

(G) not allow a parenteral conscious sedation procedure to be performed in his/her office by a certified registered nurse anesthetist unless the dentist holds a permit for the procedure from the Texas Department of Health.

(c) Parenteral deep sedation and/or general anesthesia. To induce and maintain deep sedation/general anesthesia on patients having dental/oral and maxillofacial surgical procedures in the State of Texas, the following requirements must be met.

(1) Deep sedation/general anesthesia shall be induced and maintained by a dentist licensed by the State of Texas and practicing in Texas, a physician anesthesiologist licensed by the Texas State Board of Medical Examiners, or a certified registered nurse anesthetist licensed in Texas (see paragraph (3)(G) of this subsection)

(2) Professional requirements are as follows.



(A) has completed a minimum of one year of advanced training in anesthesia and related academic subjects beyond the undergraduate dental school level in a training program as described in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry of the American Dental Association Council on Dental Education; or

(B) has completed an approved graduate program by the Commission on Dental Accreditation of the American Dental Association where training to competence in general anesthesia is a minimum standard in the training guidelines and maintains an equivalency to one year of anesthesia training (oral and maxillofacial surgery); or

(C) has completed the requirements for admission to and has passed the fellowship exam in the American Dental Society of Anesthesiology.

(3) Standard of care requirements. Each dentist shall utilize the following standard of care in addition to the minimum standards noted in §122.2 of this title (relating to Minimum Standard of Care):

(A) maintain an informed deep sedation/general anesthesia consent by each dental patient on whom this technique is performed, which consent shall specify that the risks related to the procedure include brain damage and death;

(B) maintain an adequate written anesthesia record which shall include, but shall not necessarily be limited to, physiologic vital signs and all medications administered during the course of the procedure;

(C) maintain personal supervision of the patient during the induction and maintenance of the anesthesia. When a certified registered nurse anesthetist provides the deep sedation/anesthesia care, he/she shall be under the direct supervision of the dentist. Delegation of personal supervision may occur if a second dentist or anesthesiologist is delivering the deep sedation/anesthesia care. Vital sign monitoring shall utilize visual and mechanical methods which shall include, but shall not necessarily be limited to, pulse rate, patient color/texture, blood pressure, respiration, blood and tissue oxygenation, and heart rhythm. Mechanical monitoring shall include a minimum of pulse oximetry and an electrocardioscope;

(D) maintain original certification in advanced cardiac life support from

a course sponsored by the American Heart Association. The dentist shall require his/her assistant staff to maintain current certification in basic life support as obtained by courses offered by the American Heart Association or the American Red Cross;

(E) maintain the necessary emergency equipment and medications to perform advanced cardiac life support under the guidelines of the American Heart Association (airway equipment, required intravenous equipment and medication, defibrillator, electrocardioscope, etc.);

(F) maintain a minimum of two auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of deep sedation/general anesthesia; and

(G) not allow a deep sedation/general anesthesia procedure to be performed on a dental patient in his/her office by a certified registered nurse anesthetist unless the dentist maintains a permit for deep sedation/general anesthesia issued by the Texas Department of Health.

*§122.5. Report of Injury (Morbidity) or Death (Mortality) in the Dental Office or Hospital.*

(a) All licensees engaged in the practice of dentistry in the State of Texas must submit a written report within a period of 30 days to the Texas Department of Health after the occurrence of any death (mortality), incident, injury (morbidity). Morbidity means temporary or permanent, physical or mental disability, or physical or mental injury to any patient for whom said dentist has rendered any dental service. Routine hospitalization to guard against postoperative complication for patient comfort need not be reported where complications do not thereafter result in injury (morbidity) or death (mortality) as provided in this section. Additional patient records may be requested at the discretion of the department.

(b) In the evaluation of sedation/anesthesia morbidity or mortality, the Texas Department of Health shall consider the standard of care necessary to be that applicable to the patient's state of consciousness during the procedure.

Issued in Austin, Texas, on August 29, 1994

TRD-9447318

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date. September 1, 1994

Expiration date December 30, 1994

For further information, please call. (512) 834-6628

## Chapter 143. Medical Radiologic Technologists

### • 25 TAC §143.16

The Texas Department of Health (department) adopts on an emergency basis new §143.16, concerning dental radiologic procedures (x-rays). The emergency adoption is effective September 1, 1994.

The new section is being adopted on an emergency basis due to imminent peril to public health, safety and welfare and to carry on certain functions after the sunset of the Texas State Board of Dental Examiners on September 1, 1994. Without this new section, most persons now performing dental x-rays would not be able to continue to do so on an after September 1, 1994.

This new section is proposed for permanent adoption in this issue of the *Texas Register*.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 4512m, §2.05(e), which provide the Texas Board of Health with the authority to adopt rules necessary to implement the Medical Radiologic Technologist Certification Act; and under the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health and commissioner of health.

### §143.16. Dental Radiologic Procedures.

(a) Any person performing radiologic procedures under the supervision of a Texas licensed dentist must register with the Texas Department of Health (department). This registrant may perform, by the direct oral or written order(s) of the licensed dentist, any radiographs required for the diagnosis of the maxillofacial complex.

(b) This section does not apply to registered nurses or persons holding a general or limited certificate under the Medical Radiologic Technologist Certification Act.

(c) A dental hygienist who is licensed and currently registered in this state shall be deemed to be registered for the purpose of performing radiologic procedures.

(d) There will be no additional fee for the registration of qualified people defined under this section. The current registration fee paid by the employing licensee will adequately cover costs. An examination materials charge, not to exceed \$30, payable to the Texas Department of Health, will be assessed to those requiring examination.

(e) Dental assistants who meet the minimum standards established by these rules shall be listed on the annual registration notice of their present employing dentist. This notice will be available for inspection in the office of the licensee.

(f) A registered dentist may certify that a dental assistant is qualified to perform radiographic procedures if any one of the following criteria is met:

(1) be a currently certified dental assistant by meeting criteria established by the Dental Assisting National Board, Inc.;

(2) have taken and passed the dental radiation health and safety examination administered by the Dental Assisting National Board, Inc.; or

(3) has taken and passed the dental radiation health and safety examination specified by the department. Essential areas of testing shall include, but not be limited to, the following areas:

(A) radiation protection for the patient and others;

(B) radiographic equipment including safety standards, operations, and maintenance;

(C) image production and evaluation;

(D) applied human dental anatomy; and

(E) radiographic techniques.

(g) Dental assistants who are not qualified under the provisions of this section, shall be allowed to perform necessary diagnostic radiographs under the direct supervision of the dentist as a part of their training and as a part of their examination.

(h) Any new dental assistants, with no previous experience in dentistry, will have up to six months to come into compliance with the provisions of these regulations if they are to perform radiographic procedures.

(i) Any dental assistant (who qualifies under this rule) hired by the licensee after he or she has submitted his or her annual registration notice, shall be deemed registered if the licensee lists the assistant's name and date of employment on the back of the registration notice.

(j) All dental radiologic procedures can be performed by any person qualified and certified under this section.

(k) Registration may be suspended, revoked, or not renewed for the following reasons:

(1) violation of the rules of the department;

(2) violation of the Medical Radiologic Technologist Certification Act or rules promulgated thereunder; or

(3) violation of the Texas Dental Practice Act.

(l) All registrants must comply with the rules and regulations of the department for control of radiation.

(m) The department may contract with another state agency to administer this section. Enforcement of this section shall be done by the Office of the Attorney General.

(n) A person allowed to perform dental radiologic procedures under this section shall be considered to hold a type of certificate under the Medical Radiologic Technologist Certification Act.

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TRD-9447299

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

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Expiration date: December 30, 1994

For further information, please call: (512) 834-6628

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# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

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

#### Chapter 251. Regional Plans-Standards

##### • 1 TAC §251.4

*(Editor's note. The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Advisory Commission on State Emergency Communications or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Advisory Commission on State Emergency Communications proposes the repeal of §251.4, concerning Guidelines for the Provisioning of Ancillary Equipment. The changes to §251.4 are substantial; and therefore, the rule is being replaced by a new rule for clarity.

The guidelines are to be used in evaluating individual council of governments requests for equipment/services considered to be essential to system functions. The guidelines seek to clarify the provisioning of equipment necessary for 9-1-1 call delivery.

Mary A. Boyd, executive director for the ACSEC has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. Ms. Boyd also has determined that there will be no fiscal effect on local employment or the local economy.

Ms. Boyd also has determined that the public benefit anticipated as a result of enforcing the repeal will be improved effectiveness and reliability of 9-1-1 call delivery systems in 9-1-1 regions throughout the state.

Comments on the proposal may be submitted to Mary Boyd, Executive Director, ACSEC, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942.

The repeal is proposed under the Health and Safety Code, Chapter 771, §§771.055, 771.056, 771.057, and 771.072, which authorizes ACSEC with the authority to develop

and amend a regional plan as necessary within commission standards and procedures to improve 9-1-1 call delivery. It also authorizes 9-1-1 equalization surcharge funding to be used to implement 9-1-1 regional plans that meet commission standards.

The proposed rule affects the Health and Safety Code, Chapter 771, and the Texas Administrative Code, Part XII, Chapter 251, Regional Plan Standards

##### §251.4. Guidelines for the Provisioning of Ancillary Equipment.

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 August 30, 1994.

TRD-9447362

Mary A. Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 305-6911

The Advisory Commission on State Emergency Communications (Commission) proposes new §251.4, concerning guidelines for 9-1-1 accessibility equipment. The guidelines are to be used in evaluating individual Council of Governments requests for equipment/services considered to be essential to system functions. The guidelines seek to clarify the provisioning of equipment necessary for 9-1-1 call delivery.

Mary Boyd, executive director, has determined that for each year of the first five years the section is to be in effect, the public benefit anticipated as a result of enforcing the section will be improved effectiveness and reliability of 9-1-1 call delivery systems in 9-1-1 regions throughout the state. No historical data is available, however, there appears to be no direct impact on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on §251.4 must be submitted in writing within 30 days after publication of the

proposal in the *Texas Register* to Mary Boyd, Executive Director, Advisory Commission on State Emergency Communications, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942.

The new section is proposed pursuant to the Health and Safety Code, Chapter 771, §§771.055, 771.056, 771.057, and 771.072; and the Texas Administrative Code, Part XII, Chapter 251, Regional Plan Standards.

The proposal affects the Health and Safety Code, Chapter 771, §§771.005, 771.056, 771.057, and 771.072; and the Texas Administrative Code, Part XII, Chapter 251, Regional Plan Standards.

##### §251.4. Guidelines for the Provisioning of Accessibility Equipment.

(a) The Commission established standards that must be met in a 9-1-1 Regional Plan.

(b) The Commission will look favorably on accessibility equipment that will improve the effectiveness and reliability of 9-1-1 call delivery systems.

(c) The Commission will be guided by the basic consideration that it is responsible for the provision of 9-1-1 call delivery and not for the provision of emergency services. Therefore, the Commission will normally approve expenditures related only to call delivery and will continue to expect local governments to fund all activities related to the provision of emergency services.

(d) The following guidelines will be used in evaluating Accessibility Equipment

(1) TDD Accessibility Equipment. The program provided for a statewide 9-1-1 placement program coupled with related training and public education through an interagency contract with the Texas Commission for the Deaf and Hearing Impaired (TCDHI), beginning September 1, 1990. The administration of the TDD Distribution Program was transferred to the Advisory Commission on State Emergency Communications (ACSEC) effective April 1, 1991.

(A) The program is utilized by Texas regional councils as well as 9-1-1 emergency Communications Districts. After the program was moved to the ACSEC, the TCDHI's TDD program closed and those units loaned from their agency were recalled. An agreement was arranged for the ACSEC to purchase those units already placed in emergency response centers.

(B) The Americans with Disabilities Act (P.L. 101-336), commonly referred to as the ADA, impacts telephone emergency services by mandating direct access to TDD and computer modem users. Although the ADA does not mandate TDD detection equipment, the Department of Justice addresses the issue of a "silent call" in their Technical Assistance Manual by stating that "operators must be trained to recognize that silent calls may be TDD or computer modem calls and to respond appropriately." Installation of detection equipment will assist the telecommunicator in call-handling efficiency.

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

(A) "TDD" is the acronym for Telecommunication Device for the Deaf-Other interchangeable acronyms accepted are TTY (Teletypewriter) or TT (Text Telephone).

(B) TDD Detectors monitor incoming trunks for TDD tones-Upon detection, a response sequence begins. A built-in recording provides a repeating voice announcement, "TDD Call," to the telecommunicator. A message is sent to the TDD caller (such as "9-1-1 Please Hold"). The telecommunicator then connects to a TDD or the call can be transferred to a TDD-equipped trunk.

(C) TDD Call Diverters function as a detection device, monitoring incoming calls and upon detection of TDD tones, diverts the call to a trunk/position designated for handling TDD calls-This device requires installation on each incoming trunk to monitor calls.

(3) The following are funding parameters for accessibility equipment.

(A) The Commission will fund TDD equipment.

(B) The Commission will fund one TDD Detector per position.

(C) The Commission will fund TDD Call Diverters for PSAPs with four or more positions.

(D) The Commission will review and consider exceptions to the above policies on a case-by-case basis.

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 August 30, 1994.

TRD-8447383

Mary A. Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 305-6911

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## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Housing and Community Affairs

#### Chapter 9. Texas Community Development Program

#### Subchapter A. Allocation of Program Funds

• 10 TAC §§9.1-9.4, 9.6, 9.7, 9.9

The Texas Department of Housing and Community Affairs (TDHCA) proposes amendments to §§9.1, 9.2, 9.4, 9.6, 9.7, and 9.9 and proposes a new §9.3, concerning the allocation of Community Development Block Grant (CDBG) non-entitlement area funds under the Texas Community Development Program. The amendments are being proposed to establish the standards and procedures by which TDHCA will allocate fiscal year 1994 economic development, disaster relief, and urgent need funds and fiscal years 1994 and 1995 community development, colonia, and planning/capacity building funds. The new section is being proposed to establish the standards and procedures by which TDHCA will allocate fiscal years 1994 and 1995 *Young v. Cisneros* funds. The amendments are being proposed to make changes to the application and selection criteria for the program fund categories. The proposed new section includes *Young v. Cisneros* fund application requirements, selection procedures and scoring criteria.

Ruth Cedillo, director of the Texas Community Development Program, has determined that for the first five-year period that the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Cedillo also has determined that for each year of the first five years the sections are in effect, the public benefit as a result of enforcing the sections will be the equitable allocation of CDBG non-entitlement area funds to eligible units of general local government in Texas. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Anne Paddock, Deputy General Counsel, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941.

The amendments and new section are proposed under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant non-entitlement area funds to eligible counties and municipalities according to department rules.

Texas Government Code, Chapter 2306, §2306.098 is affected by the proposed amendments and new section.

#### §9.1. General Provisions.

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

(1)-(12) (No change.)

(13) Permanent job-A permanent position [job] for which continuation of employment is not dependent on funds provided through the Texas Community Development Program.

(14)-(18) (No change.)

(19) State review committee-The State Community Development Review Committee established pursuant to Texas Government Code, §2306.100. [Texas Civil Statutes, Article 4413(501), §2.10.]

[(20) Underemployed person-A person who works less than 40 hours per week not by choice, at a salary that is not commensurate with his skills and experience.]

(20)[(21)] Unemployed person-A person between the ages of 16 and 64, inclusive, who is not presently working but is seeking employment.

(21)[(22)] Unit of general local government-An entity defined as a unit of general local government in 42 United States Code, §5302(a)(1), as amended.

(b) Overview-Community Development Block Grant nonentitlement area funds are distributed by the Texas Community Development Program to eligible units of general local government in the following program areas:

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

(6) colonia fund ; [.]

(7) *Young v. Cisneros* fund.

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

(e) Ineligible activities. Any type of activity not described or referred to in the Federal Housing and Community Development Act of 1974, §5305(a) (42 United States Code Section 5301 et seq.) is ineligible for funding under the Texas Community Development Program. Specific ineligible activities include, but are not limited to, construction of buildings and facilities used for the general conduct of government (e.g., city halls and courthouses); new housing construction, except as described as eligible under the current Texas Community Development Program application guides; the financing of political activities; purchases of construction equipment; income payments, such as housing allowances; most operation and maintenance expenses; pre-contract costs, except for costs incurred prior to submittal of an application and paid with local government or other funds for administrative consultant and engineering/architectural services; [such as application preparation fees and engineering/architectural fees paid prior to submittal of the application;] prisons (unless the prison is located on a federal military installation closed by the federal government), and racetracks.

(f) Citizen Participation.

(1) Public hearing requirements. For each public hearing scheduled and conducted by an applicant or contractor, the following public hearing requirements shall be followed.

(A) (No change.)

(B) Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries, with accommodation for persons with disabilities. [Public hearings must be held after 5:00 p.m. on a weekday or at a convenient time on a Saturday.]

(C) (No change.)

(2) Application requirements. Prior to submitting a formal application, an applicant for Texas Community Development Program funding shall satisfy the following requirements.

(A)-(C) (No change.)

(D) An applicant shall retain documentation of the hearing notices, a list of attendees at each hearing, minutes of the hearings, and any other records concerning the proposed use of funds for a period of three years or until the project, if funded, is

closed out. Such records must be made available to the public in accordance with Texas Government Code, Chapter 552 [Texas Civil Statutes, Article 6252-17a].

(E)-(F) (No change.)

(G) At least one of the two required application public hearings must be held after 5:00 p.m. on a weekday or at a convenient time on a Saturday.

(3) Contractor requirements.

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

(C) A contractor shall retain documentation of the hearing notices, a list of attendees at each hearing, minutes of the hearings, and any other records concerning the actual use of funds for a period of three years after the contract is closed out. Such records must be made available to the public in accordance with Texas Government Code, Chapter 552 [Texas Civil Statutes, Article 6252-17a].

(D) The public hearings must be held after 5:00 p.m. on a weekday or at a convenient time on a Saturday.

(4)-(5) (No change.)

(g) Appeals. An applicant for funding under the Texas Community Development Program may appeal the disposition of its application in accordance with this subsection.

(1) (No change.)

(2) The appeal must be submitted in writing to the Texas Community Development Program of the department no later than 30 days after the date the announcement of community development fund and planning/capacity building fund contract awards is published in the *Texas Register*. In addition, timely appeals not submitted in writing at least five working days prior to the next regularly scheduled meeting of the state review committee will be heard at the subsequent meeting of the state review committee. The department staff will evaluate the appeal and may either concur with the appeal and make an appropriate adjustment to the applicant's scores, or disagree with the appeal and prepare an appeal file for consideration by the state review committee at its next regularly scheduled meeting. The state review committee will make a final recommendation to the executive director of the department. The decision of the executive director of the department is final. If the appeal concerns a Texas capital fund, disaster relief fund, or urgent need fund application, the appeal must be submitted in writing to the depart-

ment no later than 30 days following the date of the notification letter of the denial. If the appeal concerns a colonia fund or *Young v. Cisneros* fund application, the appeal must be submitted in writing to the department no later than 30 days after the date the announcement of contracts awards is published in the *Texas Register*. The staff evaluates the appeal and may either concur with the appeal or disagree with the appeal and prepare an appeal file for consideration by the executive director. The executive director then considers the appeal within 30 days and makes the final decision

(3) In the event the appeal is sustained and the corrected scores would have resulted in project funding, the application is approved and funded. If the appeal concerning a community development fund or planning/capacity building fund application is rejected, the department notifies the applicant of its decision, including the basis for rejection after the meeting of the state review committee at which the appeal was considered. If the appeal concerns a *Young v. Cisneros* fund, Texas capital fund, colonia fund, disaster relief fund, or urgent need fund application, the applicant will be notified of the decision made by the executive director within 10 days after the final determination by the executive director.

(4) (No change.)

(h)-(i) (No change.)

(j) False information. If an applicant provides false information in its community development fund or planning/capacity building fund application which has the effect of increasing the applicant's competitive advantage, the number of beneficiaries, or the percentage of low to moderate income beneficiaries, the department refers the matter to the state review committee for disciplinary action. If the applicant provides false information in a *Young v. Cisneros* fund, Texas capital fund, colonia fund, disaster relief fund, or urgent need fund application, the department staff [in conjunction with the staff of the Texas Department of Commerce] shall make a recommendation for action to the executive director of the department. The state review committee makes a recommendation for action to the executive director of the department at its next regularly scheduled meeting. Documentation of false information must be submitted at least ten business days prior to the next regularly scheduled meeting of the state review committee to be considered at that meeting. Recommendations that the state review committee or executive director may make include, but are not limited to

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

(k) Substitution of standardized data. Any applicant that chooses to substitute locally generated data for standardized information available to all applicants must

use the survey instrument provided by the department and must follow the procedures prescribed in the instructions to the survey instrument.

(1) (No change.)

(2) Surveys, including signed tabulation sheets, signed surveys location sheets, all responses, and all non-responses must be submitted to the department by [at least 14 days prior to] the application deadline, for verification and spot-checking.

(3)-(5) (No change.)

(l) Unobligated and recaptured funds. Any additional funds resulting from the recapture of dollars from a prior year's allocation, recapture of program income, unobligated or unused funds from a program area specified in subsection (b) of this section, or reallocated funds which the United States Department of Housing and Urban Development has recaptured from small cities grantees are redistributed to eligible communities on a priority basis with eligible disaster relief and urgent need projects as the highest priority; eligible projects with *Young v. Cisneros* activities, colonia activities, or federally designated empowerment zone and/or enterprise community activities as the next highest priority; and eligible economic development projects as the next highest priority. Any additional remaining funds may be redistributed to eligible communities at the discretion of the executive director of the department within such program areas.

(m) (No change.)

(n) Performance threshold requirements. In addition to the requirements of subsection (h) of this section, an applicant must satisfy the following performance requirements in order to be eligible to apply for program funds. A contract is considered executed for the purposes of this subsection on the date stated in §2 of such contract:

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

(3) expend all but the audit funds for a Texas capital fund contract funded prior to the 1994 program year that has been in effect for at least 36 months and submit to the department the close-out documents (and any close-out document revisions requested by the department) required by the most recent edition of the Texas Community Development Program Project Implementation Manual prior to submitting an application for the 1994 program year Texas capital fund program;

(4) starting with the 1994 program year Texas capital fund contracts, local governments that have not closed Texas capital fund contracts within the three-year contract period are required to establish a repayment plan for any expended contract funds.

(o) State review committee. The committee shall consult with and advise the department's executive director on the administration and enforcement policies of the Texas Community Development Program; review funding recommendations for applicants under the community development fund and planning/capacity building fund and assist the department's executive director in the allocation of program funds to the applicants; review appeals and submit recommendations for the disposition of such appeals to the department's executive director in accordance with the procedures described in subsection (g) of this section; and report committee actions concerning these tasks to the department's executive director through the minutes of committee meetings and written reports prepared by department staff on behalf of the committee.

#### §9.2. Community Development Fund.

(a) (No change.)

(b) Funding cycle. This fund is allocated to eligible units of general local government on a biennial basis for the 1994 and 1995 program years pursuant to regional competitions held during the 1994 program year. [This fund is allocated on an annual basis to eligible units of general local government pursuant to a regional competition.] Applications for funding from the 1994 and 1995 program year allocations must be received by the Texas Community Development Program by 5:00 p.m. on the date specified in the most recent application guide for this fund.

(c) Allocation plan.

(1) (No change.)

(2) Each state planning region is provided with a 1994 program year target allocation and a 1995 program year target allocation of funds for applications in its region that are ranked through the 1994 program year regional competitions in accordance with a shared scoring system involving the department and the regional review committees. Where the remainder of the 1994 program year target allocation is insufficient to completely fund the next highest ranked applicant, the applicant receives complete funding of the original grant request through a combination of 1994 and 1995 program year funds. Where the remainder of the 1995 program year target allocation is insufficient to completely fund the next ranked application, the department works with the affected applicant to determine whether partial funding is feasible. If partial funding is not feasible, the remaining funds from all the target allocations are pooled to fund projects from among the highest ranked,

unfunded applications from each of the 24 state planning regions. Selection criteria for such applications will consist of the selection criteria scored by the department under this fund. Marginal applicants' scores are recomputed based on the applicants competing in the marginal pool competition only.

(d) Selection procedures.

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

(5) Following a final technical review, the department staff makes a site visit to each of the applicants recommended for funding and then presents the 1994 program year and 1995 program year funding recommendations to the state review committee.

(6) (No change.)

(7) The executive director of the department reviews the 1994 program year final recommendations for project awards and announces the contract awards.

(8) Upon announcement of the 1994 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded with the remainder of the target allocation within a region.

(9) When the 1995 program year Texas Community Development Program allocation becomes available, the executive director of the department reviews the 1995 program year final recommendations for project awards and announces the contract awards.

(10) Upon announcement of the 1995 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded with the remainder of the target allocation within a region.

(e) Selection criteria. The following is an outline of the selection criteria used by the department and the regional review committees for scoring applications under the community development fund. Seven hundred points are available.

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

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total-25 points). In the event 10% or less [less than 5.0%] of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal [or the applicant has less than five permanent] full-time employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned either the average score on this factor for all applicants in its state planning region, or the score calculated on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide for this fund.

(4) Project impact (total-170 points). Ten points of the 170 points available are awarded to applicants which did not receive a community development fund contract award during the previous program year. Of the remaining 160 points available, each application is scored within a point range based on the application activities. [on how the proposed project resolves the identified need and the severity of the need within the applying jurisdiction.] Multi-activity projects which include activities in different scoring ranges will receive a combination score within the possible range. Information submitted in the application or presented to the regional review committees is used by a committee composed of staff of the department to generate scores on this factor.

(A) The point ranges used for project impact scoring are as follows:

(i) activities in a federally designated empowerment zone or enterprise community (150 to 160 points);

(ii) water activities, sewer activities, housing activities, activities linked with the department's 1993 program year HOME and Low Income Housing Tax Credit (LIHTC) programs or activities linked with applications for 1994 program year HOME and LIHTC funding (140 to 160 points);

(iii) street paving, drainage, flood control and handicapped accessibility activities (120 to 145 points);

(iv) gas facilities, electrical facilities, solid waste disposal, fire protection, and health clinic activities (110 to 130 points);

(v) community center, senior citizens center, social services center, demolition/clearance, and code enforcement activities (100 to 120 points);

(vi) jail facilities and detention facilities (90 to 110 points);

(vii) all other eligible activities (70 to 100 points).

(B) Other factors that will be evaluated by department staff in the assignment of project impact scores within the point ranges for activities include, but are not limited to, the following:

(i) each application is scored based on how the proposed project will resolve the identified need and the severity of the need within the applying jurisdiction;

(ii) projects that include activities located in a federally designated empowerment zone or enterprise community receive the maximum score;

(iii) projects that address basic human needs such as water, sewer, and housing generally are scored higher than projects addressing other eligible activities;

(iv) projects that provide a first-time public facility or service generally receive a higher score than projects providing an expansion or replacement of existing public facilities or services;

(v) public water and sewer projects that provide a first-time public facility or service generally receive a higher score than other eligible first-time public facility or service projects;

(vi) projects designed to bring existing services up to at least the state minimum standards as set by the applicable regulatory agency are given additional consideration.

(5)-(6) (No change)

### §9.3. *Young v Cisneros Fund*

(a) General provisions. Assistance under this fund is limited to the local governments located in the 36 counties named in the *Young v Cisneros* lawsuit. The eligible activities are the required activities described in desegregation plans and desegregation plan amendments filed by the U.S. Department of Housing and Urban Development (HUD) with the U.S. District Court for the Eastern District of Texas and/or activities described in memoranda-of-understanding developed by HUD and the local governments included in the area affected by the lawsuit.

(1) A local government with *Young v Cisneros* required activities must submit an application under this fund which addresses the required activities and which includes local matching funds in order to be eligible to submit an application for community development fund assistance

(2) In addition to the threshold requirements of §9.1(h) of this title (relating to General Provisions) and the requirements of §9.1(n), in order to be eligible to apply for *Young v Cisneros* funding, an applicant must document that at least 51% of the persons who would directly benefit from the implementation of each activity proposed in the application are of low to moderate income.

(b) Funding cycle. This fund is allocated to eligible units of general local government on a bi-annual basis for the 1994 and 1995 program years pursuant to a competition held during the 1994 program year. Applications for funding from the 1994 and 1995 program year allocations must be received by the Texas Community Development Program by 5:00 p.m. on the date specified in the most recent application guide for this fund.

(c) Selection procedures

(1) Prior to the application deadline, each eligible local government may submit one application for funding under the *Young v Cisneros* fund. Two copies of the application must be submitted to the department and at least one copy of the application must be submitted to the applicant's state planning region.

(2) Upon receipt of an application, the department staff performs an initial review to determine whether the application is complete and whether all proposed activities are eligible for funding. The results of this initial review are provided to the applicant. If not subject to disqualification, the applicant may correct any deficiencies identified within ten calendar days of the date of the staff's notification.

(3) Each regional review committee may, at its option, review and comment on an application from a local government within its state planning region. These comments become part of the application file, provided such comments are received by the department prior to scoring of the applications.

(4) The department then scores the applications to determine rankings. Scores on the selection factors are derived from standardized data from the U. S. Census Bureau, Texas Employment Commission, and from information provided by the applicant.

(5) Following a final technical review, the department staff makes funding recommendations for the 1994 and 1995 program year allocations to the executive director of the department.

(6) The executive director of the department reviews the 1994 program year final recommendations for project awards and announces the contract awards.

(7) Upon announcement of the 1994 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded with the remainder of the target allocation within a region.

(8) When the 1995 program year Texas Community Development Program allocation becomes available, the executive director of the department reviews the 1995 program year final recommendations for project awards and announces the contract awards.

(9) Upon announcement of the 1995 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded with the remainder of the target allocation within a region.

(d) Selection criteria. The following is an outline of the selection criteria used by the department and the regional review committees for scoring applications under the *Young v. Cisneros* fund. Three hundred fifty points are available.

(1) Community distress (total-55 points). All community distress factor scores are based on the population of the applicant. An applicant that has 125% or more of the average rate of all applicants in the competition on any community distress factor, except per capita income, receives the maximum number of points available for that factor. An applicant with less than 125% of the average rate of all applicants in the competition on a factor will receive a proportionate share of the maximum points available for that factor. An applicant that has 75% or less of the average of all applicants in the competition on the per capita income factor will receive the maximum number of points available for that factor:

(A) percentage of persons living in poverty-20;

(B) per capita income-20;

(C) unemployment rate-15;

(2) Benefit to low- and moderate-income persons (total-40 points). An application in which at least 60% of the Texas Community Development Program funds requested benefit low and moderate income persons receives 40 points.

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total-25 points). In the event 10% or less of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned either the average score on this factor for all applicants in the competition, or the score calculated on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide for this fund.

(4) Project impact (total-170 points). Information submitted in the application is used by a committee composed of staff of the department to generate scores on this factor. Factors to be evaluated by staff in the assignment of scores include, but are not limited to the following:

(A) how the proposed project resolves the required activities described in desegregation plans and desegregation plan amendments filed by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD;

(B) whether the applicant has received prior Texas Community Development Program funds to address *Young v. Cisneros* required activities;

(C) whether the application includes any activities that are not required activities described in desegregation plans and desegregation plan amendments filed by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD;

(D) whether the application required activities are linked with housing activities funded under the department's 1993 program year HOME and Low Income Housing Tax Credit (LIHTC) programs or the required activities are linked with housing activities included in applications for 1994 program year HOME and LIHTC funding; and

(E) whether the applicant has previously addressed any of the required activities described in desegregation plans and desegregation plan amendments filed

by HUD with the court and/or the activities described in memorandums-of-understanding developed by HUD with local resources.

(5) Matching Funds (total-60 points). An applicant's matching share may consist of one or more of the following contributions: cash; in-kind services or equipment use; materials or supplies; or land. An applicant's match is considered only if the contributions are used in the same target areas for activities directly related to the activities proposed in its application; if the applicant demonstrates that its matching share has been specifically designated for use in the activities proposed in its application; and if the applicant has used an acceptable and reasonable method of valuation. The population category under which county applications are scored depends on the project type and the beneficiary population served. If the project benefits residents of the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the residents of the entire unincorporated area of the county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities. The population category under which multi-jurisdiction applications are scored is based on the combined populations of the participating applicants according to the 1990 census. Applications for housing rehabilitation and for affordable new permanent housing for low- and moderate-income persons receive the 60 points without including any matching funds. This exception is for housing activities only. Sewer or water service line/connections are not counted as housing rehabilitation. Demolition/clearance and code enforcement, when done in the same target area are counted as part of the housing rehabilitation activity. When demolition/clearance and code enforcement are proposed without housing rehabilitation activities, then the match score is still based on actual matching funds committed by the applicant. Applications which include additional activities, other than related housing activities, are scored based on the percentage of match provided for the additional activities. The terms used in this paragraph are further defined in the current application guide for this fund.

(A) Applicants with populations equal to or less than 750 according to the 1990 census:

(i) match equal to or greater than 5.0% of grant request-60;

(ii) match at least 4.0% but less than 5.0% of grant request-40;



(iii) match at least 3.0% but less than 4.0% of grant request-20;

(iv) match at least 2.0% but less than 3.0% of grant request-10;

(v) match less than 2.0% of grant request-0.

(B) Applicants with populations equal to or less than 1,500 but over 750 according to the 1990 census:

(i) match equal to or greater than 10% of grant request-60;

(ii) match at least 7.5% but less than 10% of grant request-40;

(iii) match at least 5.0% but less than 7.5% of grant request-20;

(iv) match at least 2.5% but less than 5.0% of grant request-10;

(v) match less than 2.5% of grant request-0.

(C) Applicants with populations equal to or less than 5,000 but over 1,500 according to the 1990 census:

(i) match equal to or greater than 15% of grant request-60;

(ii) match at least 11.5% but less than 15% of grant request-40;

(iii) match at least 7.5% but less than 11.5% of grant request-20;

(iv) match at least 3.5% but less than 7.5% of grant request-10;

(v) match less than 3.5% of grant request-0.

(D) Applicants with populations over 5,000 according to the 1990 census:

(i) match equal to or greater than 20% of grant request-60;

(ii) match at least 15% but less than 20% of grant request-40;

(iii) match at least 10% but less than 15% of grant request-20;

(iv) match at least 5.0% but less than 10% of grant request-10;

(v) match less than 5.0% of grant request-0.

#### §9.4 Planning/Capacity Building Fund.

(a) (No change.)

(b) Funding cycle. This fund is allocated to eligible units of general local government on a biennial basis for the 1994 and 1995 program years pursuant to a statewide competition held during the 1994 program year. [on an annual basis to eligible units of general local gov-

ernment on a statewide competitive basis.] Applications for funding from the 1994 and 1995 program year allocations must be received by the Texas Community Development Program by 5:00 p.m. on the date specified in the most recent application guide for this fund.

(c) Selection procedures. Scoring and the recommended ranking of projects is done by staff and a committee composed of department staff with input from the regional review committees. The application and selection procedures consist of the following steps.

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

(7) The department staff submits the 1994 program year and the 1995 program year funding recommendations to the state review committee. The state review committee reviews the project rankings and provides funding recommendations to the executive director of the department.

(8) The executive director of the department reviews the 1994 program year funding recommendations and announces the contract awards.

(9) Upon the announcement of the 1994 program year contract awards, the department staff works with recipients to execute the contract agreements. The award is based on the information provided in the application and on the amount of funding proposed for each contract activity based on the matrix included in the most recent application guide for this fund.

(10) When the 1995 program year Texas Community Development Program allocation becomes available, the executive director of the department reviews the 1995 program year funding recommendations and announces the contract awards.

(11) Upon the announcement of the 1995 program year contract awards, the department staff works with recipients to execute the contract agreements. The award is based on the information provided in the application and on the amount of funding proposed for each contract activity based on the matrix included in the most recent application guide for this fund.

(d) Selection criteria. The following is an outline of the selection criteria used by the department for selection of the projects under the planning/capacity building fund. Four hundred thirty points are available.

(1) (No change.)

(2) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total-25 points) In the event 10% or less [less than 5.0%] of the applicant's population base is

composed of minority residents, the applicant has seven or fewer non-seasonal full-time [or the applicant has less than five full-time permanent] employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned the average score on this factor for all applicants, or the score calculated on its actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

(3) (No change.)

(4) Planning strategy and products (total-250 points).

(A) Previous planning (50 points).

(i) An applicant which has not previously received a planning/capacity building contract or an applicant which has received a planning/capacity building fund contract prior to the 1987 program and has not received any subsequent planning/capacity building fund contracts-50 points.

(ii)-(iii) (No change.)

(B) (No change.)

#### §9.6 Urgent Need Fund.

(a) (No change.)

(b) Threshold requirements. In addition to the requirements set forth in §9.1(h) and (n) of this title (relating to General Provisions) and the requirements of each of the following requirements must be satisfied in order to be eligible for funding under this fund:

(1) (No change.)

(2) the condition addressed in the application must have directly resulted in a human fatality within the jurisdiction of the applicant, or must have directly resulted in illness or injury within the jurisdiction of the applicant as documented by the Texas Department of Health, or poses an imminent threat to human life or health as documented by the Texas Department of Health or Texas Natural Resource Conservation [Water] Commission;

(3)-(5) (No change.)

#### §9.7. Texas Capital Fund.

(a) General Provisions. This fund covers projects which will result in either an increase in new, permanent employment within a community or retention of existing permanent employment. Under the small business incubator program or the main street improvements program, projects may also qualify if they meet the national pro-

gram objective of aiding in the prevention or elimination of slum or blighted areas.

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

(7) No assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one unit of general local government within Texas to another unit of general local government within Texas unless a 10% net gain of jobs will occur and one or more of the following requirements has been met prior to submitting an application for consideration under this section:

(A) Business to relocate with approval of current locality. Local government must provide (in the application) written documentation verifying the chief elected official (mayor or judge) of the unit of local government from which the business is relocating supports and approves the relocation proposal. A written agreement between the two local governments involved in the business relocation is preferred.

(B)-(C) (No change.)

(8)-(14) (No change.)

(b) Overview. This fund is distributed to eligible units of general local government for eligible activities in the following program areas:

(1) The loan program. The loan program provides financing for activities such as machinery and equipment, working capital, the purchase of land and depreciable property, new construction, [and] rehabilitation of commercial or industrial facilities and infrastructure improvements on private property.

(2) The infrastructure program. The public infrastructure program provides funds for eligible activities such as the construction or improvement of water/wastewater facilities, public roads, natural gas-line services, electric-power services, and railroad spurs, except that funding will not be provided for infrastructure improvements on private property.

(3)-(6) (No change.)

(c) (No change.)

(d) Selection procedures. The department has entered into an interagency cooperation contract with the Texas Department of Commerce by which the Texas Department of Commerce performs marketing and underwriting services for this fund. Applications under this section are reviewed by Texas Department of Commerce staff, with input from department staff, except for the main street program applications, which are reviewed and scored by a committee composed of Texas Department of Commerce and department staff. The

Texas Department of Commerce executive director makes recommendations to the department executive director for final award. [the Texas Capital Fund Advisory Committee after they have been evaluated by staff of the Texas Department of Commerce. The Advisory Committee is appointed by the executive director of the Texas Department of Commerce and the Community Development Block Grant division director of the department. The Texas Department of Commerce and the department have equal representation on the Advisory Committee. The Texas Capital Fund Advisory Committee and staff make recommendations to the department's executive director for final award.] The application and selection procedures consist of the following steps:

(1) Prior to submitting a formal application, each potential applicant must submit a complete pre-application to the [Office of Business Finance Services,] Business Development Division of the Texas Department of Commerce.

(2) Upon receipt of a pre-application containing financial information on the business or incubator sponsor or main street city to be considered for funding, the staff of the Texas Department of Commerce performs an initial review to determine whether the pre-application is complete, whether the activities proposed are eligible for funding and for compliance with threshold requirements. In those instances where the staff of the Texas Department of Commerce determines that the pre-application is incomplete, or the activities are ineligible for funding, or does not meet threshold requirements, the pre-application is returned for the applicant to complete or is cited as ineligible. Texas Department of Commerce staff notify the department when a pre-application is deemed ineligible before the applicant is notified. [For the main street improvements program, an incomplete or ineligible pre-application is returned to the applicant and the applicant is disqualified from participation in that program. Additional information is not accepted from a main street improvements program applicant after the pre-application deadline.] The staff at the Texas Department of Commerce then conducts a review of each complete pre-application to make threshold determinations with respect to:

(A)-(E) (No change.)

(3) If the Texas Department of Commerce or the department invite a formal application, the staff of the Texas Department of Commerce is required to discuss the project and program rules with the mayor or judge, as applicable, or his designee, and one company official. A formal application may only be submitted if the Texas Department of Commerce or the

department authorizes such in writing. If an authorization to submit a formal application is granted, a formal application must be submitted within 30 business [45] days of the authorization.

(4) A copy of a complete application must be provided to the appropriate regional review committee. Each regional review committee may, at its option, review and comment on an economic development proposal from a jurisdiction within its state planning region. These comments become part of the application file and are considered by the department provided such comments are received by the department prior to formal application review by Texas Department of Commerce staff. [the Advisory Committee.]

(5) Applications are evaluated for compliance with threshold requirements or scored based on the selection criteria established for the Texas capital fund program.

(A) For the loan, infrastructure and real estate development programs, the staff of the Texas Department of Commerce generates scores on selection criteria related to leverage ratio, cost per job, minority hiring, and project feasibility. Scores on factors in these categories are derived from information provided by the applicant. An infrastructure, loan, or real estate development program applicant must receive at least 60 points out of a possible 100 points to be considered for funding. [An applicant that receives at least 60 points on such criteria may be invited to send a representative to make a presentation to the Texas Capital Fund Advisory Committee.]

(B) (No change.)

(C) For the main street improvements program, the staff of the Texas Department of Commerce and the department score pre-applications based on selection criteria related to project feasibility, leverage ratio and minority hiring. [The Texas Capital Fund Advisory Committee scores pre-applications based on selection criteria related to project feasibility.] The Texas Historical Commission also scores pre-applications based on selection criteria related to project feasibility using its scores to place the applicants in rank order from highest to lowest scores. The five projects ranked highest by the Texas Historical Commission receive additional points. Final scores are reviewed by the department and Texas Department of Commerce staff committee. Scores on factors in these categories are derived from information provided by the applicant. Formal applications are then requested from the two highest scoring applicants.

(6) The staff of the Texas Department of Commerce and the department [in conjunction with department staff] may conduct a site visit of the proposed project. Site visits to the two highest scoring main street improvements applicants may include a verification of information submitted in the pre-application.

(7) If a project is determined not to be feasible by Texas Department of Commerce staff, [the Advisory Committee.] the department notifies the applicant of its decision, including the basis for denial.

(8) The the executive director of the Texas Department of Commerce makes [Texas Capital Fund Advisory Committee and staff make] recommendations to the department's executive director for final award.

(9) (No change.)

(10) The staff of the Texas Department of Commerce and the department work [in conjunction with department staff works] with the recipients to execute contract agreements. While the contract award must be based on the information provided in the pre-application and the formal application, the department may negotiate any element of the final contract agreement with the recipient. A main street improvements program contract amount cannot increase and the level of benefits described in the pre-application and formal application cannot decrease.

(e) Selection criteria for the loan, infrastructure and real estate development programs. The following is an outline of the selection criteria used for selection of projects under the loan, infrastructure, and real estate development programs. One hundred points are available. The terms and criteria used in this subsection are further defined in the pre-application guidelines for these programs.

(1) Project feasibility (total-30 points). The feasibility of each project is evaluated and scored based on the financial soundness of the project. Factors examined include firm commitments for financial investments and the jobs to be created or retained; the history of the business; the current financial condition of the business, including a full review of the credit analysis; cash flow projections; the business or marketing plan, including letters of intent to purchase products or services; and management experience of the business's principals. A project located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives special consideration.

(2) Minority hiring (total-20 points). Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the

local community (20 points). In the event 10% or less [less than 5.0%] of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time [or the applicant has less than five permanent] employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score calculated on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

(3) Leverage ratio (total-30 points). Points are awarded by dividing the total other funds committed by the amount of Texas capital funds requested less administration, in accordance with the following scale:

(A) 1.25:1 (125%) [1.0:1 (100%)]-10 points

(B)-(E) (No change.)

(4) Cost per job (total-20 points). Points are awarded by dividing the amount of Texas capital funds requested by the number of full-time job equivalents to be created or retained, in accordance with the following scale:

(A) \$8,000 or less [At or below 10,000]-20 points;

(B) \$13,000 to \$8,001 [At or below 15,000]-15 points;

(C) \$18,000 to \$13,001 [At or below 20,000]-10 points;

(D) \$22,000 to \$18,001 [At or below 25,000]-5 points;

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

(i) Additional criteria for the small business incubator program.

(1) (No change.)

(2) An incubator project located in a state designated enterprise zone, federal empowerment zone, or federal enterprise community receives special consideration.

(j) (No change.)

(k) Enterprise zone designation. A small and minority businesses loan program project that is located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives priority consideration.

(l) Selection criteria for the main street improvements program. The follow-

ing is an outline of the selection criteria used for selection of projects under the main street improvements program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program.

(1) (No change.)

(2) Project feasibility (total-50 points). Factors examined by the Texas capital fund staff [Advisory Committee] include Texas Historical Commission Main Street designation and demonstrated successful experience in the program; firm commitments for financial contributions; the jobs to be created or retained; the community's long-term commitment to historic preservation and commercial revitalization; a full review of the marketing strategy and funding for continued main street efforts; existing business ownership and available space pre-lease commitments; demonstrated proof of community support; demonstrated linkages with related downtown small businesses; and evidence of strong management experience of the main street manager.

(A) Projects that address the primary benefit to low and moderate income persons through job creation/retention receive highest priority, regardless of the national program objective selected. Projects that leverage additional dollars and demonstrate firm financial commitments also receive priority. Applicants that have demonstrated successful experience in the Texas Historical Commission's Main Street Program and that submit projects addressing the needs of mobility impaired individuals are given additional consideration. Applicants that have demonstrated a long term commitment to historic preservation, continued main street efforts, and have a low first floor building vacancy rate in the impacted project area are also given additional consideration. A main street improvements program project that is located in a designated state enterprise zone, federal empowerment zone, or federal enterprise community receives priority consideration.

(3) Leverage ratio (total-30 points). Points are awarded by dividing all other funds committed to the project, exclusive of Texas capital funds, by the amount of Texas capital funds requested, less administration, according to the following scales [scale]:

(A) Applicant with population less than 5,000 persons:

(i) 0.50: 1 (50%)-15 points;

(ii) 1.00: 1 (100%)-20 points;

(iii) 1.50: 1 (150%)-25 points;

(iv) 2.00: 1 (200%)—30 points.

(B) Applicant with population equal to or more than 5,000 persons:

(i) 1.50: 1 (150%)—15 points;

(ii) 2.00: 1 (200%)—20 points;

(iii) 2.50: 1 (250%)—25 points;

(iv) 3.00: 1 (300%)—30 points.

[(A) 1.5: 1 (150%)—15 points;

[(B) 2.0: 1 (200%)—20 points,

[(C) 2.5: 1 (250%)—25 points;

[(D) 3.0: 1 (300%)—30 points.]

(4) Minority hiring (total—10 points) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (10 points). In the event 10% or less [less than 5.0%] of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time [or the applicant has less than five permanent] employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score based on the actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

(5) (No change.)

#### §9.9. Colonia Fund.

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

(c) Types of applications. Eligible applicants may submit one application for the colonia construction fund[, the colonia demonstration fund, ] and the colonia planning fund. Eligible planning activities cannot be included in an application for the colonia construction fund [or the colonia demonstration fund]. The highest ranked applicants that submitted 1993 program year colonia demonstration fund applications, but did not receive 1993 program year contract awards after the completion of the 1993 program year colonia demonstration fund competition, will be

considered for funding from 1994 program year colonia funds. The department will not accept any new colonia demonstration fund applications during the 1994 and 1995 program years.

(d) Funding cycle. This fund is [will be] allocated on a biennial [an annual] basis to eligible county applicants for the 1994 and 1995 program years pursuant to a competition held during the 1994 program year. [on a competitive basis.] Applications for funding from the 1994 and 1995 program year allocations must be received by the department by 5:00 p.m. on the dates specified in the most recent application guide for each separate colonia fund category.

(e) Selection procedures.

(1) On or before the application deadline, each eligible county may submit one application for the colonia construction fund[, the colonia demonstration fund,] and the colonia planning fund. Copies of the application must be provided to the applicant's regional planning commission and the department.

(2) Upon receipt of an application, the department staff performs an initial review to determine whether the application is complete and whether all proposed activities are eligible for funding. [Department staff make site visits to each of the applicants for the colonia demonstration fund.] The results of this initial review are provided to the applicant. If not subject to disqualification, the applicant may correct any deficiencies identified within ten calendar days of the date of the staff's notification.

(3) (No change.)

(4) The department then scores the colonia construction fund and colonia planning fund applications to determine rankings. [The department scores the colonia demonstration fund applications after each applicant has been given the opportunity to make an oral presentation to department staff.] Scores on the selection factors are derived from standardized data from the Census Bureau, other federal or state sources, and from information provided by the applicant.

(5) Following a final technical review, the department staff makes 1994 program year funding recommendations to the executive director of the department.

(6) The executive director of the department reviews the final recommendations for 1994 program year project awards and announces the contract awards.

(7) Upon announcement of 1994 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided

in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded.

(8) When the 1995 program year Texas Community Development Program allocation becomes available, the executive director of the department reviews the 1995 program year funding recommendations and announces the contract awards.

(9) Upon announcement of 1995 program year contract awards, the department staff works with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the department may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded.

(f) Selection criteria (colonia construction fund). The following is an outline of the selection criteria used by the department for scoring colonia construction fund applications. Three hundred fifty points are available.

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

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the county [local community] (total—25 points). In the event 10% or less [less than 5.0%] of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time [or the applicant has less than five full-time permanent] employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is [will be] assigned the average score on this factor for all applicants, or the score calculated on its actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

(4)-(5) (No change.)

(g) Selection criteria (colonia planning fund) The following is an outline of the selection criteria used by the department for scoring applications for eligible planning activities under this fund. Three hundred fifty points are available.

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

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the county [local community] (total—25 points). In the event 10% or less

[less than 5.0%] of the applicant's population base is composed of minority residents, the applicant has seven or fewer non-seasonal full-time [or the applicant has less than five full-time permanent] employees, or 5.0% or more of the applicant's population base is living in group quarters or institutions, the applicant is [will be] assigned the average score on this factor for all applicants, or the score calculated on its actual figures, whichever is higher. The terms used in this paragraph are defined in the current application guide.

(4) (No change.)

(h) Selection criteria (colonia demonstration fund). The following is an outline of the selection criteria used by the department for scoring 1993 program year colonia demonstration fund applications. The department will not accept any new colonia demonstration fund applications during the 1994 and 1995 program years. Four hundred seventy-five points are available.

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

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

Issued in Austin, Texas, on August 29, 1994

TRD-9447310

Henry Flores  
Executive Director  
Texas Department of  
Housing and  
Community Affairs

Earliest possible date of adoption. October 7, 1994

For further information, please call: (512) 475-3948

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

##### Conservation Rules and Regulations

###### • 16 TAC §3.66

The Railroad Commission of Texas proposes for publication an amendment to §3.66, implementing Senate Bill 966, which concerns spill and leak reports provided to the commission by common carrier pipelines. The proposed amendment establishes a procedure by which residents and owners of land can be notified of pipeline spills or leaks and eliminates a duplicative reporting requirement.

The previously published proposed amendment to Statewide Rule 71 has been withdrawn and additional changes have been made. The changes in the proposed amendment define landowner and resident and re-

quire registration by landowners and residents with the commission every five years.

Adoption of the proposed amendment will improve the dissemination of information to the public concerning spills or leaks occurring from pipelines crossing their property.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the proposed rule amendment will be in effect, there will be no fiscal implications as a result of enforcing or administering it. There will be no fiscal implications for local government. There will be no cost of compliance with the proposed rule amendment for small businesses as a result of enforcing or administering it.

Barbara Epstein, hearings examiner, Legal Division, has determined that for each year of the first five years the rule is in effect, the public will benefit from more efficient and effective dissemination of information regarding common carrier pipeline spill and leak reports presently required to be filed with the commission.

Comments on the proposal may be submitted to Barbara Epstein, Legal Division-Oil and Gas Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted by the commission 30 days after publication in the *Texas Register*.

The amendment is proposed pursuant to the Texas Natural Resources Code, §111.139, which provides the Railroad Commission with the authority to require common carriers to provide spill and leak reports to residents and owners of lands crossed by common carrier pipelines.

The following is the code that is affected by this rule: Texas Natural Resources Code, §111.139.

§3.66. *Pipeline Tariffs*. Every person owning, operating, or managing any pipeline, or any part of any pipeline, for the gathering, receiving, loading, transporting, storing, or delivering of crude petroleum as a common carrier shall be subject to and governed by the following provisions: Common carriers specified in this section shall be referred to as "pipelines," and the owners or shippers of crude petroleum by pipelines shall be referred to as "shippers."

(1)-(18) (No change.)

(19) Reports of loss from fires, lightning, and leakage

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

(C) Common carrier pipelines shall mail (return receipt requested) or hand deliver to landowners (persons who have legal title to the property in question) and residents (persons whose mailing address is the property in question) of land upon which a spill or leak has occurred, all spill or leak reports

required by the commission for that particular spill or leak within 30 days of filing the required reports with the commission. Registration with the commission by landowners and residents for the purpose of receiving spill or leak reports shall be required every five years, with renewal registration starting January 1, 1999. If a landowner or resident is not registered with the commission, the common carrier is not required to furnish such reports to the resident or landowner.

(20)-(22) (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 August 29, 1994.

TRD-9447368

Mary Ross McDonald  
Assistant Director, Legal  
Division, Gas  
Utilities/L.P. Gas  
Railroad Commission of  
Texas

Earliest possible date of adoption. October 7, 1994

For further information, please call: (512) 463-7994

## Chapter 5. Transportation Division

### Subchapter P. Commercial Zones

#### • 16 TAC §5.617

The Railroad Commission of Texas proposes an amendment to §5.617, concerning safety equipment. The amendment is proposed pursuant to *Missouri Pacific Railroad Company vs. Railroad Commission of Texas*, 833 F.2d 570 (5th Cir. 1987), which held that the rule's requirement that first aid kits and fire extinguishers be maintained on a locomotive is preempted by federal law.

Jackye Greenlee, assistant director-central operations, Transportation/Gas Utilities Division, has determined that for the first five year period the proposed section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing the section.

Carrie L. McLarty, hearings examiner, Legal Division, has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of administering the section will be to eliminate portions of the rule which have been held partially invalid, making the railroad rules easier for the public and the railroads to follow and apply. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section.

Comments may be submitted to Carrie L. McLarty, Hearings Examiner, Legal Division,

Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days following publication in the *Texas Register*

The amendment is proposed pursuant to Texas Civil Statutes, Article 6443a, which authorize the commission to adopt regulations to ensure railroad safety.

The following is the statute affected by this rule. Texas Civil Statutes, Article 6448a.

**§5.617 Safety Equipment.** Each railroad corporation shall provide and maintain a first aid kit and an operable fire extinguisher in a plainly designated, accessible location on each of its cabooses [and locomotives]

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

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TRD-9447367 Mary Ross McDonald  
Assistant Director, Legal  
Division, Gas  
Utilities/LP Gas  
Railroad Commission of  
Texas

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For further information, please call (512) 463-7994

## Chapter 15. Alternative Fuels Research and Education Division

The Railroad Commission of Texas proposes new §§15.201-15.245, relating to the establishment and administration of a one-year pilot media rebate program for propane (liquefied petroleum gas, LPG) retailers. Participation in the program is voluntary, and media rebate payments are made entirely at the discretion of the commission. No person has a legal entitlement or other right to a rebate under this program.

Proposed new §15.201 states the purpose of the program, and proposed new §15.205 defines terms used in the rule. Proposed new §15.210 establishes the media rebate program for a period of one year unless the commission changes the termination date. Eligibility requirements, application procedures and conditions for receipt of rebates are described in proposed new §§15.215-15.220. Proposed new §§15.225-15.230 authorize the commission to set the percentage and maximum amount of the rebate, define the eligible media outlets, and prescribe verification procedures and the basis on which any rebate will be calculated. Conditions under which a propane dealer may be suspended or declared ineligible to participate in the media rebate program are set out in proposed new §15.235. Procedures for the receipt and handling of complaints and penalties for violation

of rebate program rules are set out in proposed new §§15.240-15.245.

The commission views the proposed media rebate program as an innovative tool for encouraging propane dealers to use advertising in furtherance of the commission's statutory charges to increase public awareness and assist in marketing of environmentally beneficial alternative fuels. For this reason, the commission wants to implement this program as quickly as possible, while ensuring adequate opportunity to receive ideas, information, and suggestions about the media rebate program from a wide array of interested persons.

The commission has set the amount available for rebates under the proposed program at \$225,000. The commission has also set the minimum advertising purchase that is eligible for a rebate at \$200 and the maximum total rebate amount available to each participating propane dealer during the one-year pilot program at an amount equal to \$300 times the number of retail propane delivery trucks operated by the dealer and registered with the commission.

Dan Kelly, director, alternative fuels research and education division, has determined that the estimated cost to state government will be not more than \$225,000 from the Alternative Fuels Research and Education Fund for the one year that the new section is in effect, plus the cost of commission employees' time spent in preparation, administration and enforcement of the program. Therefore, the actual cost will depend on the degree of acceptance of the program by participating propane retailers. There will be no fiscal implications for state government thereafter, since the program will expire after one year unless reauthorized by the commission through an amendment to this rule. Mr. Kelly has determined that there will be no fiscal implications for local governments as a result of enforcing or administering the section.

Mr. Kelly also has determined that for the first year the section is in effect the public benefits anticipated as a result will be increased public awareness and understanding of propane as an environmentally beneficial alternative fuel.

There will be fiscal implications for certain small businesses that choose to participate in the voluntary program. Participating propane dealers will be required to process applications and meet other administrative requirements. The extent to which the cost of performing these services will be offset by increased propane sales and cost-recovery practices will vary from business to business and cannot be determined in advance.

There is no anticipated economic cost to persons who would be required to comply with the section as proposed, since participation is voluntary.

Comments on the proposal may be submitted to Dan Kelly, Director, Alternative Fuels Research and Education 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*.

## Media Rebate Program

- 16 TAC §§15.201, 15.205, 15.210, 15.215, 15.220, 15.225, 15.230, 15.235, 15.240, 15.245

The new sections are proposed under Texas Natural Resources Code, §113.241, which authorizes the commission to adopt rules relating to educating the public regarding the use of LPG and other environmentally beneficial alternative fuels that are or have the potential to be effective in improving the quality of air in this state; Texas Natural Resources Code, §113.243(c)(2), which authorizes the commission to implement marketing and advertising programs relating to alternative fuels to make alternative fuels more understandable and readily available to consumers; and Texas Natural Resources Code, §113.243(c)(6), which authorizes the commission to use money in the Alternative Fuels Research and Education Fund to implement programs necessary to promote the use of LPG or other environmentally beneficial alternative fuels. Texas Natural Resources Code §§113.248, 113.249, and 113.250, prescribe civil and criminal penalties and establish an enforcement mechanism for violations of the Texas Natural Resources Code or commission rules.

The following is the statute, article, or code affected by the proposed new section: Texas Natural Resources Code, §§113.243(c)(2), 113.243(c)(6), 113.248, 113.249, and 113.250.

**§15.201 Purpose.** The purpose of §§15.201-15.245 of this chapter (relating to the Alternative Fuels Research and Education Division) is to establish for Texas retail propane dealers a media rebate program that achieves increased public awareness and assists in the marketing of propane as an environmentally beneficial alternative fuel. These sections outline the commission's mechanisms for determining the eligibility of applicants, application requirements, administrative procedures, rebate amounts and adjustments, terms of compliance, penalties for violations, and program termination.

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

**Applicant**—A propane dealer who has submitted a complete and timely application.

**Application**—That set of forms prescribed by the commission for the purpose of applying for and participating in the media rebate program as a propane dealer, including all required supporting documentation.

**Commission**—The Railroad Commission of Texas.

**Commission advertising**—Advertising produced by the division, including, but not limited to, print advertisements, written radio copy or fully produced radio or television commercials.

**Delivery date**—The date of postmark of a mailed application or the date that a hand-delivered application is stamped in at the Austin offices of the division.

**Division**—The Alternative Fuels Research and Education Division of the Railroad Commission of Texas.

**Eligible media outlet**—A radio or television station or cable franchise licensed by the Federal Communications Commission; a weekly or daily published newspaper; a weekly, monthly or bi-monthly magazine; or an annual or seasonal special events program that regularly accepts paid advertising, including, but not limited to, souvenir programs for sporting events, musical or theatrical productions. The term does not include dealer-published newsletters, fliers or specialty advertising.

**Eligible media purchase**—Any payment for advertising displayed or broadcast in or on eligible media.

**Person**—An individual, sole proprietorship, partnership, corporation or other legal entity.

**Program year**—The one-year period beginning on August 22, 1994, and ending on August 21, 1995.

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

**Propane dealer**—A person who:

(A) has been issued a current Category E license from the LP-Gas Division of the commission, or is an active company representative or operations supervisor on file with the LP-Gas Division; and

(B) operates or manages a retail business, including any branch outlet or outlets, delivering odorized propane to consumers; and

(C) has completed and submitted the form prescribed by the commission for dealer participation in the media rebate program.

**Retail propane delivery truck**—Any bobtail truck, semitrailer, or other motor vehicle equipped with an LP-gas cargo container and each trailer, semitrailer, or other motor vehicle used principally for transporting LP-gas in portable containers that:

(A) has aggregate water capacity of 4,999 gallons or less; and

(B) is currently registered with the LP-Gas Division of the Commission.

**§15.210. Establishment; Duration.** The media rebate program is hereby established on the effective date of §§15.201-15.245 of this chapter (relating to the Alternative Fu-

els Research and Education Division). The commission may terminate this rebate program at any time. The program shall terminate on August 22, 1995, unless the commission amends this subsection to continue it in effect past that date.

#### **§15.215. Eligibility.**

(a) To be eligible for a rebate under this program, a propane dealer must document, using forms prescribed by the commission for the purpose, that an eligible media purchase has been made from an eligible media outlet.

(b) No more than one rebate may be paid for each eligible media purchase.

(c) The commission may limit the total percentage and amount of rebates that may be paid to any applicant.

#### **§15.220. Application.**

(a) Forms. Application for a rebate shall be made by a propane dealer on forms prescribed for that purpose by the commission.

(b) Payment. The commission may approve payment of a rebate to an applicant subject to the availability of funds. Applicants have no legal right or other entitlement to receive rebates under this program, and receipt of a complete and correct application does not bind the commission to approve or make payment of a rebate to any applicant.

(c) Priority. Applications shall be considered on a first-come, first-served basis according to the dates of receipt of complete and correct applications.

(d) Acceptance. Applications will be accepted no earlier than the effective date of this rule and no later than the date of termination of the program. An application must be received at the commission no later than 60 days following the date of the eligible media purchase to be eligible for rebates. Applications may be mailed or hand-delivered to the Railroad Commission of Texas, Alternative Fuels Research and Education Division, 1701 North Congress Avenue, Room 10-115, P.O. Box 12967, Austin, Texas 78711-2967. Applications may not be submitted electronically or by facsimile transmission (FAX).

(e) Media purchase date. Applications must pertain to eligible media purchases made no earlier than August 22, 1994, and no later than the program termination date.

(f) Completeness. Applicants must furnish completely and correctly all information required on the official media rebate application. No application may be considered complete until all required information

is correct and all forms and required supporting documentation are received by the division.

(g) Incomplete applications. Applicants have 30 days from the date the division sends notice to correct any errors or omissions on the application. If a complete, correct application is not received in the division within 30 days after notice has been sent, the application shall be void.

#### **§15.225. Rebate Percentage and Amount.**

(a) The commission shall establish the media rebate percentage and amount. The commission may change this percentage and amount at any time. If the commission changes the rebate percentage and amount, an applicant whose application is approved may receive the percentage and amount that are in effect for the eligible media purchase at the time of approval of the application.

(b) In setting the percentage and amount of the rebate, the commission may consider any or all of the following:

- (1) availability of funds;
- (2) the effectiveness of the program in increasing propane use;
- (3) dealer participation;
- (4) administrative cost; and
- (5) increased public awareness of energy-conservation, energy-efficiency, or air-quality benefits.

#### **§15.230. Verification; Basis of Rebate Calculation.**

(a) A rebate amount shall be calculated on the basis of an eligible media outlet's published rate card or rate schedule in effect at the time of the media purchase, unless a lower rate was available for comparable purchases at that time. If a lower rate for comparable purchases was available, the rebate amount shall be calculated based on that lower rate.

(b) The division may conduct spot checks to verify rate cards or rate schedules of eligible media outlets.

#### **§15.235. Compliance.**

(a) An applicant may be suspended from or declared ineligible to participate in the rebate program if, in the judgment of the division director, the applicant has submitted false information or otherwise violated media rebate program rules.

(b) Within 30 days after the division director mails a notice of suspension or ineligibility to an applicant, the applicant may appeal the suspension or declaration of ineligibility in writing to the commission.

Actions taken by the commission with respect to such appeals are final.

**§15.240. Complaints.** Any person may file a complaint about a media outlet, a propane dealer or another person regarding alleged violations of the rebate program rules. Complaints should be sent in writing to the division director at the address set forth in §15.220 of this chapter (relating to application)

**§15.245. Penalties.** Violations of media rebate program rules are subject to civil and criminal prosecution and penalties prescribed under the Texas Natural Resources Code, §§113.248, 113.249, and 113.250.

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 August 30, 1994.

TRD-9447369 Mary Ross McDonald  
Assistant Director, Legal  
Division, Gas  
Utilities/LP Gas  
Railroad Commission of  
Texas

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

## TITLE 22. EXAMINING BOARDS

### Part XX. Texas Board of Private Investigators and Private Security Agencies

#### Chapter 455. Fees

##### • 22 TAC §455.1

The Texas Board of Private Investigators and Private Security Agencies proposes an amendment to §455.1, concerning Fees. The Board has determined that the amendment of this section is necessary in order to meet the increasing costs of criminal history background checks and to comply with the provisions of Chapter 428 of the Acts of the 73rd Legislature which requires that state agencies adopt rules that specify the amount charged for copies of public records.

Clema D. Sanders has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Effect on small businesses: Minimal. This rule is promulgated under the authority of Texas Civil Statutes, Article 4413 (29bb), §11(a)(3).

Ms Sanders 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 cost recovery for the State. The anticipated economic cost to persons who are required comply with the rule as proposed will be none.

Comments on the proposal may be submitted to Clema D. Sanders, Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 4413(29bb), §11(a)(3), which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of this Act.

The following is the statute that is affected by this rule: Texas Civil Statutes, Article 4413(29bb), §17

**§455.1. Fees.** The Board has established the following fees for the administration of the Act:

(1)-(22) (No change.)

(23) Resubmission of fingerprints \$15 [12.50];

(24) Charges for public records shall be charged at the rate established by the General Services 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 August 30, 1994

TRD-9447358 Clema D Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 463-5545

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 38. Chronically Ill and Disabled Children's Services Program

##### • 25 TAC §38.6

*(Editor's Note: The Texas Department of Health proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is in the Emergency Rules section of this issue.)*

The Texas Department of Health (department) proposes an amendment to §38.6, concerning providers in the Chronically Ill and Disabled Children's Services (CIDC) Pro-

gram. The amendment will allow the commissioner of health to reimburse an out-of-state provider when a CIDC provider (a Texas physician), the CIDC program, and the patient, parent or guardian have determined that an out of state provider is the provider of choice, that the service cannot be obtained in Texas, and that obtaining the service out of state is cost effective to the CIDC Program. The amendment requires that the treatment must be accepted medical practice, not an experimental procedure. Travel costs will be negotiated, with approval based on the overall cost effectiveness of the out of state treatment.

The amendment is proposed for the following reasons. Although infrequently, a medical or surgical procedure is sometimes available out of state, but not currently in Texas, which could significantly improve the quality of life for a CIDC-eligible child and also could reduce CIDC expenditures. The CIDC Program has projected budget shortfalls for fiscal years 1995 through 1997. Currently \$38.6 restricts payment to Texas physicians only. Reimbursement for transportation, meals, and lodging is restricted to in-state travel. This amendment is adopted on an emergency basis in this issue of the *Texas Register* under emergency rules.

Anthony D. Lane, Chief of Staff, Health Care Delivery Associateship, has determined that for the first five years the section will be in effect, the state may realize a cost savings in the CIDC program of up to \$54,200 annually. For the first five-year period the amended section is in effect, there will be no fiscal implications for local government.

Mr. Lane also has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated include cost savings in the CIDC program and an enhanced quality of life for CIDC-eligible children. There is no anticipated economic cost to small businesses or to persons who will be required to comply with the section as proposed. There will be no effect on local employment.

Oral and written comments on the proposed amendment may be submitted to Susan C. Penfield, M.D., Director, Children's Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7355. Public comments will be accepted for 30 days after the publication of the section in the *Texas Register*.

The amendment is proposed under Health and Safety Code, §35.004, which authorizes the Texas Board of Health (board) to adopt rules concerning the selection of providers in the CIDC program; and under Health and Safety Code, §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and on the commissioner of health.

The amendment will affect Health and Safety Code, Chapter 35.

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 August 29, 1994.



Proposed date of adoption: October 28, 1994  
For further information, please call: (512)  
458-7355

## Chapter 39. Primary Health Care Services Program

### Primary Health Care Services • 25 TAC §§39.6, 39.8, 39.10, 39.22

The Texas Department of Health (department) proposes amendments to §§39.6, 39.8, 39.10, and 39.22, concerning the Primary Health Care Services Program. The proposed amendments cover eligibility, co-payment for services, and location of the program within the department. The proposed amendments will increase the upper income level for program eligibility from 150% to 200% of the federal poverty guidelines and allow the program to retain the option to charge a co-payment on a sliding fee scale basis.

The proposed amendments are necessary to standardize the poverty income level for program eligibility across related programs and funding sources, to authorize charging co-payments for services received, and to reflect accurately the program's organizational location within the department.

Mr. John Dombroski, Director of Programs and Contracts, Bureau of Community Oriented Primary Care, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government.

Mr. Dombroski also has determined that for each of the first five years the amendments are in effect, the public benefit anticipated is increased access to preventive and primary health care services for a larger number of uninsured Texas citizens. No additional cost to small or large businesses to comply with the proposed amendments is anticipated, nor is any effect on local employment anticipated.

Written comments on the proposed amendments may be submitted to Demetria Montgomery, M.D., Chief, Bureau of Community Oriented Primary Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7771. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The amendments are proposed under Health and Safety Code, §31.003(d), which requires the Texas Board of Health (board) to adopt rules to establish classes of individuals eligible for services, and under §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The amended sections will affect Health and Safety Code, Chapter 31

§39.6. *Matching Share.* Information regarding matching share, if any, may be found in the request for proposal, which the department has prepared and adopts by reference. Copies are indexed and filed in the office of the Associateship of Health Care Delivery [Community and Rural Health], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

### §39.8. *Determination of Eligibility*

(a)-(h) (No change.)

(i) Income guidelines are based on percentages of the current Federal Poverty Income Guidelines and may be adjusted by the department with the consent of the commissioner to meet budgeting limitations. For purposes of determining eligibility for the program, 200% [150%] or below of the Federal Poverty Income Guidelines will be followed.

(j)-(t) (No change.)

### §39.10. *Co-payment for Primary Health Care Services.*

(a) *Eligible individuals may be charged a co-pay on a sliding fee basis as determined by the provider and in accordance with program and contract provisions.* [It is the intent of this program that all eligible individuals receiving services shall participate in the payment for primary health care services as rendered and according to the following income guidelines.

[(1) Eligible individuals whose annual gross family income is below 100% of the Federal Poverty Income Guidelines may be charged a nominal fee for services rendered in accordance with their income and approved by the department in the contracting process.

[(2) Eligible individuals whose annual gross family income is between 100% and 150% of the Federal Poverty Income Guidelines will be charged a co-payment on a sliding fee basis as determined by the provider and in accordance with the contract provisions.]

(b) Notwithstanding the provisions of subsection (a) [(1) and (2)] of this section, an eligible individual may not be denied services because of inability to pay

(c) (No change.)

(d) Individuals whose family incomes exceed 200% [150%] of the Federal Poverty Income Guidelines will not be eligible for the primary health care services provided by the program

### §39.22 *Federal Poverty Income Guidelines.* The department adopts by reference

the Federal Poverty Income Guidelines set out in these sections. A copy of the guidelines is indexed and filed at the Associateship of Health Care Delivery [Community and Rural Health], Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

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 August 29, 1994

Earliest possible date of adoption: October 28, 1994

For further information, please call: (512)  
458-7771

## Chapter 49. Oral Health Improvement Services Program

The Texas Department of Health (department) proposes the repeal of §49.16 and new §49.16, concerning the Oral Health Services Advisory Committee. The proposed new section covers applicable law, purpose, tasks, abolishment, terms of office, officers, meetings, attendance, staff, procedures, subcommittees, statements by members, reports to the board, reimbursement of members' expenses, and the section's effective date.

In accordance with Texas Civil Statutes, Article 6252-33, the department must evaluate each of its advisory committees to determine whether the committee should be continued, modified, consolidated with other committees, or abolished. The present advisory committee, the Dental Technical Advisory Committee, is authorized by Health and Safety Code, §43.015. Upon review by the department, the committee's name and structure have been revised to create a better balance between consumer and nonconsumer representatives, and to balance gender, minority representation, and regional representation.

G. M. Nana Lopez, D.D.S., M.P.H., Chief, Bureau of Dental Health Services, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state or local government as a result of administering the section as proposed.

Dr. Lopez also has determined that for each of the first five years the section is in effect, the public benefits anticipated are the department's continued compliance with Texas Civil Statutes, Article 6252-33, concerning state agency advisory committees, and the department's continued access to the committee's advice concerning the dental health program's operation and delivery of services. There are no anticipated economic costs to small or large businesses or persons who are required to comply with the section as proposed.

posed, and no effect on local employment is anticipated.

Written comments on the proposed addition may be submitted to N. L. King, Chief of Staff Services, Bureau of Dental Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Telephone inquiries also may be made to N. L. King, at (512) 458-7323. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

### Oral Health Improvement Services Program • 25 TAC §49.16

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

The repeal is proposed under the Health and Safety Code, §43.015, which provides the board with the authority to appoint an advisory committee, under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function; and §12.001 of the Health and Safety Code which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The repeal will affect the Health and Safety Code, Chapter 43.

#### §49.16. Technical Advisory Committee.

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 August 29, 1994.

TRD-9447323

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: October 28, 1994

For further information, please call. (512) 458-7323



The new section is proposed under the Health and Safety Code, §43.015, which authorizes the board to appoint an advisory committee, under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function, and under Health and Safety Code; §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The new section will affect the Health and Safety Code, Chapter 43

§49.16. Oral Health Services Advisory Committee.

(a) The committee. An advisory committee shall be appointed under and governed by this section.

(1) The name of the committee shall be Oral Health Services Advisory Committee.

(2) The Health and Safety Code, §43.015, allows the Texas Board of Health (board) to establish the committee.

(b) Applicable law. The committee is subject to Texas Civil Statutes, Article 6252-33, relating to state agency advisory committees.

(c) Purpose. The purpose of the committee is to provide advice to the board on matters relating to operation of the state dental program and the EPSDT dental program, and to assist those programs and others in the department that require professional dental expertise.

(d) Tasks.

(1) The committee shall advise the board concerning rules relating to operation of the state dental program and the EPSDT dental program.

(2) The committee shall perform the following duties:

(A) act as a liaison between the department and the Medical Care Advisory Committee (MCAC) of the Health and Human Services Commission, and provide professional advisory and dental expertise to the MCAC as needed;

(B) act as a liaison between the dental profession of Texas and the state and EPSDT dental programs,

(C) increase participation in the state and EPSDT dental programs among Texas dentists;

(D) advise/recommend items for improving the operation of the state and EPSDT dental programs,

(E) review and make recommendations based on results of utilization reviews; and

(F) provide advocacy representation for consumers of dental health services in Texas.

(3) The committee shall carry out any other tasks given to the committee by the board

(e) Committee abolished. The committee shall be automatically abolished on December 31, 1999

(f) Composition. The committee shall be composed of 16 members.

(1) The committee shall be composed of eight consumer representatives and eight nonconsumer representatives.

(2) The members of the committee shall be appointed by the board.

(g) Terms of office. The term of office of each member shall be six years.

(1) Members shall be appointed for staggered terms so that the terms of a substantially equivalent number of consumer and nonconsumer members will expire on December 31 of each even-numbered year, beginning in 1996.

(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.

(h) Officers. The committee shall elect a presiding officer and an assistant presiding officer at its first meeting after August 31st of each year.

(1) Each officer shall serve until the next regular election of officers.

(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the board. The presiding officer may serve as an ex-officio member of any subcommittee of the committee.

(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. In case the office of presiding officer becomes vacant, the assistant presiding officer will serve until a successor is elected to complete the unexpired portion of the term of the office of presiding officer.

(4) A vacancy which occurs in the offices of presiding officer or assistant presiding officer may be filled at the next committee meeting.

(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer

(6) The committee may refer its officers by other terms, such as chairperson and vice-chairperson.

(i) Meetings. The committee shall meet only as necessary to conduct committee business

(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee

(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to

determine availability for a meeting date and place.

(3) Each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551.

(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.

(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.

(6) The committee is authorized to transact official business only when in a legally constituted meeting with a quorum present.

(7) The agenda for each committee meeting shall include an opportunity for any person to address the committee on matters relating to committee business. The presiding officer may establish procedures for such public comment, including a time limit on each comment.

(j) Attendance. Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which the members are assigned.

(1) A member shall notify the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.

(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.

(4) The attendance records of the members shall be reported to the board. The report shall include attendance at committee and subcommittee meetings.

(k) Staff Staff support for the committee shall be provided by the department.

(l) Procedures Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by the committee must be approved by a majority vote of the members present once a quorum is established.

(2) Each member shall have one vote.

(3) A member may not authorize another individual to represent the member by proxy.

(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, sex, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each committee meeting shall be taken by department staff.

(A) A draft of the minutes approved by the presiding officer shall be provided to the board and each member of the committee within 30 days of each meeting.

(B) After approval by the committee, the minutes shall be signed by the presiding officer.

(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.

(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.

(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee.

(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.

(n) Statement by members. The board, the department, and the committee shall not be bound in any way by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the board, department, or committee.

(o) Reports to board. The committee shall file an annual written report with the board.

(1) The report shall list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished the tasks given to the committee by the board, the status of any rules which were recommended by the committee to the board, anticipated activities of the committee for the next year, and any amendments to this section requested by the committee.

(2) The report shall identify the costs related to the committee's existence.

including the cost of agency staff time spent in support of the committee's activities.

(3) The report shall cover the meetings and activities in the immediately preceding 12 months and shall be filed with the board each January. It shall be signed by the presiding officer and appropriate department staff.

(p) Reimbursement for expenses. In accordance with the requirements set forth in Texas Civil Statutes, Article 6252-33, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business.

(1) No compensatory per diem shall be paid to committee members unless required by law.

(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.

(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.

(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.

(q) Effective date. This section shall become effective on January 1, 1995.

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 August 29, 1994

TRD-9447324

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: October 28, 1994

For further information, please call: (512) 458-7323

◆ ◆ ◆  
Chapter 61. Chronic Diseases  
Kidney Health Care Program  
[Benefits]

• 25 TAC §61.15

The Texas Department of Health (department) proposes new §61.15, concerning the Kidney Health Care Advisory Committee. The proposed new section covers applicable law, purpose, tasks, abolishment, terms of office, officers, meetings, attendance, staff, proce-

dures, subcommittees, statements by members, reports to the board, reimbursement of members' expenses, and the section's effective date.

In accordance with Texas Civil Statutes (TCS), Article 6252-33, the department must evaluate each of its advisory committees to determine whether the committee should be continued, modified, consolidated with other committees, or abolished. The present advisory committee, the Kidney Health Care Advisory Committee, was established in 1973. Upon review by the department, rules and by-laws have been prepared for adoption by the board.

Manuel Zapata, Director, Kidney Health Care Division, Health Care Financing Association, has determined that for the first five-year period the section will be in effect, there will be no fiscal implications for state or local government as a result of administering the section as proposed.

Mr. Zapata also has determined that for each of the first five years the section is in effect, the public benefits anticipated are the department's continued access to the committee's advice concerning the Kidney Health Care Division's operation and delivery of services. There are no anticipated economic costs to small or large businesses or persons who are required to comply with the section as proposed, and no effect on local employment is anticipated.

Written comments on the proposed addition may be submitted to Manuel Zapata, Director, Kidney Health Care Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3184. Telephone inquiries also may be made to Manuel Zapata at (512) 458-7796. Comments will be accepted for 30 days following the date of publication of this proposal in the Texas Register.

The new section is proposed under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function, and under the Health and Safety Code, §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The new section will affect Health and Safety Code, Chapter 42.

#### *§61.15. Kidney Health Care Advisory Committee.*

(a) The committee. An advisory committee shall be appointed under and governed by this section.

(1) The name of the committee shall be the Kidney Health Care Advisory Committee.

(2) The Texas Health and Safety Code, §11.016, allows the Texas Board of Health to establish the committee.

(b) Applicable law. The committee is subject to Texas Civil Statutes, Article 6252-33, relating to state agency advisory committees.

(c) Purpose. The purpose of the committee is to provide advice to the board in the area of end-stage renal disease and to provide advice on current state-of-the-art treatment modalities, medication therapies, and prioritization of the needs of end-stage renal disease patients in Texas.

(d) Tasks.

(1) The committee shall advise the board concerning rules relating to the Kidney Health Care Division.

(2) The committee shall:

(A) make recommendations regarding benefits to be provided by the Kidney Health Care Division;

(B) provide advice on the coordination of departmental and kidney health care activities with activities of other agencies and organizations involved in end-stage renal disease; and

(C) secure the cooperation and active participation of agencies and organizations that may contribute to the effectiveness of the Kidney Health Care Division.

(3) The committee shall carry out any other tasks given to the committee by the board.

(e) Committee abolished. The committee shall be automatically abolished on March 31, 1999.

(f) Composition. The committee shall be composed of nine members appointed by the board. The composition of the committee shall include two consumer representatives and seven nonconsumer representatives.

(g) Terms of office. The term of office of each member shall be six years.

(1) Members shall be appointed for staggered terms so that the terms of three members will expire on December 31st of each even-numbered year.

(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.

(h) Officers. The committee shall elect a presiding officer and an assistant presiding officer at its first meeting after August 31st of each year.

(1) Each officer shall serve until the next regular election of officers

(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the board. The presiding officer may serve as

an ex-officio member of any subcommittee of the committee.

(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. In case the office of presiding officer becomes vacant, the assistant presiding officer will serve until a successor is elected to complete the unexpired portion of the term of the office of presiding officer.

(4) A vacancy which occurs in the offices of presiding officer or assistant presiding officer may be filled at the next committee meeting.

(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer.

(6) The committee may refer to its officers by other terms, such as chairperson and vice-chairperson.

(i) Meetings. The committee shall meet only as necessary to conduct committee business.

(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee.

(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to determine availability for a meeting date and place.

(3) Each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551.

(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.

(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.

(6) The committee is authorized to transact official business only when in a legally constituted meeting with quorum present.

(7) The agenda for each committee meeting shall include an item entitled public comment under which any person will be allowed to address the committee on matters relating to committee business. The presiding officer may establish procedures for public comment, including a time limit on each comment.

(j) Attendance. Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which the member is assigned.

(1) A member shall notify the presiding officer or appropriate department

staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.

(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.

(4) The attendance records of the members shall be reported to the board. The report shall include attendance at committee and subcommittee meetings.

(k) Staff. Staff support for the committee shall be provided by the department.

(l) Procedures. Roberts Rules of Order, Newly Revised, shall be the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by the committee must be approved by a majority vote of the members present once quorum is established.

(2) Each member shall have one vote.

(3) A member may not authorize another individual to represent the member by proxy.

(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, sex, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each committee meeting shall be taken by department staff.

(A) A draft of the minutes approved by the presiding officer shall be provided to the board and each member of the committee within 30 days of each meeting.

(B) After approval by the committee, the minutes shall be signed by the presiding officer.

(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.

(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.

(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee.

(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The reports shall include an executive summary or minutes of each subcommittee meeting.

(n) Statement by members. The board, the department, and the committee shall not be bound in anyway by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the board, department, or committee.

(o) Reports to board. The committee shall file an annual written report with the board.

(1) The report shall list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished the tasks given to the committee by the board, the status of any rules which were recommended by the committee to the board, anticipated activities of the committee for the next year, and any amendments to this section requested by the committee.

(2) The report shall identify the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities.

(3) The report shall cover the meetings and activities in the immediate proceedings 12 months and shall be filed with the board each September. It shall be signed by the presiding officer and appropriate department staff.

(p) Reimbursement for expenses. In accordance with the requirements set forth in Texas Civil Statutes, Article 6252-33, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business.

(1) No compensatory per diem shall be paid to committee members unless required by law.

(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.

(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.

(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.

(q) Effective date. This section shall become effective on January 1, 1995.

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 August 31, 1994.

TRD-9447402

Linda Kotek  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: January 1, 1995

For further information, please call: (512) 458-7238

## Chapter 98. HIV and STD Control

### Subchapter A. Texas HIV Services Grant Program

#### General Provisions

##### • 25 TAC §98.7

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

The Texas Department of Health (department) proposes the repeal of §98. 7, concerning the HIV Services Advisory Committee. The section covers the committee's purpose, responsibilities, recommendations, membership, term of office, officers, subcommittees, and meetings.

In accordance with Texas Civil Statutes, Article 6252-33, the department must evaluate each of its advisory committees to determine whether the committee should be continued, modified, consolidated with other committees, or abolished. The HIV Services Advisory Committee was established in 1989. However, no quorum was present at three of the committee's last four meetings. Upon review, the department has determined that the committee no longer serves a useful purpose, that its functions can be more efficiently accomplished by department personnel and other professionals, and that it should be abolished.

Anita Martinez, Chief of Staff Services, Office of Associate Commissioner for Disease Control and Prevention, has determined that for the first five-year period the repeal will be in effect, there will be no fiscal implications for state or local government.

Ms. Martinez also has determined that for each of the first five years the repeal is in effect, the public benefits anticipated are continuing compliance by the department with Texas Civil Statutes, Article 6252-33, concerning state agency advisory committees, and more efficient and economical operation.

of the department's Bureau of HIV and STD Prevention programs. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal, and no effect on local employment is anticipated.

Written comments on the proposed repeal may be submitted to Rebecca Waak, Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Telephone inquiries also may be made by calling (512) 458-7456. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function, and under Health and Safety Code, §12.001, which provides the Texas Board of Health (board) with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The repeal of §98.7 will affect Health and Safety Code, Chapter 85.

#### §98.7 HIV Services Advisory Committee.

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 August 29, 1994.

TRD-9447321 Susan K Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: October 28, 1994.

For further information, please call. (512) 458-7456.

## Subchapter B. HIV Education Grant Program

### General Provisions

#### • 25 TAC §98.67

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

The Texas Department of Health (department) proposes repeal of §98.67, concerning operating procedures for the HIV Education, Prevention and Risk Reduction Advisory Committee. The section covers the committee's purpose, responsibilities, recommendations, membership, term of service, officers, subcommittees, and meetings.

In accordance with Texas Civil Statutes, Article 6252-33, the department must evaluate each of its advisory committees to determine whether the committee should be continued, modified, consolidated with other committees,

or abolished. The HIV Education, Prevention, and Risk Reduction Advisory Committee was established in 1989. With the committee meeting only twice a year, and new members being appointed, a large portion of the meetings was spent orienting members on current program issues. Upon review, the department has determined that the committee no longer serves a useful purpose, that its functions can be more efficiently accomplished through the statewide community planning process, and that it should be abolished.

Anita Martinez, Chief of Staff Services, Office of Associate Commissioner for Disease Control and Prevention, has determined that for the first five-year period the repeal will be in effect, there will be no fiscal implications for state or local government.

Ms. Martinez also has determined that for each of the first five years the repeal is in effect, the public benefits anticipated are continuing compliance by the department with Texas Civil Statutes, Article 6252-33, concerning state agency advisory committees, and more efficient and economical operation of the department's Bureau of HIV and STD Prevention programs. There are no anticipated economic costs to small or large businesses or to persons who will be affected by the repeal, and no effect on local employment is anticipated.

Written comments on the proposed repeal may be submitted to Rebecca Waak, Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Telephone inquiries also may be made by calling (512) 458-7456. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function, and under the Health and Safety Code, §12.001, which provides the Texas Board of Health (board) with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

The repeal of §98.67 will affect Health and Safety Code, Chapter 85.

#### §98.67. State HIV Education, Prevention, and Risk Reduction Advisory Committee.

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 August 29, 1994.

TRD-9447322 Susan K Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: October 28, 1994.

For further information, please call (512) 458-7456.

The Texas Department of Health (department) proposes the repeal of §98.121 and new §98.121, concerning the Texas HIV Medication Advisory Committee. The proposed new section covers applicable law, purpose, tasks, abolishment, terms of office, officers, meetings, attendance, staff, procedures, subcommittees, statements by members, reports to the board, reimbursement of members' expenses, and the section's effective date.

In accordance with Texas Civil Statutes (TCS), Article 6252-33, the department must evaluate each of its advisory committees to determine whether the committee should be continued, modified, consolidated with other committees, or abolished. The present advisory committee, the Texas HIV Medication Advisory Committee, was established in 1989. Upon review by the department, the committee's rules have been revised to conform with Article 6252-33, and to be consistent with rules for other advisory committees.

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

Ms. Martinez also has determined that for each of the first five years the section is in effect, the public benefits anticipated are the department's continuing compliance with Texas Civil Statutes, Article 6252-33, concerning state agency advisory committees, and the department's continuing access to the committee's advice. There are no anticipated economic costs to small or large businesses or persons who are required to comply with the section as proposed, and no effect on local employment is anticipated.

Written comments on the proposed addition may be submitted to Charles E. Bell, M.D., Chief, Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Telephone inquiries also may be made to Sheril Skinner at (512) 458-7357. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

## Subchapter C. Texas HIV Medication Program

#### • 25 TAC §98.121

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

The repeal is proposed under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function, Health and Safety Code, §12.001, which provides the Texas Board of Health (board) with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health, and under Health and Safety Code, §85.066 which provides the department with

the authority to establish the Texas HIV Medication Advisory Committee. The repeal will affect Health and Safety Code, Chapter 85, Subchapter C.

*§98.121. Texas HIV Medication Advisory Committee.*

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 August 30, 1994

TRD-9447401

Linda Kotek  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: January 1, 1995

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

The new section is proposed under Texas Civil Statutes, Article 6252-33, which sets standards for the evaluation of advisory committees by the agencies for which they function; the Health and Safety Code, §12.001, which provides the Texas Board of Health (board) with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health; and under the Health and Safety Code, §85.066, which provides the department with the authority to establish the Texas HIV Medication Advisory Committee.

*§98.121. Texas HIV Medication Advisory Committee.*

(a) The committee. An advisory committee shall be appointed under and governed by this section.

(1) The name of the committee shall be the Texas HIV Medication Advisory Committee (committee).

(2) Texas Health and Safety Code, §85.066, allows the Texas Board of Health (board) to establish the committee.

(b) Applicable law. The committee is subject to Texas Civil Statutes, Article 6252-33, relating to state agency advisory committees.

(c) Purpose. The purpose of the committee is to assist the board and the Texas Department of Health (department) in the development of procedures and guidelines for the HIV Medication Program (program).

(d) Tasks. The committee shall

(1) evaluate the existing program and unmet needs,

(2) review the goals and targets of the program;

(3) evaluate ongoing program efforts;

(4) define both short-range and long-range goals and objectives for medication needs;

(5) develop criteria and standards for the HIV Medication Program; and

(6) carry out any other tasks given to the committee by the board.

(e) Committee abolished. The committee shall be automatically abolished on March 1 1999.

(f) Composition. The committee shall be composed of 11 members appointed as follows:

(1) four physicians actively engaged in the treatment of adults with HIV infection,

(2) one pediatrician actively engaged in the treatment of infants and children with HIV infection;

(3) three persons with AIDS who must be diagnosed as having AIDS, ARC, or an HIV-related condition;

(4) two members representing public, nonprofit hospitals that are currently involved in the delivery of services to persons with HIV infection;

(5) one social worker currently working with persons with HIV infection.

(g) Terms of office. The term of office of each member shall be six years.

(1) Members shall be appointed for staggered terms so that the terms of four members will expire on December 31, 1996, the terms of four members will expire on December 31, 1998, and the terms of three members will expire on December 31, 2000.

(2) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.

(h) Officers. The committee shall elect a presiding officer and an assistant presiding officer at its first meeting after August 31st of each year.

(1) Each officer shall serve until the next regular election of officers

(2) The presiding officer shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the board. The presiding officer may serve as an ex-officio member of any subcommittee of the committee

(3) The assistant presiding officer shall perform the duties of the presiding officer in case of the absence or disability of the presiding officer. In case the office of presiding officer becomes vacant, the assistant presiding officer will serve until a suc-

cessor is elected to complete the unexpired portion of the term of the office of presiding officer.

(4) A vacancy which occurs in the offices of presiding officer or assistant presiding officer may be filled at the next committee meeting.

(5) A member shall serve no more than two consecutive terms as presiding officer and/or assistant presiding officer.

(6) The committee may reference its officers by other terms, such as chairperson and vice-chairperson.

(i) Meetings. The committee shall meet only as necessary to conduct committee business.

(1) A meeting may be called by agreement of department staff and either the presiding officer or at least three members of the committee.

(2) Meeting arrangements shall be made by department staff. Department staff shall contact committee members to determine their availability for a meeting date and place.

(3) Each meeting of the committee shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551.

(4) Each member of the committee shall be informed of a committee meeting at least five working days before the meeting.

(5) A simple majority of the members of the committee shall constitute a quorum for the purpose of transacting official business.

(6) The committee is authorized to transact official business only when in a legally constituted meeting with quorum present.

(7) The agenda for each committee meeting shall include an item entitled public comment under which any person will be allowed to address the committee on matters relating to committee business. The presiding officer may establish procedures for public comment, including a time limit on each comment.

(j) Attendance. Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which they are assigned.

(1) A member shall notify the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or

disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, or is absent from at least three consecutive committee meetings.

(3) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.

(4) The attendance records of the members shall be reported to the board. The report shall include attendance at committee and subcommittee meetings.

(k) Staff support for the committee shall be provided by the department.

(l) Procedures. Robert's Rules of Order Newly Revised, (1990) shall be the basis of parliamentary decisions except where otherwise provided by law or rule.

(1) Any action taken by the committee must be approved by a majority vote of the members present once a quorum is established.

(2) Each member shall have one vote.

(3) A member may not authorize another individual to represent the member by proxy.

(4) The committee shall make decisions in the discharge of its duties without discrimination based on any person's race, creed, sex, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each committee meeting shall be taken by department staff.

(A) A draft of the minutes approved by the presiding officer shall be provided to the board and each member of the committee within 30 days of each meeting.

(B) After approval by the committee, the minutes shall be signed by the presiding officer.

(m) Subcommittees. The committee may establish subcommittees as necessary to assist the committee in carrying out its duties.

(1) The presiding officer shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairpersons. The presiding officer may also appoint nonmembers of the committee to serve on subcommittees.

(2) Subcommittees shall meet when called by the subcommittee chairperson or when so directed by the committee.

(3) A subcommittee chairperson shall make regular reports to the advisory committee at each committee meeting or in interim written reports as needed. The re-

ports shall include an executive summary or minutes of each subcommittee meeting.

(n) Statements by members. The board, the department, and the committee shall not be bound in any way by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the board, department, or committee.

(o) Reports to board. The committee shall file an annual written report with the board.

(1) The report shall list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished the tasks given to the committee by the board, the status of any rules which were recommended by the committee to the board, anticipated activities of the committee for the next year, and any amendments to this section requested by the committee.

(2) The report shall identify the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities.

(3) The report shall cover the meetings and activities in the immediate preceding 12 months and shall be filed with the board each October. It shall be signed by the presiding officer and appropriate department staff.

(p) Reimbursement for expenses. In accordance with the requirements set forth in Texas Civil Statutes, Article 6252-33, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business.

(1) No compensatory per diem shall be paid to committee members unless required by law.

(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) A nonmember of the committee who is appointed to serve on a subcommittee may not receive reimbursement for expenses from the department.

(4) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.

(5) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by department staff.

(q) Effective date. This section shall become effective on January 1, 1995.

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 August 30, 1994.

TRD-9447403

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: January 1, 1995

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

## Chapter 122.

### Sedation/Anesthesia Permits for Dentists

#### • 25 TAC §§122.1-122.5

*(Editor's Note: The Texas Department of Health proposes for permanent adoption the new §§122.1-122.5 it adopts on an emergency basis in this issue. The text of the new §§122.1-122.5 is in the Emergency Rules section of this issue.)*

The Texas Department of Health (department) proposes new §§122.1-122.5 concerning sedation/anesthesia permits for dentists.

The new section sets out specific permit requirements and standards of care for dentists utilizing nitrous oxide/oxygen inhalation conscious sedation, parenteral conscious sedation, parenteral deep sedation or general anesthesia on patients having dental/oral and maxillofacial surgical procedures.

James Zukowski, Ed.D., Director, Professional Licensing and Certification Division, has determined that for the first five-year period the sections will be in effect, there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will be estimated additional cost of \$2,500 each year, based upon staff needed to process applications, temporary provisional permits and annual permits. Additional revenues of \$2,500 per year will offset the additional costs of administering the sections as proposed. There will be no effect on local government.

Doctor Zukowski also has determined that for each year the proposed sections are in effect the public benefit anticipated as a result of the proposed sections will be protection of the public by identifying and permitting qualified individuals to administer sedation/anesthesia. The cost to small businesses is expected to be the \$25 new permit issuance fee for each dentist administering sedation anesthesia to patients having dental/oral or maxillofacial surgical procedures. There will be no effect on local employment. The economic cost to persons required to comply with the sections as proposed is \$25 per year.

Comments on the proposal should be submitted to James Zukowski, Ed.D., Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. Public comments will be accepted for 30 days following the date of this publication of this proposal in the *Texas Register*.



These new sections are also being adopted on an emergency basis in this issue of the *Texas Register*.

The new sections are proposed under Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health and the commissioner of health.

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 August 29, 1994

TRD-9447319 Susan K Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: October 28, 1994

For further information, please call: (512) 834-6628

## Chapter 143. Medical Radiologic Technologists

### • 25 TAC §143.16

*(Editor's Note: The Texas Department of Health proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)*

The Texas Department of Health (department) proposes new §143.16, concerning the registration of persons performing dental radiologic procedures (x-rays).

The new section sets out the specific requirements for persons performing radiologic procedures under the supervision of a Texas licensed dentist.

This new section is also adopted on an emergency basis in this issue of the *Texas Register*.

James Zukowski, Ed.D., Director, Professional Licensing and Certification Division, has determined for the first five-year period the section will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$2,500 each year, based upon staff needed to process registrations and examinations and to respond to inquiries regarding registration. Examination materials fees are projected to generate additional revenue of \$1,500 per year which will offset the additional costs of administering the rule as proposed. There will be no effect on local government.

Doctor Zukowski also has determined that for each year the proposed section is in effect the public benefit anticipated as a result of the proposed section will be protection of the public from the harmful effects of excessive radiation used for dental purposes by establishing minimum standards for dental x-ray equipment operators. The cost to small businesses is expected to be \$30 for each set of examination materials. There will be no effect on local employment. The economic

cost to persons required to comply with the rule as proposed is \$30 for those requiring examination.

Comments on the proposal should be submitted to James Zukowski, Ed.D., Director, Professional Licensing and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. Public comments will be accepted for 30 days following the date of this publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4512m, §2.05(e), which provide the Texas Board of Health with the authority to adopt rules necessary to implement the Medical Radiologic Technologist Certification Act, and under the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, Texas Department of Health and the commissioner of health.

The new section implements the Health and Safety Code, §12.001.

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 August 29, 1994

TRD-9447300 Susan K Steeg  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: October 28, 1994

For further information, please call (512) 834-6628

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 330. Municipal Solid Waste

##### Subchapter A. General Information

### • 30 TAC §330.4

The Texas Natural Resource Conservation Commission (TNRCC) proposes an amendment to §330.4, concerning municipal solid waste management. The amended section will apply to the municipal solid waste rules which were published in the June 18, 1993, issue of the *Texas Register* (18 TexReg 4030).

Section 330.4 relating to permit requirement is proposed to be amended by adding new subsection (p) clarifying the existing policy that drying grit trap waste at a car wash does not require a permit or registration.

Stephen Minick, Division of Budget and Planning, has determined that for the first five years the section as proposed is in effect, there will be no significant fiscal implications to state or local governments as a result of

enforcement or administration of the section. Small businesses will benefit generally from any cost savings that may be due to the clarification that permits or registrations are not required for drying of grit trap wastes at car wash facilities under the provisions of the section as proposed.

Mr. Minick also has determined that the public benefit anticipated as a result of enforcement of and compliance with the section will be the more efficient use of the Commission's resources in the regulation of solid waste management activities and improvements in the management and control of certain solid waste. There are no other anticipated costs to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to C. Wayne Lee, P.E., Rule Writer, Waste Policy Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas, 78711-3087. Comments will be accepted for a period of 30 days following the date of this publication.

The amendment is proposed under the authority of the Texas Water Code (Vernon 1992), §5.103, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. Additionally, they are promulgated pursuant to §361.024 of the Texas Solid Waste Disposal Act, (the Act), Texas Health and Safety Code Ann., Vernon 1992), which provide the Texas Natural Resource Conservation Commission with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management and control of solid waste under its jurisdiction.

There are no other statutes and/or codes which are affected by the amended section.

#### §330.4. Permit Required.

(a)-(o) (No change.)

(p) A permit or registration is not required for the drying of grit trap waste at a car wash facility as long as these wastes are disposed of in compliance with applicable federal, state, and local regulations. Drying facilities must comply with Chapter 116 of this title (relating to Air Quality) if applicable.

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 August 30, 1994.

TRD-9447334 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Earliest possible date of adoption: October 7, 1994

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

# TITLE 37. PUBLIC SAFETY AND CORRECTIONS

## Part XIII. Texas Commission on Fire Protection

### Chapter 423. Fire Suppression

#### Subchapter C. Minimum Standards for Marine Fire Protection Personnel

##### • 37 TAC §423.301

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

The Texas Commission on Fire Protection proposes the repeal of §423.301, concerning minimum standards for marine fire protection personnel certification. The repealed section is replaced by new sections that establish requirements for marine fire protection personnel certification in a format consistent with other disciplines including completion of an approved marine fire protection personnel curriculum adopted in accordance with Chapter 443 of this title and completion of an examination requirement. In addition, the new sections more clearly delineate the class of persons for whom certification is required by limiting the requirements to fire fighters who work aboard a fire boat with a minimum pumping capacity of 2,000 gallons per minute. The new sections also include guidelines for the evaluation of military and out-of-state training for marine fire protection personnel consistent with similar guidelines for structure fire fighters. The repeal has an effective date of January 1, 1995.

K R Ethridge, Standards Compliance Director, has determined that for the first five-year period the new sections replacing the repealed section are in effect there will be fiscal implications for state government as a result of enforcing or administering the repeal. The commission will experience an increase in examination administration expenses that will be offset by a corresponding increase in examination fee revenue. Local governmental entities will experience an increase in examination costs for individuals seeking original certification as marine fire protection personnel ranging from \$15 to \$130 per person depending on whether the examination is given locally or in Austin, and increase in training costs of \$600 to \$1,000 per person depending on the source of training and whether the employee previously held structure certification. Some local governmental entities may realize a reduction in cost of training for new marine fire protection employees who have already received equivalent training in another jurisdiction.

Mr Ethridge also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a

result of enforcing the sections replacing the repealed section will be that certification requirements (including an examination to determine competency) for marine fire protection personnel will be consistent with other fire suppression disciplines, while at the same time changes to marine standards identified by marine fire protection personnel are addressed. In addition, potential applicants for certification from other jurisdictions will have specific guidelines by which the commission staff will determine equivalency and local fire departments can eliminate duplication of training costs.

There will be no additional economic costs of compliance for small or large businesses required to comply with the new sections replacing the repealed section. An individual whose employer does not pay training costs and examination fees can expect to incur the same economic costs of compliance outlined herein above for local governmental entities.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeal is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

Texas Government Code, §410.022 is affected by the proposed repeal.

##### §423.301. Minimum Standards for Marine Fire Protection Personnel

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 August 30, 1994

TRD-9447391 Jack Woods  
General Counsel  
Texas Commission on Fire Protection

Earliest possible date of adoption: October 7, 1994

For further information, please call (512) 918-7184

##### • 37 TAC §§423.301, 423.303, 423.305, 423.307, 423.309

The Texas Commission on Fire Protection proposes new §§423.301, 423.303, 423.305, 423.307, and 423.309, concerning minimum standards for marine fire protection personnel certification. The new sections establish requirements for marine fire protection personnel certification in a format consistent with other disciplines including completion of an approved marine fire protection personnel curriculum approval in accordance with Chapter 443 of this title and completion of an

examination requirement. The new curriculum reduces the number of hours for marine fire protection training from 285 hours to 90 hours by eliminating subjects covered in the basic fire suppression curriculum required for structure certification. The new standard for basic marine certification therefore requires eligibility for structure certification as a prerequisite. In addition, the new sections more clearly delineate the class of persons for whom certification is required by limiting the requirements to fire fighters who work aboard a fire boat with a minimum pumping capacity of 2,000 gallons per minute. The new sections also include guidelines for the evaluation of military and out-of-state training for marine fire protection personnel consistent with similar guidelines for structure fire fighters. Finally, the new sections include provisions for higher levels of marine certification with requirements consistent with other disciplines. The new sections has an effective date of January 1, 1995.

K. R. Ethridge, Standards Compliance Director, has determined that for the first five-year period the new sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The commission will experience an increase in examination administration expenses that will be offset by a corresponding increase in examination fee revenue. Local governmental entities will experience an increase in examination costs for individuals seeking original certification as marine fire protection personnel ranging from \$15 to \$130 per person depending on whether the examination is given locally or in Austin, and increase in training costs of \$600 to \$1,200 per person depending on the source of training and whether the employee previously held structure certification. Some local governmental entities may realize a reduction in cost of training for new marine fire protection employees who have already received training required for structural fire protection personnel certification or equivalent training in another jurisdiction.

Mr. Ethridge 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 that certification requirements (including an examination to determine competency) for marine fire protection personnel will be consistent with other fire suppression disciplines, while at the same time changes to marine standards identified by marine fire protection personnel are addressed. In addition, potential applicants for certification from other jurisdictions will have specific guidelines by which the commission staff will determine equivalency. Finally, local fire departments can eliminate duplication of training costs for employees who have previously received training required for structural fire protection personnel certification.

There will be no additional economic costs of compliance for small or large businesses required to comply with the new sections. An individual whose employer does not pay training costs and examination fees can expect to incur the same economic costs of compliance outlined herein above for local governmental entities. In addition, individuals seeking volun-

lary higher levels of marine certification may incur \$20 to \$60 in additional certification fees and \$50 to \$2,000 in training costs depending on the source of training.

Comments on the proposal may be submitted to: Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; the Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.037, which provides the commission with authority to adopt requirements for marine fire protection personnel certification.

The Government Code, §419.022 and §419.037 are affected by the proposed new sections.

#### *§423.301. Minimum Standards For Marine Fire Protection Personnel.*

(a) The effective date of this section shall be January 1, 1995.

(b) Marine Fire Protection Personnel are employees of a local governmental entity who work aboard a fire boat with a minimum pumping capacity of 2,000 gallons per minute, and fights fires that occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(c) All full time, full paid employees of any local government entity, who are assigned marine fire protection duties must be certified by the commission within two years from the date of their employment in a marine fire protection personnel position

(d) As a minimum, all personnel must have completed all requirements specified in §423.303 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel) prior to being assigned to marine fire suppression duties.

(e) All personnel holding any level of Marine Fire Protection Personnel certification shall be required to comply with the continuing education specified in §441.11 of this title (relating to Continuing Education Requirements for Marine Fire Protection Personnel).

#### *§423.303. Minimum Standards For Basic Marine Fire Protection Personnel Certification.*

(a) The effective date of this subchapter shall be January 1, 1995 Training programs that are intended to satisfy the requirements for Basic Marine Fire Protection Personnel certification, that are started after the effective date of this subchapter,

must meet the curriculum, competencies, and hour requirements of this subchapter. All applicants for certification must meet the examination requirements of this section.

(b) In order to obtain basic Marine Fire Protection Personnel certification the individual must:

(1) hold or be eligible to hold basic structure fire protection personnel certification;

(2) complete a training program specific to marine fire protection consisting of one of the following

(A) complete the commission approved Basic Marine Fire Protection Curriculum of at least 90 total hours as specified in Chapter 3, of the commission's document titled "Commission Certification Curriculum Manual", as approved by the commission in accordance with Chapter 443, of this title (relating to Certification Curriculum Manual). The commission approved marine fire protection curriculum must be taught by a training facility that has been certified by the commission as provided in Chapter 427 of this title (relating to Minimum Standards for Training Facilities), or

(B) an out-of-state training program that has been submitted to the commission for evaluation and found to be equivalent to or exceed the commission approved Basic Marine Fire Protection Curriculum, or

(C) A military training program that has been submitted to the commission for evaluation and found to be equivalent to the commission approved Basic Marine Fire Protection Curriculum,

(3) successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification) prior to assignment

(c) Out-of-state or military training programs which are submitted to the commission for the purpose of determining equivalency will be considered equivalent if the subjects taught, subject content, hours of training in each subject, and total hours of training meet or exceed the requirements set forth in Chapter 3 (pertaining to Marine Fire Protection) of the Commission's Certification Curriculum Manual for Paid Fire Protection Personnel

(d) A person who holds or is eligible to hold a certificate upon employment as a part-time marine fire protection personnel may be certified as a marine fire protection personnel, of the same level of certification, without meeting the applicable examination requirements

(e) If a person holds a current certification as a part-time marine fire protection personnel, the Texas Department of Health emergency care attendant certification may be satisfied by documentation of equivalent training or certification in lieu of current certification by the Texas Department of Health.

#### *§423.305. Minimum Standards For Intermediate Marine Fire Protection Personnel*

(a) Applicants for Intermediate Marine Fire Protection Personnel Certification must complete the following requirements.

(1) hold as a prerequisite a Basic Marine Fire Protection Personnel Certification as defined in §423.303 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification).

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and the years of experience used to qualify for all lower levels of Marine Fire Protection Personnel Certification.

(A) 20 training points and at least eight years of service; or

(B) 20 training points which includes at least 15 college semester hours in fire science subjects and at least seven years of service, or

(C) 40 training points and at least six years of service; or

(D) 40 training points which includes at least 15 college semester hours in fire science subjects and at least five years of service, or

(E) an associate degree or 60 training points and at least four years of service, or

(F) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least three years of service, or

(G) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least two years of service

(3) As part of the training specified in paragraph (2) of this section, complete the courses listed in one of the following options

(A) Option #1—Successfully complete six semester hours of fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration I, or a course that meets the following course description—Organization and management of a fire department. Topics include budgeting, maintenance of records and reports, and management of fire department officers. Personnel administration, distribution of equipment and personnel, and relations of government agencies to fire protection areas. Fire Service Leadership as viewed from the company officer's position; or

(ii) Fire Fighting Tactics and Strategy, or a course that meets the following course description—Essential elements in analyzing the nature of fire and determining the requirements to fight a fire. Efficient and effective utilization of manpower, equipment and apparatus. Pre-planning, conflagration problems, fire ground organization problem-solving related to fire ground decision making and attack tactics and strategy. Use of mutual aid and large scale command problems; or

(iii) Hazardous Materials I, or a course that meets the following course description—Characteristics and behavior of various materials that burn or react violently are studied. Flammable liquids, combustible solids, and gases are included. Storage, transportation, and handling are covered. Emphasis is on emergency situations and methods of control.

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy resident program. This training must be in addition to any training used to qualify for Basic Marine Fire Protection Personnel Certification.

(C) Option #3—Complete a minimum of 80 hours in the following National Fire Academy off-campus courses:

(i) Incident Command System (ICS) (16 hours);

(ii) Initial Response to Hazardous Materials Incidents: Basic Concepts (12 hours) and Recognizing and Identifying Hazardous Materials (3 hours);

(iii) Initial Response to Hazardous Materials incidents: Concept Implementation (16 hours);

(iv) Instructional Techniques for Company Officers (12 hours);

(v) Public Fire Education Planning (12 hours);

(vi) Pesticide Challenge (12 hours);

(vii) Conducting Basic Fire Prevention Inspections (12 hours);

(viii) Fire/Arson Detection (12 hours);

(ix) Managing Company Tactical Operations: Preparation (12 hours);

(x) Managing Company Tactical Operations: Command Decision Making (12 hours);

(xi) Managing Company Tactical Operations: Tactics (12 hours); It is recommended, by the NFA, that the Managing Company Tactical Operations Series be taken in the sequence listed.

(D) Option #4 Successfully complete three semester hours of the courses listed in option #1 and 40 hours of the courses listed in option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Marine Fire Protection Personnel Certification.

(c) If a National Fire Academy off campus course(s) is discontinued or is replaced by a new course, the old or the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

*§423.307 Minimum Standards For Advanced Marine Fire Protection Personnel Certification.*

(a) Applicants for Advanced Marine Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Marine Fire Protection Personnel Certification as defined in §423.305 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification);

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and the years of experience used to qualify for all lower levels of Marine Fire Protection Personnel Certification

(A) 40 training points and at least 12 years of service, or

(B) 40 training points which includes at least 15 college semester hours in fire science subjects and at least ten years of service; or

(C) an associate degree or 60 training points and at least 12 years of service; or

(D) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least six years of service; or

(E) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least four years of service;

(F) a baccalaureate degree or 120 training points either of which must include at least 15 college semester hours in fire science subjects and at least three years of service.

(3) As a part of the training specified in paragraph (2) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—Successfully complete six semester hours in fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration II, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies; design and construction of fire department buildings; or

(ii) Fire Safety Education, or a course that meets the following course description—Physical, chemical, and electrical hazards and their relationship to loss of property and life. Study of codes, laws, problems, and cases. Detailed examination of the physical and psychological variables related to the occurrence of casualties. Safe storage, transportation, and handling techniques are stressed to eliminate or control potential risks; or

(iii) Building Construction, or a course with the following course description—Fundamental consideration and

exploration of building construction and design with emphasis on fire resistance of building materials and assemblies, exposures, and related data focused on fire protection concerns; elements of structural collapse and failure during a fire are included; or

(iv) Building Codes, or a course with the following course description—An in-depth study of the National Fire Protection Association's Life Safety Code. An introduction to other model codes and the fire codes as they relate to building design; or

(v) Building Codes and Construction, or a course with the following course description—The fire resistance of building construction is considered. Included are building materials, assemblies, and exposures. Both local and national laws and guidelines are reviewed. Model building codes and the life safety code are also studied.

(B) Option #2—Complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program. This training must be in addition to any training used to qualify for Intermediate Marine Fire Protection Personnel Certification.

(C) Option #3—Complete a minimum of 80 hours in the following National Fire Academy off-campus courses

(i) Building Construction for Fire Suppression Forces—Principles, Wood and Ordinary Construction (12 hours);

(ii) Building Construction for Fire Suppression Forces—Principles, Non-Combustible and Fire Resistive Construction (12 hours);

(iii) Firefighter Safety and Survival: The Company Officer's Responsibility (16 hours);

(iv) Firefighter Health and Safety: Program Implementation & Management (16 hours),

(v) Fire Service Management (12 hours),

(vi) Leadership I Strategies for Company Success (12 hours),

(vii) Leadership II Strategies for Personal Success (12 hours),

(viii) Leadership III Strategies for Supervisory Success (12 hours);

(ix) Fire Supervision—Increasing Team Effectiveness (12 hours);

(x) Fire Supervision—Increasing Personal Effectiveness (12 hours),

(xi) Infection Control for Emergency Response Personnel: The Supervisors Role and Responsibilities (12 hours).

(D) Option #4—Successfully complete three semester hours of the courses listed in option #1 and 40 hours of the courses listed in option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Marine Fire Protection Personnel Certification.

(c) If a National Fire Academy off campus course(s) is discontinued or is replaced by a new course, the old or the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§423.309. *Minimum Standards for Master Marine Fire Protection Personnel Certification.*

(a) Applicants for Master Marine Fire Protection Personnel Certification must complete the following requirements.

(1) hold as a prerequisite an Advance Marine Fire Protection Personnel Certification as defined in §423.307 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification);

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and the years of experience used to qualify for all lower levels of Marine Fire Protection Personnel Certification

(A) an associate degree of 60 college semester hours and at least 12 years of service, or

(B) an associate degree or 60 college semester hours, either of which includes at least 15 college semester hours in fire science subjects and at least nine years of service, or

(C) an associate degree in Fire Science and at least six years of service, or

(D) a baccalaureate degree or 120 college semester hours and at least six years of service.

(E) a baccalaureate degree or 120 training points either of which includes at least 15 college semester hours in fire science subjects and at least four years of service.

(F) a master's degree and at least four years of service.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Marine Fire Protection Personnel Certification.

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 August 30, 1994.

TRD-9447392

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 918-7184

## Chapter 521. Fire Extinguisher Rules

### • 37 TAC §§521.6, 521.7, 521.10, 521.21

The Texas Commission on Fire Protection proposes amendments to §§521.6, 531.7, 531.10, and 531.21, concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, and maintaining fire extinguishers or fire extinguishing devices and systems. Changes to §521.6 reflect the new definitions for a DOT Specification Fire Extinguisher Cylinder and DOT Nonspecification Fire Extinguisher Cylinder, it also omits the definition of Department of Transportation (DOT) cylinder. The changes to §521.7 update NFPA Standards 10, 11C, 12B, 15, 17, 17A, and 18 to 1990, updates NFPA Standard 16 to 1991, updates NFPA Standard 12A to 1992, adopts NFPA Standard 25, 1992, Standard for the Inspection, Testing, and Maintenance of Water Based Fire Protection Systems, updates NFPA Standard 12 to 1993; updates NFPA Standards 11, 11A, and 96 to 1994, and adopts NFPA Standard 2001, 1994, Standard on Clean Agent Fire Extinguishing Systems. Section 521.10 reflects the change from DOT marked to DOT specification in subsection (c)(4) §521.21 reflects the addition of a subsection (c) that refers to a new Certificate of Installation form, form number FML 010

G Mike Davis, State Fire Marshal, has determined that there will be no fiscal implications for state and local governments for the first

five years as a result of enforcing or administering the amendments to §§521.6, 521.7, 521.10, and 521.21.

Mr. Davis also has determined that for each year of the first five years the proposed amendments are in effect there will be an improvement in the protection afforded property and lives by the latest technology in fire extinguishers and extinguisher equipment. The proposed amendments will increase the economic costs of compliance for individuals and firms regulated under these rules by approximately \$60 to \$125 per year for each employee for updated NFPA standards and printing of new installation forms. The cost of compliance per employee is the same for small businesses and large businesses.

Comments on the new sections may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, Post Office Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under Article 5.43-1, Sections 2A, 8, and 9 which provide the Texas Commission on Fire Protection with the authority to adopt rules necessary for the protection and preservation of life and property in controlling the requirements for the installation or servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems.

Texas Insurance Code, Article 5.43-1 is affected by these proposed amendments.

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

**DOT Specification Fire Extinguisher Cylinder**—All fire extinguisher cylinders manufactured, tested and stamped with the classification number as required by the United States Department of Transportation.

**DOT Nonspecification Fire Extinguisher Cylinder**—All fire extinguisher cylinders manufactured and tested but not stamped with a classification number as required by the United States Department of Transportation. These cylinders may be marked by a label with the words "Meets DOT Requirements."

[Department of Transportation (DOT) cylinder—All fire extinguisher cylinders manufactured, tested, and marked in compliance with specifications and requirements of the United States Department of Transportation.]

**§521.7. Adopted Standards.** The board adopts by reference in their entirety the following copyrighted standards and recommendations as adopted in this subchapter. If a standard refers to a provision in a specific edition of another standard, the provision is applicable only if it does not conflict with the adopted standard shown in this section. The standards are published by and avail-

able from the National Fire Protection Association, Inc., (NFPA), Batterymarch Park, Quincy, Massachusetts 02269.

(1) NFPA 10-1990[1988], Standard for Portable Fire Extinguishers.

(2) NFPA 11-1994[1988], Standard for Low Expansion Foam and Combined Agent Systems.

(3) NFPA 11A-1994[1988], Standard for Medium and High Expansion Foam Systems.

(4) NFPA 11C-1990[1986], Standard for Mobile Foam Apparatus.

(5) NFPA 12-1993[1985], Standard on Carbon Dioxide Extinguishing Systems.

(6) NFPA 12A-1992[1987], Standard on Halon 1301 Fire Extinguishing Systems.

(7) NFPA 12B-1990[1985], Standard on Halon 1211 Fire Extinguishing Systems.

(8) NFPA 2001-1994, Standard on Clean Agent Fire Extinguishing Systems.

(9) [(8)] NFPA 15-1990[1985], Standard for Water Spray Fixed Systems for Fire Protection.

(10) [(9)] NFPA 16-1991[1986], Standard on Deluge Foam-Water Sprinkler and Foam-Water Spray System.

(11) [(10)] NFPA 17-1990[1985], Standard for Dry Chemical Extinguishing Systems.

(12) [(11)] NFPA 17A-1990[1986], Standard on Wet Chemical Extinguishing Systems.

(13) [(12)] NFPA 18-1990[1986], Standard on Wetting Agents.

(14) NFPA 25-1992, Standard for the Inspection, Testing, and Maintenance of Water Based Fire Protection Systems;

(15) [(13)] NFPA 96-1994[1987], Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment.

#### **§521.10. Certificates of Registration.**

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

(c) Types of certificates. Each certificate must be identified by type, which will indicate the business activity authorized under the certificate

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

(4) Type C—For hydrostatic testing of DOT Specification[marked] fire extinguisher cylinders.

(d)-(l) (No change.)

#### **§521.21. Installation Labels for Fixed Extinguisher Systems**

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

(c) Certificate of Installation (Form Number FML 010) Figure: 37 TAC 521.21(c).

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 August 30, 1994.

TRD-9447397

Jack Woods  
General Counsel  
Texas Commission on Fire Protection

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 918-7184

### Chapter 541. Fire Sprinkler Rules

- 37 TAC §§541.7, 541.13, 541.14, 541.18, 541.19, 541.20, 541.21, 541.22, 541.23

The Texas Commission on Fire Protection proposes amendments to §§541.7, 541.13, 541.14, and 541.18, and new §§541.19, 541.20, 541.21, 541.22, and 541.23, concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire protection sprinkler devices and systems. The amendments to §541.7 update NFPA Standards 13 and 13D to 1994; NFPA Standards 14, 20, 22, and 24, to 1993; NFPA Standards 25, 24, and 214 to 1992; NFPA Standards 16, 231 and 231C to 1991; NFPA Standards 15, 307, and 409 to 1990; NFPA Standard 231D to 1989; it also adopts NFPA 30B, 1990, Manufacture and Storage of Aerosol Products. The amendment to §541.13 omits all requirements for bond and surety prior to issuance of a certificate of registration. The amendment to §541.14 deletes reference to the State Board of Insurance and replaces it with the Texas Commission on Fire Protection; it also updates the fee schedule to reflect the current fee schedule for renewal of certificate of registration and renewal of responsible managing employee's licenses; it also omits the fee schedule regarding certificates of registration and licenses that have been expired for 91 days to 365 days; it also changes the fee schedule for certificates of registration and licenses that have been expired for 366 days to two years to 91 days to two years. The amendment to §541.18 reflects the updated tag under subsection (g). The new §531.19 adds the use of yellow tags for systems found to be in non-compliance with the fire protection's sprinkler rules. The new §541.20 rennumbers the section regarding Red Tags; it also adopts NFPA

Standard 25, 1992, and omits NFPA Standard 13A, §§1-3; and it also reflects the updated red tag under subsection (f). The new §§541.21-541.23 renumbers the remaining sections accordingly.

G. Mike Davis, State Fire Marshal, has determined that there will be no fiscal implications for state and local governments for the first five years as a result of enforcing or administering the amendments to §§541.7, 541.13, 541.14, and 541.18, and the new §§541.19, 541.20, 541.21, 541.22, and 541.23.

Mr. Davis also has determined that for each year of the first five years the section proposed is in effect that there will be more efficient regulation of registered sprinkler contractors, with a resulting improvement in the latest technology of protection afforded to property and lives by fire protection sprinkler equipment. The economic cost of compliance for individuals and firms regulated by these rules will increase approximately \$75.00 to \$150.00 per licensed employee per year for the costs of purchasing updated NFPA standards and service tags. The costs of compliance per employee for small and large businesses will be the same.

Comments on the new sections may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, Post Office Box 2286, Austin, Texas 78768-2286.

The new sections are adopted under Article 5.43-3, Sections 3, 3A, and 7 which provides the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal for the protection and preservation of life and property.

Texas Insurance Code Article 5.43-3 is affected by these amendments and new sections.

§541.7. *Adopted Standards.* The board adopts by reference in their entirety the following copyrighted standards and recommended practices published by and available from the National Fire Protection Association, Inc., (NFPA), Batterymarch Park, Quincy, Massachusetts 02269. A copy of the standards shall be kept available for public inspection in the Office of the State Fire Marshal.

(1) NFPA 13-1994[1987], Standard for the Installation of Sprinkler Systems;

(2) NFPA 25[13A]-1992[1987], Recommended Practice for the Inspection, Testing and Maintenance of Sprinkler Systems, except as modified in §541.18 and §541.19 of this title (relating to Service Tags and Red Tags);

(3) NFPA 13D-1994[1984], Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes;

(4) NFPA 14-1993[1986], Standard for the Installation of Standpipe and Hose Systems;

(5) NFPA 15-1990[1985], Standard for Water Spray Fixed Systems for Fire Protection;

(6) NFPA 16-1991[1986], Standard on Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems;

(7) NFPA 20-1993[1987], Standard for the Installation of Centrifugal Fire Pumps;

(8) NFPA 22-1993[1987], Standard for Water Tanks for Private Fire Protection;

(9) NFPA 24-1992[1987], Standard for the Installation of Private Fire Service Mains and Their Appurtenances;

(10) NFPA 30-1993[1987], Flammable and Combustible Liquids Code;

(11) NFPA 30B-1990, Manufacture and Storage of Aerosol Products;

(12)[(11)] NFPA 307-1990[1985], Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves;

(13)[(12)] NFPA 214-1992[1983], Standard on Water-Cooling Towers;

(14)[(13)] NFPA 231-1991[1987], Standard for General Storage;

(15) [(14)] NFPA 231C-1991[1986], Standard for Rack Storage of Materials;

(16)[(15)] NFPA 231D-1989[1986], Standard for Storage of Rubber Tires, and

(17)[(16)] NFPA 409-1990[1985], Standard on Aircraft Hangars

#### §541.13 Applications

(a) Certificates of registration

(1)-(6) (No change)

(7) Insurance [Bond and insurance] required.

(A) The state fire marshal must not issue a certificate of registration under this subchapter unless the applicant files with the state fire marshal's office a [surety bond and] proof of liability insurance. The insurance must include products and completed operations coverage

(B) Each registered firm must maintain in force and on file in the state fire marshal's office the [surety bond and] certificate of insurance as required. Failure to do so will be cause for action to suspend the firm's certificate of registration.

(C) (No change.)

(D) If a certificate of registration is to be issued in the name of a corporation, the corporate name must be used on the applicable [bond and] insurance forms. If the corporation is obtaining a certificate of registration in an assumed name, the insurance must be issued to the corporation doing business as (dba) the assumed name. Example: XYZ Corporation dba XXX Fire Sprinkler Service.

(E) The [bond and] insurance issued for a partnership must be issued to the name of the partnership or to the names of all the individual partners.

(F) The [bond and] insurance for a proprietorship must be issued to the individual owner. If an assumed name is used, the bond and insurance must be issued to the individual doing business as (dba) the assumed name. Example: William Jones dba XXX Fire Sprinkler Service.

(b) (No change)

#### §541.14. Fees.

(a) Every fee required in accordance with the provisions of the Insurance Code, Article 5.43-3, and this subchapter must be paid by cash, money order, or check. Money orders and checks must be made payable to the Texas Commission on Fire Protection [State Board of Insurance].

(b) (No change)

(c) Fees are as follows:

(1) certificate of registration

(A) (No change)

(B) renewal fee-\$1800 [900];

(C) (No change.)

(2) responsible managing employee license

(A) (No change)

(B) renewal fee-\$350 [175],  
(3) duplicate or revised certificates or [of] licenses-\$35.

(4)-(5) (No change)

(d)-(f) (No change.)

(g) Fees for certificates and licenses which have been expired for less than two years include both renewal and late fees and

shall be determined in accordance with the following schedule. Expired 1 Day to 90 Days: Renewal Fee Late Fee Total Fee Certificate \$1, 800 [900] \$450 \$2,250 [1,350] License \$350 [175] \$87.50 \$437.50 [262.50] [Expired 91 Days to 365 Days: Renewal Fee Late Fee Total Fee Certificate \$900, \$900, \$1,800 License \$175, \$175, \$350] Expired 91 [366] Days to Two Years: Renewal Fee Late Fee Total Fee Certificate \$1,800, \$900, \$2,700, License \$350, \$175, \$ 525.

§541.18. Service Tags.

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

(g) Sample service tag: Figure 1: 37 TAC 541.18(g)

(h) (No change.)

§541.19. Yellow Tags.

(a) If a fire sprinkler system is found in noncompliance with applicable NFPA standards, a completed yellow tag must be attached to the control valve of the sprinkler system to indicate that corrective action is necessary.

(b) Yellow tags must conform to requirements of §541.20(B), (C) and (D) of this title (relating to red tags), except that the yellow tag inscription must be titled: "DO NOT REMOVE-SYSTEM NOT IN COMPLIANCE WITH NFPA STANDARDS".

(c) The signature of the licensee on a yellow tag certifies the impairments listed on the label cause the system to be out of compliance with NFPA standards.

(d) A yellow tag may be removed only by a licensed employee or agent of a registered firm that has corrected the conditions and certified the service.

(e) A letter detailing impairments must be sent to the building owner or authorized representative and to the local authority having jurisdiction.

§541.20. Red Tags.

(a) If the impairments constitute emergency impairments as defined in NFPA 25 (1992), then the inspector shall complete and attach a red tag

(b) Red tags shall be the same size as service tags.

(c) Red tags shall bear the following information in the format of the sample tag shown in subsection (f) of this section.

(1) "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL" (all capital letters, at least 10-point boldface type);

(2) firm's name and address;

(3) firm's certificate of registration number;

(4) signature of service person;

(5) day, month, and year (to be punched);

(6) emergency impairments; and

(7) name and address of owner or occupant.

(d) Tags may be printed and established for any five-year period. After each printing, one tag shall be forwarded to the state fire marshal.

(e) A red tag may be removed only by an authorized employee of a registered firm, an employee of the state fire marshal's office, or an authorized representative of a governmental agency with regulatory authority.

(f) Sample red tag: Figure 2: 37 TAC 541.20(f)

§541.21. Enforcement.

(a) The state fire marshal is authorized and directed to enforce the provisions of the Insurance Code, Article 5.43-3, and these sections. The state fire marshal shall make, or cause to be made, inspections from time to time and as circumstances dictate to determine that licensed firms and persons engaged in the business act in conformity with the requirements of the law and these sections.

(b) Such inspections shall be made by the state fire marshal or his representative. Where any inspection discloses violations of the law or these sections, the firm or person responsible for correcting said violation shall be notified within 30 days after completion of the inspection report. In all cases where a violation is not corrected within a reasonable time, the state fire marshal shall take such steps as may be necessary to enforce correction of the violation and may initiate appropriate administrative action.

§541.22. Administrative Actions. The failure to comply with the provisions of these sections and the Insurance Code, Article 5.43-3, by certificate holders or licensees may subject them to administrative action including, but not limited to, suspension, revocation, or refusal to issue or renew a license or certificate of registration.

§541.23 Severability. If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or applica-

tion. To this end, all provisions of these sections are declared to be severable.

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 August 30, 1994.

TRD-9447395

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 918-7184

• 37 TAC §§541.19-541.22

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

The Texas Commission on Fire Protection proposes the repeal of §§541.19-541.22, concerning regulation of the business of inspecting, planning, selling, servicing, installing, and maintaining fire protection sprinkler systems.

The repeals are necessary to enable the Commission to adopt new rules pertaining to more efficient regulation of businesses, with a resulting improvement in the quality of protection afforded property and lives by fire protection sprinkler equipment.

G. Mike Davis, State Fire Marshal, has determined that there will be no fiscal implications for state and local governments for the first five years the repeals are in effect

Mr. Davis also has determined that for each year of the first five years the amended repeals are in effect that there will be more efficient regulation of these businesses, with a resulting improvement in the quality of protection afforded property and lives by fire protection sprinkler equipment. Mr. Davis has determined that these repeals should not have any effect on small and large businesses, or persons required to comply with the repeals. The compliance costs for the new sections are outlined in the preamble for the proposed new sections published in this issue of the *Texas Register*.

Comments on the repeals may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, Post Office Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under Article 5.43-3, §§3, 3A, and 7 which provides the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal for the protection and preservation of life and property.



Texas Insurance Code, Article 5.43-3 is affected by these repeals.

§541.19. *Red Tags.*

§541.20. *Enforcement.*

§541.21. *Administrative Actions.*

§541.22. *Severability.*

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 August 30, 1994.

TRD-9447390 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 918-7184

◆ ◆ ◆  
**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 48. Community Care for Aged and Disabled**

**Minimum Standards for Adult Foster Care**

• 40 TAC §48.8907

The Texas Department of Human Services (DHS) proposes an amendment to §48.8907, concerning provider responsibilities, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to require the adult foster care provider to notify DHS when the provider or a family member is the subject of an adult protective services' investigation.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the adult foster care caseworker will be aware of any adult protective services' investigation in an adult foster care home, thus ensuring the safety of all clients. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Carl Giles at (512) 450-3156 in DHS's Contract Services unit

Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-401, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

The amendment implements §22.001 of the Human Resources Code

§48.8907. *Provider Responsibilities.*

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

(c) Reporting and notification. The adult foster care provider must:

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

(7) notify the adult foster care caseworker before any resident receives home health services; [and]

(8) notify the adult foster care caseworker when the provider, substitute provider, or a family member is the subject of an adult protective services investigation. The provider must notify the adult foster care caseworker within 24 hours of the beginning of the investigation or the next work day; and

(9)[(8)] report to the adult foster care caseworker's supervisor or another adult foster care staff person any of the required notifications if the caseworker is not available to speak with the provider.

(d)-(j) (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 August 30, 1994.

TRD-9447330 Nancy Murphy  
Section Manager, Media  
and Policy Services  
Texas Department of  
Human Services

Proposed date of adoption November 1, 1994

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

◆ ◆ ◆  
**TITLE 43. TRANSPORTATION**

**Part IV. Texas High-Speed Rail Authority**

**Chapter 81. Administrative Procedures**

**Subchapter C. Public Records Charges**

• 43 TAC §81.181-81.185

The Texas High-Speed Rail Authority proposes new §§81.181-81.185, Subchapter C,

Part IV, Title 43, T.A.C., describing the charges that the agency will make for copies of public records. These rules are proposed to comply with Chapter 428, Acts of the 73rd Legislature, which requires state agencies to adopt rules setting forth the charges the agency will make for copies of public records. The Texas High-Speed Rail Authority follows the guidelines adopted by the Texas General Services Commission.

Allan Rutter, Deputy Executive Director, has determined that for the first five-year period the rules are in effect, there may be insignificant fiscal implications for the state government as a result of enforcing or administering the rules. The agency is unable to determine the cost involved because such costs will depend on the unknown type and number of open records request made by individuals. There will be no effect on local government as a result of enforcing the proposed rules.

Mr. Rutter also has determined that for each year of the first five years that the rules are in effect the benefit to the public will be enhanced accessibility to public records and clarification of the cost of copies of public records. There will be a cost to persons required to comply with the rules as proposed. The agency is unable to determine the costs involved because such costs will depend on the unknown type and number of open records requests made by small or large businesses and/or individuals. These cost will be incurred only by small or large businesses and/or individuals that request copies of public records from the Texas High-Speed Rail Authority.

Written comments on the proposed rules may be submitted to Allan Rutter, Deputy Executive Director, Texas High-Speed Rail Authority, 823 Congress Avenue, Suite 1502, Austin, Texas 78701.

The new section are proposed under the authority of the Texas Civil Statutes, 6674v 2, §17(a)(2), which authorize the Texas High-Speed Rail Authority to adopt rules necessary to implement the Act, including rules to govern the operation of the authority. The new sections are also proposed under the Government Code, §403.011(2), which requires agencies to adopt rules setting forth the charges they will make for copies of public information

The new section implements Chapter 428, Acts, 73rd Legislature, 1993

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

Computer Resource Charge—The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utili-

ties. The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time frame most frequently will be a matter of seconds. If programming is required to comply with a particular request the appropriate charge that may be recovered for programming time. No charge should be made for computer printout time.

**Fax charge**—The charge for a fax transmitted.

**Full Cost**—The sum of all direct costs plus a proportional share of overhead, or indirect costs. Full cost will be determined in accordance with generally accepted methodologies, such as the methodology adopted by the Council on Competitive Government.

**Microfiche and microfilm charge**—The charge is the total of the costs of making the copy of the fiche or film.

**Miscellaneous supplies charge**—The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information.

**Nonstandard-size copy**—A copy of public information that is made available to a requestor in any format other than a standard-size paper copy. Microfiche, microfilm, diskettes, magnetic tapes, CDROM, and nonstandard-size paper copies are examples of nonstandard-size paper copies.

**Overhead Charge**—An Overhead Charge includes such costs as depreciation of capital assets, rent, maintenance and repair, utilities and administrative overhead. An overhead charge will not be made for requests for copies of 50 pages or less of readily available information in standard-size form.

**Personnel Charge**—A personnel charge is a charge to recover the cost for personnel time spent to take requests, locate documents, and reproduce requested information. A personnel charge should not be billed in connection with complying with requests that are for 50 or fewer pages of readily available information in standard-size form. Personnel time does not include any time spent by an attorney, legal assistant, or any other person who reviews the requested information to determine whether the Texas High Speed Rail Authority will raise any exceptions to disclosure of the requested information under Subchapter C of the Open Records Act; or to research or prepare a request for a ruling by the Attorney General's Office pursuant to subchapter G of the Open Records Act.

**Postal and shipping charges**—Any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

**Programming time charge**—A charge for the time required of a programmer to enter data in order to execute an existing program or to create a new program so that requested information may be accessed. Any charge for programming time should be prorated. Only programming services should be charged at this hourly rate.

**Readily available information**—Information that already exists in printed form, or information that is stored electronically and is ready to be printed or copied without requiring any programming, or information that already exists on microfiche or microfilm. Information that requires a substantial amount of time to locate or prepare for release is not readily available information. In determining whether to charge for providing copies of public records, the Texas High Speed Rail Authority will take into account not only whether the information is in fact readily available but also whether, in the exercise of efficient recordkeeping, it could and should have been readily available.

**Remote document retrieval charge**—A charge to recover the costs for document retrieval. Where a charge is made for documentation retrieval, no additional personnel charge should be factored in for time spent locating documents. The charge for document retrieval will be waived if the request is for 50 pages or fewer of readily available information in standard-size form.

**Sales tax**—Sales tax should not be added on charges for public information.

**Standard-size copy**—A printed impression on one side of a piece of paper that measures up to 8 1/2 by 14 inches. Each side of a piece of paper on which an impression is made is counted as a single-copy. A piece of paper that is printed on both sides is counted as two copies.

*§81.182. The Texas High Speed Rail Authority Charge Schedule.* The following are the charges for copies of public information that have been adopted by the Texas High Speed Rail Authority:

- (1) Standard-size paper copy: \$.10 per page;
- (2) Nonstandard-size copy:
  - (A) Diskette: \$1.00 each;
  - (B) Magnetic tape: \$10 each;
  - (C) VHS video cassette: \$2.50 each;
  - (D) Audio cassette: \$1.00 each;
  - (E) Paper copy: \$50 each;

- (F) Other: Actual cost;
- (3) Personnel charge: \$15 per hour;
- (4) Overhead charge: 20% of personnel charge;
- (5) Microfiche or microfilm charge:
  - (A) Paper copy: \$.10 per page;
  - (B) Fiche or film copy: Actual cost;
- (6) Remote document retrieval charge: Actual cost;
- (7) Computer resource charge:
  - (A) Mainframe: \$17.50 per minute;
  - (B) Midsize: \$3.00 per minute;
  - (C) Client/Server: \$1.00 per minute;
  - (D) PC or LAN: \$.50 per minute;
- (8) Programming time charge: \$26 per hour;
- (9) Miscellaneous supplies: Actual cost;
- (10) Postage and shipping charge: Actual cost;
- (11) Fax charge:
  - (A) local: \$.10 per page;
  - (B) long distance, same area code: \$50 per page;
  - (C) long distance, different area code: \$1.00 per page;
- (12) Other costs: Actual cost.

*§81.183. Access to Information Where Copies Are Not Requested.*

(a) Access to information in standard-size form. The Texas High Speed Rail Authority will not charge for making available for inspection information maintained in standard-size form. Access charges are permitted only where the Texas High Speed Rail Authority is asked to provide copies of information that is not readily available or that is for more than 50 pages of readily available information in standard-size form.

(b) Access to information in other than standard-size form. In response to requests for access, for purposes of inspection only, to information that is maintained in other than standard-size form, the Texas High Speed Rail Authority may charge the requesting party the cost of preparing and making available such information, unless the information is readily available. Preparation might involve retrieval of information from a database, and deletion of confidential information. In such a case, the Texas High Speed Rail Authority may recover the cost of personnel.

*§81.184. Format for Copies of Public Information.* To the extent possible, the Texas High Speed Rail Authority will attempt to accommodate a requesting party by providing information in the format requested.

*§81.185. Estimates, Deposits, and Waivers of Public Information Charges.*

(a) A party requesting copies of public information will not always be aware of the amount of time and cost that may be involved in complying with a particular request. Where a particular request will involve considerable time and resources to process, the Texas High Speed Rail Authority will advise the requesting party of what may be involved and to provide an estimate of date of completion and the charges that may result. A deposit may be required in the amount of the estimated charges if such charges exceed \$100. All efforts should be made to process requests as efficiently as possible so that requested information will be provided at the lowest possible charge. Full disclosure will be made to the requesting party as to how any charges were calculated.

(b) The Texas High Speed Rail Authority shall furnish public records without

charge or at a reduced charge if it determines that waiver or reduction of the fees is in the public interest.

(c) The Texas High Speed Rail Authority will reevaluate and update annually the charges recommended in this section.

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 August 29, 1994.

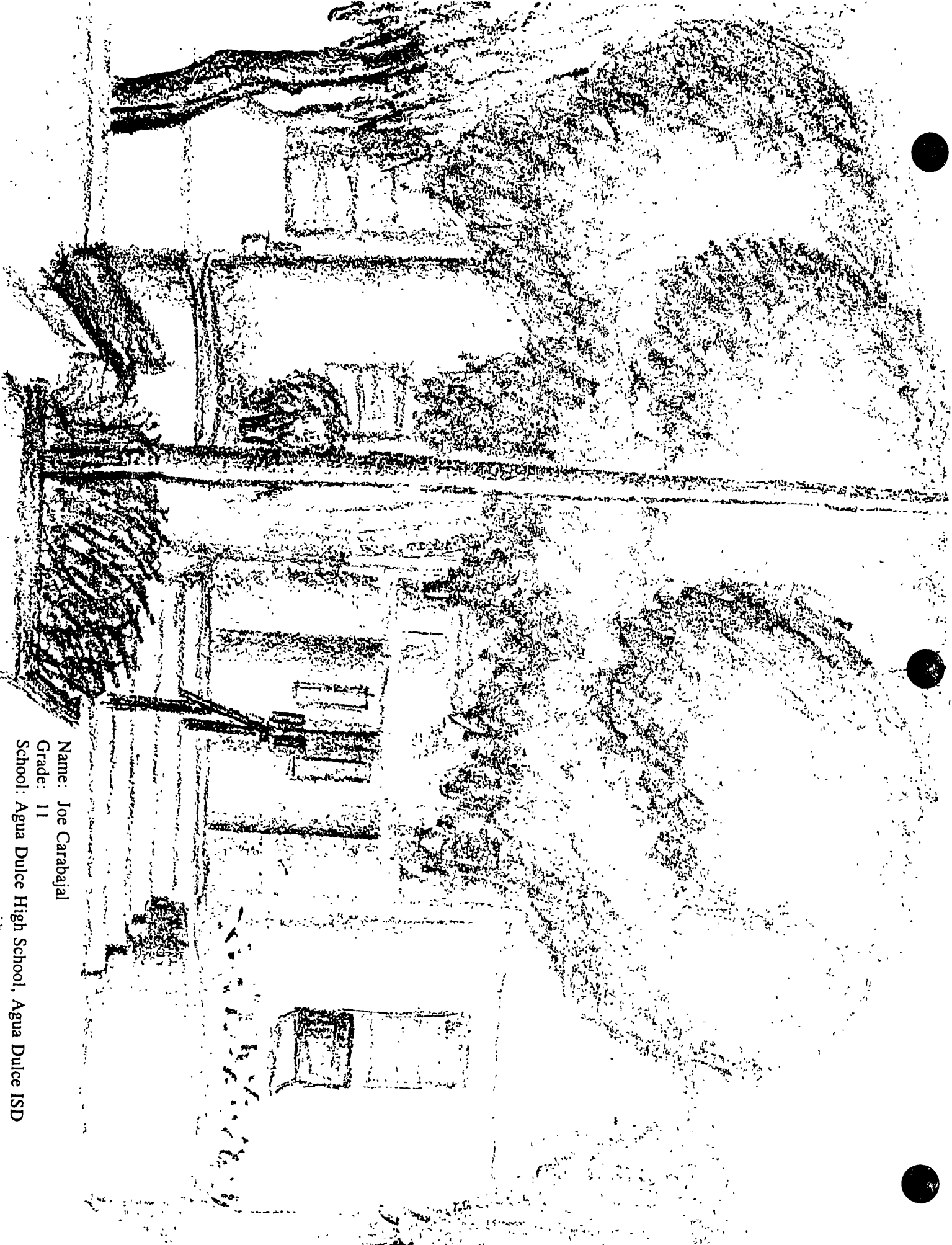
TRD-9447280

Allan Rutter  
Deputy Executive Director  
Texas High-Speed Rail  
Authority

Earliest possible date of adoption: October 7, 1994

For further information, please call: (512) 478-5484





Name: Joe Carabajal  
Grade: 11  
School: Agua Dulce High School, Agua Dulce ISD

# WITHDRAWN RULES

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

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

##### Conservation Rules and Regu- lations

###### • 16 TAC §3.66

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed amendment to §3.66, which appeared in the June 3, 1994, issue of the *Texas Register* (19 TexReg 4305). The effective date of this withdrawal is August 30, 1994.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447366 Mary Ross McDonald  
Director, Legal Division,  
Gas Utilities/LP Gas  
Railroad Commission of  
Texas

Effective date: August 30, 1994

For further information, please call: (512)  
4C3-6941

## TITLE 25. HEALTH SER- VICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

##### Subchapter C. Texas HIV Medication Program

###### • 25 TAC §98.104, §98.105

The Texas Department of Health has withdrawn the emergency effectiveness of an amendment to §98.104 and §98.105, concerning the HIV and STD Control. The text of the emergency amendment appeared in the July 5, 1994, issue of the *Texas Register* (19 TexReg 5139). The effective date of this withdrawal is September 19, 1994.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447326 Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: September 19, 1994

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

## Chapter 295. Occupational [Environmental] Health

### Bloodborne Pathogen Standard

#### • 25 TAC §295.110

The Texas Department of Health has withdrawn the emergency effectiveness of new §295.110, concerning Occupational [Environmental] Health. The text of the emergency section appeared in the March 8, 1994 issue of the *Texas Register* (19 TexReg 1627). The effective date of this withdrawal is August 30, 1994.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447329 Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: August 30, 1994

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

## TITLE 31. NATURAL RE- SOURCE AND CON- SERVATION

### Part XV. Texas Low- Level Radioactive Waste Disposal Authority

#### Chapter 451. Disposal Site Management and Operation

##### Subchapter B. Waste Accep- tance

###### • 31 TAC §§451.20-451.27

The Texas Low-Level Radioactive Waste Disposal Authority has withdrawn from consider-

ation for permanent adoption a proposed new §§451.20-451.27 which appeared in the June 24, 1994, issue of the *Texas Register* (19 TexReg 4895). The effective date of this withdrawal is August 29, 1994.

Issued in Austin, Texas, on August 29, 1994.

TRD-9447273 Lee H. Mathews  
Deputy General Manager  
and General Counsel  
Texas Low-Level  
Radioactive Waste  
Disposal Authority

Effective date: August 29, 1994

For further information, please call: (512)  
451-5292

## TITLE 37. PUBLIC SAFETY AND CORREC- TIONS

### Part XIII. Texas Commission on Fire Protection

#### Chapter 423. Fire Suppression

##### Subchapter C. Minimum Stan- dards for Marine Fire Pro- tection Personnel

###### • 37 TAC §423.301

The Texas Commission on Fire Protection has withdrawn from consideration for permanent adoption a proposed repeal of §423.301, which appeared in the March 8, 1994, issue of the *Texas Register* (19 TexReg 1633). The effective date of this withdrawal is August 31, 1994.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447394 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Effective date: August 31, 1994

For further information, please call: (512)  
918-7184

The Texas Commission on Fire Protection has withdrawn from consideration for permanent adoption a proposed new §423.301,

which appeared in the March 8, 1994, issue of the *Texas Register* (19 TexReg 1633). The effective date of this withdrawal is August 31, 1994.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447393

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Effective date: August 31, 1994

For further information, please call: (512)  
918-7184

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# ADOPTED RULES

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

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

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 15. Consumer Services Division

##### Texas Grain Warehouse

###### • 4 TAC §15.78

The Texas Department of Agriculture (the department) adopts new §15.78, concerning regulation of warehouse receipts that are ten years old or more, without changes to the proposed text as published in the June 14, 1994, issue of the *Texas Register* (19 TexReg 4605).

The new section is adopted to provide procedures to implement the Texas Agriculture Code, §14.017.

The new section allows the department to limit the negotiability of warehouse receipts.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Agriculture Code, §14.003, (Vernon 1982), which provides the Texas Department of Agriculture with the authority to establish rules necessary to regulate Public Grain Warehouses.

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 August 29, 1994.

TRD-9447302

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: September 19, 1994

Proposal publication date: June 14, 1994

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

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 14. County Indigent Health Care Program

##### Subchapter C. Providing Services

###### • 25 TAC §14.202

The Texas Department of Health (department) adopts an amendment to §14.202, concerning exclusions and limitations, without changes to the proposed text as published in the June 10, 1994, issue of the *Texas Register* (19 TexReg 4479).

The amendment is being adopted to comply with the Indigent Health Care and Treatment Act, Chapter 61, Health and Safety Code, which specifies that the department must define the services and establish the payment standards to correspond with department rules relating to the AFDC-Medicaid program. This amendment corresponds to a recent change to the Medicaid program.

The amendment limits psychiatric services or supplies provided to a patient who is not confined as a bed patient in a hospital to 30 visits instead of a specified amount of \$312.50 during any one calendar year.

Two comments were received on the proposed amendment during the comment period. Both commenters opposed the amendment because they perceived an increase in cost to counties. The department's response is that the amendment will be cost effective because it will encourage outpatient psychiatric services over more expensive inpatient psychiatric services. No changes were made as a result of the comments.

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

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

Issued in Austin, Texas, on August 29, 1994

TRD-9447292

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: September 19, 1994

Proposal publication date: June 10, 1994

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

## Chapter 31. Special Supplemental Food Program for Women, Infants, and Children (WIC)

### • 25 TAC §§31.1-31.3

The Texas Department of Health (department) adopts under federal mandate amendments to §§31.1-31.3, concerning the Special Supplemental Food Program for Women, Infants and Children (WIC). Section 31.1 adopts by reference the amendments to federal regulations. Section 31.2 adopts by reference the Fiscal Year 1994 WIC State Plan of Operations. Section 31.3 adopts by reference the WIC Policy and Procedure Manual as part of the WIC State Plan of Operations which the United States Department of Agriculture (USDA) approves under authority of 7 Code of Federal Regulations (CFR), Part 246. The manual incorporates all of the requirements of the federal regulations and federal management circulars into state policies and procedures. The manual is provided to and serves as the operating manual for the local health agencies that have contracted with the department to provide WIC services. The amendments modify the text of the sections and also the materials which are adopted by reference in the sections.

Concerning §31.1, the amendments to the federal regulations are as follows. The first amendment is to the federal regulations which were initially promulgated by the USDA and published in 7 CFR, Part 246, on February 13, 1985. The first amendment implements a revision to the food funds allocation formula for the Special Supplemental Food Program for WIC to remove the provision limiting any state agency to a 15% increase in food funding. The change will ensure that all funds appropriated for Fiscal Year 1994 and subsequent years are allocated to state agen-

cies most in need. The final rule was published in the *Federal Register*, Volume 58, Number 190, dated Monday, October 4, 1993. The second amendment provides final revisions to Office of Management and Budget (OMB) Circular A-110, which provides standards for achieving consistency and uniformity among federal agencies in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations. The revisions were published in the *Federal Register*, Volume 58, Number 227, dated Monday, November 29, 1993. The third amendment provides notice of adjusted poverty income guidelines to be used by state agencies in determining the income eligibility of persons applying to participate in the WIC Program. These poverty income guidelines are to be used in conjunction with the WIC regulations. The guidelines were published in the *Federal Register*, Volume 59, Number 47, dated Thursday, March 10, 1994. Since the poverty guidelines are adopted by reference in subsection (a), the second reference in subsection (c) is being deleted. The fourth amendment implements a final rule amending regulations governing the WIC Program to comply with the mandates of §123 and §213 of the Child Nutrition and WIC Reauthorization Act of 1989, enacted on November 10, 1989. This final rule contains both funding and nonfunding provisions. The major nonfunding provisions in this final rule include: extending adjunct or automatic income eligibility to certain family members; enhancing outreach efforts and program access; defining breastfeeding and establishing breastfeeding promotion activities; referring and providing participants with information about other health and welfare programs; permitting state agencies the option to establish alternative means of issuing food instruments, such as mailing them to participants; and reducing the frequency with which state agencies must review their local agencies. This final rule also incorporates other legislative mandates, such as governmentwide debarment and suspension (nonprocurement) requirements, a drug-free workplace, and new restrictions on lobbying. This federal rule became effective on March 11, 1994, except that the nondiscretionary funding provisions set forth in 7 CFR, §246.14 and §246.16 were, by law, effective October 1, 1989. State agencies must implement all other provisions no later than October 1, 1994.

Concerning §31.2, the amendments to federal regulations in 7 CFR, Part 246, require the USDA to approve an annual update of the WIC State Plan of Operations. The amendment covers the annual update for the fiscal year 1994, which was approved by the USDA effective October 1, 1993. The update covers the outline of the state agency's goals and objectives for improving program operations, the affirmative action plan, and local agency identification-WIC project information

Concerning §31.3, the amendments to the WIC Policy and Procedure Manual incorporate into the manual new and revised USDA policies, which became effective when the federal regulations and federal circulars became effective, and are incorporated into policies that are approved by USDA. The latest

federal requirements which are being incorporated into the Policy and Procedure Manual by the amendments to §31.3 cover the following: allowable costs-peer counselors; nutrition education expenditures; repair of computer equipment; food instrument inventories for automated sites; breastfeeding promotion standards; local breastfeeding coordinator; breastfeeding peer counselor; breastfeeding training; issuance of formula to breastfeeding mothers; nondiscrimination, providing oral and written program information to non-English or limited English speaking persons; civil rights training; collection of racial/ethnic data; eligibility criteria for program participation; appointment log; notification of ineligibility; notification of certification expiration; caseload management; adjunctive income eligibility for participants of AFDC, food stamps, and Medicaid; Texas WIC income guidelines; documentation of a complete nutritional assessment; criteria for identifying nutritional risk conditions; procedures for weighing and measuring, measuring equipment; weighing equipment; determination of hematocrit/hemoglobin; hematocrits/hemoglobins on infants; equipment for determination of hemoglobin/hematocrits; calibration of hematocrit/hemoglobin equipment, assessment of dietary pattern; assessment of medical/prenatal history, use of medical data taken prior to the time eligibility is determined; enrollment of transferring participants; completion and issuance of food instruments; triple issuance of WIC food vouchers; food packages/allowable foods; vendor abuse; access to appointments; vaccine administration schedule, emergency procedures; immunization tracking; local nutrition education coordinator; definition of nutrition education contact; standards for nutrition education contacts; standards for group classes; standards for individual counseling, nutrition education lessons; documentation of nutrition education attendance/nonattendance; nutrition education audiovisuals; distributed or loaned nutrition education materials; local outreach coordinator; in-service orientation to new local agencies; orientation/training of local agency directors; local training coordinator; and required local agency/clinic staff training

The amendments are adopted under federal mandate for the following reasons. Under federal and state enabling legislation (the Child Nutrition Act of 1966, Title 42, United States Code, §1786; and the Texas Omnibus Hunger Act of 1985, Acts 1985, 69th Legislature, Chapter 150, Title II), the WIC Program is 99% federally funded and governed by federal regulations. Funds are made available to the department by a federal grant. The federal statute (42 United States Code, §1786), federal regulations (7 CFR, Part 246), and the federal grant (Federal-State Special Supplemental Food Program Agreement) authorize the USDA to make the funds available to the department to administer the WIC Program in the State of Texas, provided that the department administers the program in accordance with the federal regulations. Therefore, the department under federal mandate adopts the amendments, effective on October 1, 1994.

The amendments are adopted under Health and Safety Code, §12.001(b), which provides the Texas Board of Health (board) with au-

thority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

### *§31.1 Federal Regulations on Special Supplemental Food Program for Women, Infants, and Children (WIC).*

(a) The Texas Department of Health adopts by reference the United States Department of Agriculture regulations on the Special Supplemental Food Program for Women, Infants, and Children (WIC). These regulations are contained in the Federal Register publication entitled "Special Supplemental Food Program for Women, Infants, and Children" dated February 13, 1985, as amended October 4, 1993, November 29, 1993, March 10, 1994, and March 11, 1994.

(b) Copies of the regulations described in subsection (a) of this section are filed in the department's Bureau of Nutrition Services-Women, Infants, and Children (WIC) Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

### *§31.2 WIC State Plan of Operations.*

(a) The Texas Department of Health (department) adopts by reference the United States Department of Agriculture regulations on the Special Supplemental Food Program for Women, Infants, and Children (WIC). The regulations are contained in the Federal Register publication titled "Special Supplemental Food Program for Women, Infants, and Children" dated February 13, 1985, as amended in October 1993.

(b) Copies of the state plan are filed in the department's Bureau of Nutrition Services-Women, Infants, and Children (WIC) Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

### *§31.3 WIC Policy and Procedure Manual*

(a) The Texas Department of Health (department) adopts by reference the publication titled, "WIC Policy and Procedure Manual," which the department developed, as amended May 1, 1994. This policy and procedure manual has been developed by the department's WIC Program and approved by the United States Department of Agriculture.

(b) Copies of the manual are filed in the department's Bureau of Nutrition Services-Women, Infants, and Children (WIC) Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.



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 August 29, 1994.

TRD-9447296

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date: August 29, 1994

Proposal publication date: N/A

For further information, please call (512) 458-7444

## Chapter 98. HIV and STD Control

### Subchapter C. Texas HIV Medication Program

#### General Provisions

##### • 25 TAC §98.104, §98.105

The Texas Department of Health (department) adopts amendments to §98.104 and §98.105, concerning the Texas HIV Medication Program, without changes to the proposed text as published in July 5, 1994, issue of the *Texas Register* (19 TexReg 5139). The sections implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85.063, Subchapter C, concerning the Texas HIV Medication Program. The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover eligibility for participation and medication coverage. Coverage of the program has been expanded to include Dapsone, the existing coverage for Didanosine, Zalcitabine, SMZ-TMP, Fluconazole, and Itraconazole for eligible participants has been amended, and the eligibility criteria for Zidovudine has been expanded to include pregnant women.

No comments were received regarding adoption of the amendments

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

This 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 August 29, 1994

TRD-9447328

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date September 20, 1994

Proposal publication date July 5, 1994

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

## Chapter 129. Opticians' Registry

##### • 25 TAC §§129.3, 129.5, 129.8, 129.9, 129.11, 129.13

The Texas Department of Health adopts amendments to §§129.3, 129.5, 129.8, 129.9, 129.11, and 129.13 without changes to the proposed text as published in the May 6, 1994, issue of the *Texas Register* (19 TexReg 3417)

The amendments define committee duties, delete requirements under the expired grandfather clause, lower the annual requirement for continuing education credits, add consumer information provisions, define deceptive advertising, add criminal convictions related to the profession of opticianry, and add minor changes which clarify meaning without substantial change, improve grammar and style, and clarify inconsistencies in the rules. The amendments implement the provisions of Texas Civil Statutes, Article 4512p, and update existing sections

The amendments assure the regulation of opticians continues to identify competent practitioners

No comments were received regarding adoption of the amendments

The amendments are adopted under Texas Civil Statutes, Article 4551-1, which provide the Texas Department of Health with authority to adopt rules concerning the registration of opticians, and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health

This 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 August 29, 1994

TRD-9447293

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date September 19, 1994

Proposal publication date May 6, 1994

For further information, please call (512) 834-6661

## Chapter 130 Code Enforcers

The Texas Department of Health (department) adopts amendments to §§130.2, 130.3, 130.5-130.7, 130.9, 130.10, 130.12, repeal of existing §130.8, and new §130.8 and §130.18

without changes to the proposed text as published in the April 5, 1994, issue of the *Texas Register* (19 TexReg 2360) and a notice of correction to the proposed rules as filed was published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3279). The sections will not be republished.

The amendments update requirements pertaining to the registration of code enforcement officers. Specifically, the amendments alter the definitions; define committee duties; delete requirements under the expired grandfather clause; address renewal of a registration as a code enforcement officer in training; and add minor changes which clarify meaning without substantial change, improve grammar and style, and clarify inconsistencies in the rules. The repeal of existing §130.8 removes the examination procedures. New §130.8 replaces the examination procedures with updated information concerning the examination process. The new §130.18 defines improper advertising as it is related to code enforcement officers by using the language from Texas Civil Statutes, Article 4512p, §4

The registration of code enforcement officers will safeguard public health, safety, and welfare by providing a means by which the public can identify code enforcement officers that meet minimum standards of competence. The regulation of code enforcement officers creates a means to better serve the public

No comments were received regarding the proposal of these rules

##### • 25 TAC §§130.2, 130.3, 130.5-130.10, 130.12, 130.18

The amendments and new sections are adopted under Texas Civil Statutes, Article 4447bb, which provide the Texas Department of Health with authority to adopt rules concerning the registration of code enforcement officers; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the commissioner of health

This 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 August 29, 1994

TRD-9447294

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date September 19, 1994

Proposal publication date April 5, 1994

For further information, please call (512) 834-6659

##### • 25 TAC §130.8

The repeal is adopted under Texas Civil Statutes, Article 4447bb, which provide the Texas Department of Health with authority to adopt rules concerning the registration of code enforcement officers, and Health and Safety

Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the commissioner of health.

This 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 August 29, 1994.

TRD-9447295

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date: September 19, 1994

Proposal publication date: April 5, 1994

For further information, please call: (512) 834-6659

## Chapter 289. Radiation Control Texas Regulation for Control of Radiation

### • 25 TAC §289.121

The Texas Department of Health (department) adopts an amendment to §289.121, concerning licensing of radioactive material, with changes to the proposed text as published in the May 3, 1994, issue of the *Texas Register* (19 TexReg 3336) and with changes to the material the section adopts by reference. The only change made to the text of §289.121 from the proposed text was that the amended date was changed to reflect the effective date of the amendment.

Section 289.121 adopts by reference Part 41 of the Texas Regulations for Control of Radiation (TRCR) titled, "Licensing of Radioactive Material."

TRCR Part 41 was amended to allow licensees who process and prepare radiopharmaceuticals for human use to deviate from instructions accompanying the radioactive material if such processing and preparation is done according to procedures approved by the department or according to the provisions of the practice of pharmacy as recognized by the Texas State Board of Pharmacy. The amendment also identifies training and experience requirements for a nuclear pharmacist

The amendments will ensure appropriate and adequate regulatory control of the use of radioactive materials in the preparation of radiopharmaceuticals

Department staff made the following changes for clarification purposes.

The reference was changed in Part 41.26(b)(2)(v) because the rule applies specifically to all of Part 41.26(b)(7) and not only to Part 41.26(b)(7)(ii) and (iii)

In Part 41.26(b)(7)(i), the words "and dispense ." were added to further clarify the intent of the rule. Also, in Part 41.26(b)(7)(i), the words "this section ." were added in place of " . Part 41.26(b)(7)(i)" to comply with standard rule format

The following comments were received concerning the proposed amendment to TRCR Part 41.

**Comment:** Concerning Part 41.26(b)(7), five commenters expressed concern that the rule does not include radiochemists and that radiochemists with suitable experience and qualifications should be allowed to prepare radiopharmaceuticals for human use. Such restrictions may affect research institutes that prepare medical radioisotopes for human use. One of the five commenters stated that the rule should allow the same flexibility to other approved users and cited, as an example, that such an exception could be authorized by a radiation safety committee and by a physician certified by the American Board of Nuclear Medicine, and executed by a certified nuclear medicine technologist in accordance with the physician's directive

**Response:** The rule is not intended to permit radiochemists to deviate from package inserts. The rule concerns those entities (e.g., nuclear pharmacies) that have a specific license to prepare and dispense radiopharmaceuticals for human use. Such licensees must have a nuclear pharmacist identified as an authorized user on the license. The rule applies to licenses issued pursuant to Part 41.26(b)(7) and does not intrude upon the purview of the broad medical license issued pursuant to Part 41.26(a). The department made no change to the rule as a result of the comments.

**Comment:** Concerning Part 41.26(b), one commenter stated that the changes are a constructive step and should be endorsed

**Response.** The department acknowledged the commenter's opinion and made no change to the rule as a result of the comment

**Comment Concerning Part 41.26(a)(4)(ii),** one commenter noted that the rule appeared to require an institute that holds a specific license for the human use of radioactive material to have an appointed radiation safety committee and suggested that the wording be changed to clarify as to when a radiation safety committee is required

**Response:** As stated in Part 41.26(a)(3) and (4), a radiation safety committee is required for a license authorizing unspecified forms and/or multiple types of radioactive material for medical research, diagnosis and therapy (i.e., a broad medical license). A radiation safety committee is not required for licenses issued pursuant to Part 41.26(b). The department made no change to the rule as a result of the comment

**Comment Concerning Part 41.26(b)(2)(iv),** one commenter suggested removing the wording, ". and recommendations ." because it is an unnecessary constraint on the practice of medicine and pharmacy. The commenter noted that the only recommendations in the package insert are the dose ranges and these are not specified by the manufacturer but are suggested, as they understand the final dosage determination is the purview of the physician, not a regulatory body nor the manufacturer

**Response** Package inserts also contain recommendations concerning quality assurance

and quality control. The department made no change to the rule as a result of the comment

**Comment:** Concerning Part 41.26(b)(7)(i), one commenter suggested the wording in the first sentence of Part 41.26(b)(7)(i) be changed to reflect the area being addressed. Since the rule is addressing the uses by a radiopharmacist and centralized radiopharmacies, the wording more correctly should be, ". in Part 41.25, an application for a specific license for nuclear pharmacy services ." Otherwise all human use licenses currently in place or hereafter issued that authorize the reconstitution of reagent kits will require that a facility hire a nuclear pharmacist

**Response:** A license issued pursuant to Part 41.26(b)(7) has an authorization to prepare and dispense radiopharmaceuticals for human use. To limit the authorization to "nuclear pharmacy services" would be too restrictive. The department added the words ". and dispense " after " prepare " to further clarify the intent of the rule

**Comment Concerning Part 41.26(b)(7)(ii),** one commenter stated that the language is confusing. The commenter also stated that it appears that the department is assuming the role of the United States Food and Drug Administration and the State Board of Pharmacy. The commenter stated that if the intent is to allow licensees additional latitude, it should be clearly set forth. The commenter noted that it is unclear what the difference is between "instructions" and "procedures" and questioned whether the State of Texas is willing to allow another Agreement State to set the standards of practice in Texas. The commenter asked what the definition of "Licensing State" is and how it differs from an "Agreement State." The commenter suggested that Part 41.26(b)(7)(ii) might be more appropriately constructed as follows: (1) The instructions that are furnished by the manufacturer on the label attached to a generator or reagent kit, or contained in the accompanying leaflet or brochure, (2) Procedures approved by the Agency, or (3) The provisions of the practice of pharmacy, as recognized by the Texas State Board of Pharmacy, by an authorized nuclear pharmacist

The commenter noted that if constructed this way, the agency can then decide under (2) what it will and will not approve. This would include items from "the Commission, and Agreement State, or a Licensing State," but require those be submitted and approved by the Agency prior to their use in Texas

**Response Concerning Part 41.26(b)(7)(ii)** gives a licensee who processes and prepares radiopharmaceuticals for human use three options for doing so. Part 41.26(b)(7)(ii)(1) concerns instructions that are intended for manufacturers and that have been approved by the department, an Agreement State, or a Licensing State. Part 41.26(b)(7)(ii)(2) concerns procedures for end-users that are not covered in the manufacturers' instructions and that are approved by the department on a case-by-case basis. The department does not believe further clarification of the rule is necessary. An Agreement State is any state with

which the United States Nuclear Regulatory Commission has entered into an effective agreement under §274.b of the Atomic Energy Act of 1954, as amended (73 Stat. 689). A Licensing State means any state with rules equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of naturally occurring or accelerator produced radioactive material and has been designated as such by the Conference of Radiation Control Program Directors, Inc. The department made no change to the rule as a result of the comment.

Representatives from MASI Healthcare Services of Fort Worth, The University of Texas Health Science Center at Houston, The University of Texas M.D. Anderson Cancer Center of Houston, and St. Luke's Episcopal Hospital of Houston presented comments,

questions, and suggestions for changes to the proposed amendment as discussed in the summary of comments.

The amendment is adopted under the Health and Safety Code, Chapter 401, which provides the Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

*§289.121. Licensing of Radioactive Material.*

(a) The Texas Department of Health adopts by reference Part 41, "Licensing of Radioactive Material" of the Department's document titled Texas Regulations

for Control of Radiation, as amended in October, 1994.

(b) (No change.)

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

Issued in Austin, Texas, on August 29, 1994.

TRD-9447317

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date October 1, 1994

Proposal publication date May 3, 1994

For further information, please call. (512) 834-6688

◆ ◆ ◆



Name: Joe Carabajal  
Grade: 11  
School: Agua Dulce High School, Agua Dulce ISD

# TABLES AND GRAPHICS

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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.



**Texas Fire Protection Commission**  
**State Fire Marshal's Office**  
 Austin, TX 78768-2268

**FIRE EXTINGUISHER SYSTEM INSTALLATION CERTIFICATION**  
 INSTALLING COMPANY

Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Company Certificate of Registration Number: \_\_\_\_\_

**PROTECTED PROPERTY**

Name: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Owner or Owner's representative instructed on system operation & maintenance \_\_\_\_\_  
 Owners Rep. if applicable: \_\_\_\_\_ Yes \_\_\_\_\_ No

**LOCAL AUTHORITY HAVING JURISDICTION**

Name: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_

**HAZARD ANALYSIS**

Name of area, room, building or hazard protected \_\_\_\_\_

**Primary Class of Protected Hazard**

- Class A - Wood, paper, etc.
- Class B - Flammable liquids
- Class C - Electrical equipment
- Class D - Combustible metals
- Explosives

**SYSTEM INFORMATION**

System Manufacturer's Name \_\_\_\_\_  
 UL Number \_\_\_\_\_  
 Design type: \_\_\_\_\_  
 Pre-engineered, Model Number \_\_\_\_\_  
 Coverage Type: \_\_\_\_\_  
 Total Flooding \_\_\_\_\_  
 System Activation: \_\_\_\_\_  
 Automatic \_\_\_\_\_  
 Air/Fan shutdown on activation? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Design discharge rate or concentration level: \_\_\_\_\_  
 Design discharge time: \_\_\_\_\_  
 Seconds \_\_\_\_\_

**AGENT INFORMATION**

Type of agent provided: \_\_\_\_\_  
 City: \_\_\_\_\_ Storage cylinder \_\_\_\_\_  
 Manufacturer: \_\_\_\_\_ Part No: \_\_\_\_\_  
 Amount of agent \_\_\_\_\_

**EQUIPMENT INFORMATION**

Initiating Devices	City	Item	Manufacturer	Part No	Temperature
Fusible Links					
Sprinkler Heads					
Heat Detectors					
Smoke Detectors					
Other Fire Detectors					
Manual Pull Stations					
Nozzles	City			Part No	
Interlock		Item	Manufacturer	Part No	
		Fan or A/C Shutdown			
		Gas line Shut-off			
		Electric Shut-off			

Use the back of the form, or additional paper, to sketch the piping configuration and device location

**TESTING**

Method system was tested: \_\_\_\_\_

I certify that this fixed fire extinguishing system has been tested and complies with the requirements of Article 5.43-1 of the Texas Insurance Code, as amended, and the fire extinguisher rules and adopted NFPA Standards.

Signature of Licensee & License Number \_\_\_\_\_  
 Completion Date \_\_\_\_\_

Reproduce Form & Distribute  
 Original to Protected Premise  
 Copy 1 to Installing Contractor  
 Copy 2 Authority having Jurisdiction  
 Copy 3 State Fire Marshal's Office  
 Form # FML 010 April 1994

Kitchen Hoods & Appliance System				Other Type Hazards			
Height	Length	Width	Is hazard normally occupied?	Yes	No	Length	Width
Overall Hood	ft x	ft x	ft				
Plenum	ft x	ft x	ft				
Exhaust duct perimeter	in			Total Volume or Total Area			
Qty	Gas or	Elect	Length	Height	Length	Width	sqft
Deep Fat Fryer				ft x	ft x	ft x	ft
Range				ft x	ft x	ft x	ft
Griddle				ft x	ft x	ft x	ft
Char Broiler				Area sealed to prevent agent loss?			
Radiant Broiler				Yes	No		N/A
Upright Broiler				Number of room air changes per minute?			
							N/A
				Warning & instruction signs posted?			
				Yes	No		N/A

This system was installed in accordance with the following codes:

NFPA \_\_\_\_\_ Year \_\_\_\_\_  
 NFPA \_\_\_\_\_ Year \_\_\_\_\_  
 \_\_\_\_\_ Year \_\_\_\_\_

Figure 2; 37 TAC 541.20(f)

DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL

16	1	NAME AND ADDRESS OF FIRM
17	2	
18	3	
19	4	
20	5	
21	6	
22	7	
23	8	
24	9	
25	10	
26	11	
27	12	
28	13	
29	14	
30/31	15	

CERTIFICATE OF  
REGISTRATION NUMBER

SIGNATURE OF  
SERVICE PERSON

NAME AND  
ADDRESS OF  
OWNER OR OCCUPANT

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	1998
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006

EMERGENCY IMPAIRMENTS:

Figure 1: 37 TAC 541.18(g)

DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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22
23
24
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26
27
28
29
30/31

NAME AND ADDRESS OF FIRM

---

CERTIFICATE OF REGISTRATION NUMBER

---

RME'S NAME

---

RME'S LICENSE NO.

---

SIGNATURE

---

TYPE OF WORK

INSTALLATION

SERVICE

ADDITION

DEC
NOV
OCT
SEP
AUG
JUL
JUN
MAY
APR
MAR
FEB
JAN

1998  
1997  
1996  
1995  
1994

NAME AND ADDRESS OF OWNER OR OCCUPANT:

SERVICE PERFORMED:



# OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## Texas Department of Agriculture

Friday, September 9, 1994, 10:00 a.m.

Freestone County Courthouse, 118 East Commerce Street, Room 203

Fairfield

### AGENDA

Public hearing on the proposed amendments to 4 Texas Administrative Code §5.62 and §5.63, concerning the removal of Freestone County from the Sweet Potato Weevil Quarantine as a weevil-free county in Texas, as published in the August 16, 1994, issue of the *Texas Register* (19 TexReg 6409).

Contact: David Davis, P.O. Box 12847, Austin, Texas 78711, (512) 463-0709

Filed: August 31, 1994, 11:53 a.m.

TRD-9447419

## The State Bar of Texas

Thursday-Friday, September 8-9, 1994, 10:00 a.m. and 8:30 a.m. respectively.

The Texas Law Center, Room 206/7

Austin

The Commission for Lawyer Discipline

### AGENDA

Call to order/introductions/swearing in of new members/review and discuss prior meetings, Peer Review Program, statistical

reports, commission's compliance with provisions of the State Bar Act, Orders of the Supreme Court and the Texas Rules of Disciplinary Procedure; budget and operations of the General Counsel's office, grievance committees, Special Counsel Program; budget and duties of the Commission; mediation of disciplinary matters; settlement authority in collection of attorneys fees and expenses; individual litigation dockets/executive session: discuss pending litigation and cases before evidentiary panels; special counsel assignments, personnel matters/public session: discuss and take appropriate action on matters discussed in closed executive session/discuss future meetings/other matters as may be appropriate/public comment/adjourn

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78701, 1-(800) 204-2222.

Filed: August 31, 1994, 4:47 p.m.

TRD-9447471

## Council on Competitive Government

Wednesday, September 7, 1994, 10:00 a.m.

Capitol Extension, Room E2 026

Austin

### AGENDA:

1) Approval of minutes of June 15, 1994 meeting, 2) Consideration of authorizing the award and contract execution for operation

of the Department of Information Resources' Data Center, 3) Consideration of having staff review state operated Geographic Information Systems (GIS) for possible outsourcing and/or consolidations; Briefing Items: 4) Update on staff's review of state operated Data Centers; 5) Update on the Council's study of the Capitol Complex Telephone System (CCTS), which is currently operated and maintained by the General Services Commission; 6) Update on progress made regarding paper disposal operations of the State Library and Archives Commission; 7) Vehicle fleet management update (San Antonio and El Paso); 8) Laundry services update; 9) Public comment; 10) Set date and time for next meeting.

Contact: John Poulard, 1711 San Jacinto, Austin, Texas 78735, (512) 463-3446.

Filed: August 30, 1994, 2:22 p.m.

TRD-9447350

## Texas Department of Criminal Justice (CJAD)

Thursday, September 8, 1994, 1:00 p.m.

8100 Cameron Road, Building B, Conference Rooms A and B

Austin

Judicial Advisory Council-Audits Operations and Training

### AGENDA:

Review of standards to be presented to the Texas Board of Criminal Justice; discuss

sion. Joint Committee on Community Justice Development recommendations; and miscellaneous business

Contact: Elizabeth Colvin, 209 West 14th, Suite 400, Austin, Texas 78701, (512) 305-8584

Filed: August 31, 1994, 11:10 a.m.

TRD-9447410

Thursday, September 8, 1994, 2:15 p.m.

8100 Cameron Road, Building B, Conference Rooms A and B

Austin

Judicial Advisory Council Funding and Fiscal Management

AGENDA.

Discussion fiscal year 1995 independent fiscal audit guidelines; discussion fiscal year 1995 Adjusted Diversion Target Programs grants, and miscellaneous business

Contact: Elizabeth Colvin, 209 West 14th, Suite 400, Austin, Texas 78701, (512) 305-8584

Filed: August 31, 1994, 11:10 a.m.

TRD-9447409

Thursday, September 8, 1994, 3:30 p.m.

8100 Cameron Road, Building B, Conference Rooms A and B

Austin

Judicial Advisory Council—Legislative and Budget Committee

AGENDA

Review of fiscal year 1995 amended budget, discussion fiscal year 1996-1997 community, corrections budget request, review of proposed legislative changes, and miscellaneous business

Contact: Elizabeth Colvin, 209 West 14th, Suite 400, Austin, Texas 78701, (512) 305-8584

Filed: August 31, 1994, 11:10 a.m.

TRD-9447408

Friday, September 9, 1994, 9:00 a.m.

8100 Cameron Road

Austin

Judicial Advisory Council

AGENDA

Greeting, introduction of guest/staff, approval of minutes, PAC report, committee reports Audits/Operations and Training, Funding and Fiscal Management and Legislative and Budget Committee, Joint Committee on Community Justice Development, division director's report, miscellaneous business, next meeting, and adjournment

Contact: Elizabeth Colvin, 209 West 14th, Suite 400, Austin, Texas 78701, (512) 305-8584

Filed: August 31, 1994, 11:10 a.m.

TRD-9447407

## Texas Education Agency

Thursday, September 8, 1994, 8:30 a.m.

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

Austin

State Board of Education (SBOE) Ad Hoc Committee on Communications

AGENDA

Discussion of State Board of Education policy initiatives presentation at Texas Association of School Boards/Texas Association of School Administrators Joint Conference; discussion and review of issues pertaining to the Hero for Children Award, Celebrations of Excellence, and the National Association of State Boards of Education Conference

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447450

Thursday, September 8, 1994, 9:30 a.m.

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

Austin

State Board of Education (SBOE) Ad Hoc Committee on Legislation

AGENDA.

The committee will discuss legislative recommendations for the 74th Texas Legislature—this discussion will provide an opportunity to discuss board themes around which specific legislative recommendations can be developed

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447451

Thursday, September 8, 1994, 10:30 a.m.

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

Austin

State Board of Education (SBOE) Committee of the Whole

AGENDA

Public testimony, Commissioner's overview of the September 1994 SBOE meeting, approval of the Application for Funding and the creation of a state panel for the Goals

2000: Educate America Act; report on Clarification of the Texas Essential Elements of Instruction; options for the assessment of social studies and science at the elementary school level; discussion of the eligible types of writing for the Texas Assessment of Academic Skills (TAAS) Program; setting standards on the Texas Assessment of Academic Skills (TAAS) Tests for Social Studies and Science at Grade Eight, and on the Algebra I and Biology I end-of-course examinations and approval of the Algebra I examination to fulfill the exit level mathematics assessment requirement. To the extent necessary, the discussion of individual assessment instruments and assessment instrument items is confidential and not open to the public, and the discussion will be held in executive session in accordance with the Texas Education Code, §35.030; 1994 accountability ratings; possible new regional service center assignment of a school district; membership of advisory committees; and discussion of pending litigation. The discussion of pending litigation will be held in Room 1-103 in executive session in accordance with §551.071(1)(A), Texas Government Code, and will include a discussion of (1) Edgewood ISD et al v. Meno and related school finance litigation, (2) Angel G. et al v. Meno, et al, (3) TEA et al v. Gary W. Leeper et ux, et al, relating to home schooling; and (4) potential litigation against the federal government regarding illegal immigrants.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447452

Thursday, September 8, 1994, 1:30 p.m.

Room 1-111, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Personnel

AGENDA:

Public testimony; adoption of frameworks, tests, and passing standards for the Examination for the Certification of Educators in Texas (ExCET); request for reapproval from the Fort Worth Independent School District Alternative Certification Program for Teachers, request for reapproval from the Houston Independent School District Alternative Certification Program for Teachers; initial approval request from San Felipe Del Rio Consolidated Independent School District for an Alternative Certification Program for Teachers; recommendation for trustee appointment to the Lackland Independent School District, program approval requests from educator preparation entities; request for reapproval from

Schreiner College Alternative Certification Program for Teachers; discussion of the Educator Excellence Indicator System (EEIS); discussion of proposed amendment to 19 TAC §137.436, Schedule of Fees for Certification Services; and status report on the accreditation of school districts.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447453

Thursday, September 8, 1994, 1:30 p.m.

Room 1-100, William B. Travis Building, 1701 North Congress Avenue

Austin

State Board of Education (SBOE) Committee on Students

AGENDA:

Public testimony; report on Performance Task Field Trial; proposed amendments to 19 TAC §89.331, State Parent Advisory Council for Migrant Education; proposed amendments to 19 TAC §75.62, Other Languages; Proclamation 1994 of the State Board of Education Advertising for Bids on Instructional Materials; and discussion of proposed system for determining textbook purchase priorities under a six-year budget.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447454

Thursday, September 8, 1994, 1:30 p.m.

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

Austin

State Board of Education (SBOE) Committee on School Finance

AGENDA:

Public testimony; proposed repeal and adoption of new 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials; six-year estimated budget projection and projected expenditure for fiscal years 1996 and 1997; Proclamation 1994 of the State Board of Education Advertising for Bids on Instructional Materials; review of the annual administrative and program strategic budget for 1994-1995 fiscal year and legislative appropriation request for 1995-1996 and 1996-1997; school finance update; proposed amendment to 19 TAC §175.128, Application Fees and Other Charges; proposed amendments to 19 TAC §176.11, Definitions and 19 TAC §176.18, Driver Training Instructor License; petition for adoption of a rule change to recognize service in a proprietary school for increment

purposes; request for authorization to apply for federal Fulbright-Hays group projects abroad for foreign language educators; per capita apportionment for the 1994-1995 school year; and update on the Texas Council on Workforce and Economic Competitiveness.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447455

Thursday, September 8, 1994, 7:00 p.m.

Longhorn Room, Guest Quarters Hotel, 303 West 15th Street

Austin

State Board of Education (SBOE)

AGENDA:

Dinner meeting to review the proceedings of the September State Board of Education meetings.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447449

Friday, September 9, 1994, 8:30 a.m.

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

Austin

State Board of Education (SBOE) Committee on Long-Range Planning

AGENDA:

Public testimony; expert speaker—issues related to total quality management in education; School Safety and Violence Prevention Policy Initiative; counselors in Texas public schools; "Smart Talk: Supporting Learning, Working, and Cultural Understanding in a Multilingual, Global Community;" and discussion of federal governmental relations activities.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447456

Friday, September 9, 1994, 8:30 a.m.

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

Austin

State Board of Education (SBOE) Committee on the Permanent School Fund

Public testimony; adoption of long-term asset allocation and strategic plan and ancillary recommendations for the Permanent

School Fund; recommended Permanent School Fund Investment Program for September and the funds available for the program; review of Permanent School Fund securities transactions and the investment portfolio; and report of the Permanent School Fund executive administrator.

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

Filed: August 31, 1994, 3:22 p.m.

TRD-9447457

Friday, September 9, 1994, 1:00 p.m.

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

Austin

State Board of Education (SBOE)

AGENDA:

Approval of minutes, July 8, 1994 SBOE meeting; public testimony; SBOE resolutions; approval of consent agenda; approval of the application for funding and the creation of a state panel for the Goals 2000: Educate America Act; options for the assessment of social studies and science at the elementary school level; setting standards on the Texas Assessment of Academic Skills (TAAS) tests for social studies and science at Grade Eight, and on the Algebra I and Biology I end-of-course examinations and approval of the Algebra I examination to fulfill the exit level mathematics assessment requirement. To the extent necessary, the discussion of individual assessment instruments and assessment instrument items is confidential and not open to the public, and the discussion will be held in executive session in accordance with the Texas Education Code, §35.030; possible new regional service center assignment of a school district; membership of advisory committees; adoption of frameworks, tests, and passing standards for the Examination for the Certification of Educators in Texas (ExCET); report of the visiting team for reapproval from the Fort Worth independent school district alternative certification program for teachers; request for reapproval from the Houston independent school district alternative certification program for teachers; initial approval request from the San Felipe Del Rio consolidated independent school district for an alternative certification program for teachers; 19 TAC Chapter 67, State Adoption and Distribution of Instructional Materials; six-year estimated budget projection and projected expenditure for fiscal year 1996 and 1997; review of the annual administrative and program strategic budget for 1994-1995 fiscal year and legislative appropriation request for 1995-1996 and 1996-1997; 19 TAC §175.128, Application Fees and Other Charges; 19 TAC §176.11, Definitions and 19 TAC §176.18,

Driver Training Instructor License; petition for adoption of a rule change to recognize service in a proprietary school for increment purposes; request for authorization to apply for federal Fulbright-Hays Group Projects Abroad for Foreign Language Educators; per capita apportionment for the 1994-1995 school year; school safety and violence prevention policy initiative; adoption of long-term asset allocation strategic plan and ancillary recommendations for the Permanent School Fund (PSF); recommended PSF investment program for September and the funds available for the program; information on agency administration.

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

Filed: August 31, 1994, 3:23 p.m.

TRD-9447458

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**Advisory Commission on  
State Emergency Commu-  
nications**

**Wednesday, September 7, 1994, 9:00 a.m.**

Stouffer Austin Hotel, Trinity B, 9721 Arboretum Boulevard

Austin

Poison Control Implementation Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports and discuss and take Commission action, as necessary, on: current status of Poison Control Program; Poison Control Program financial report; funding, telecommunications system implementation and related items. Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: August 30, 1994, 5:14 p.m.

TRD-9447382

**Wednesday, September 7, 1994, 10:30 a.m.**

Stouffer Austin Hotel, Sabine Room, 9721 Arboretum Boulevard

Austin

Addressing Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public com-

ment; hear reports and discuss and take committee action, as necessary, on: update on comments received on revisions to Rule 251.3, Guidelines for Addressing Projects (proposed deletion of Section E, Revision Procedures for Addressing Plan Amendments and Requests, of existing Rule 251.3); other proposed revisions to Rule 251.3, Guidelines for Addressing Projects; request for fiscal year 1995 funding for partnership between ACSEC and Tarrant County 9-1-1 District for mapped ALI; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701, (512) 305-6911.

Filed: August 30, 1994, 4:08 p.m.

TRD-9447364

**Wednesday, September 7, 1994, 1:00 p.m.**

Stouffer Austin Hotel, Trinity B Room, 9721 Arboretum Boulevard

Austin

Administration Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports and discuss and take Commission action, as necessary, on: State Auditor's report; executive performance review; financial report; budget revision; ACSEC reorganization; update mascot activities; regulatory updates; adoption of Rule 252.4; Central Texas Council of Governments' administrative budget for fiscal year 1995; Golden Crescent Council of Governments' administrative budget for fiscal year 1994; 1995 meeting calendar.

Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701, (512) 305-6911

Filed: August 30, 1994, 5:13 p.m.

TRD-9447380

**Wednesday, September 7, 1994, 3:00 p.m.**

Stouffer Austin Hotel, Sabine Room, 9721 Arboretum Boulevard

Austin

Planning and Implementation Committee Meeting

AGENDA:

Call to order and recognize guests, hear public comment, regulatory update, adop-

tion of Rule 251.6; strategic plans guidelines; amendments; surcharge request; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701, (512) 305-6911.

Filed: August 30, 1994, 5:14 p.m.

TRD-9447381

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

9721 Arboretum Boulevard, Stouffer Hotel, Trinity A & B Room

Austin

Commission

AGENDA:

The Commission will call the meeting to order and recognize guests; hear public comment; recess and convene in executive session pursuant to Government Code 551, Subchapter D, 551.071, Consultations with Attorney; reconvene and hear committee reports, and take Commission action, as necessary, on Executive Committee action on strategic plan implementation allocation and contracts, responsibility of the Poison Control Coordinating Committee, introduction of the Assistant Attorney General from General Counsel Division; Commission action on July meeting minutes, and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942, (512) 305-6911.

Filed: August 30, 1994, 5:13 p.m.

TRD-9447379

◆ ◆ ◆  
**State Employee Charitable  
Campaign**

**Wednesday, September 7, 1994, 4:00 p.m.**

815 Market

Galveston

Local Employee Committee-Galveston

AGENDA

I Welcome, minutes, share information on SECC, review schedule, materials reporting process

II Review and update of campaign

A Schedule

B Materials

III. Review of reporting process

IV. Schedule future meetings

Contact: Dr. Robert McCauley, 815 Market Street, Galveston, Texas 77550, (409) 770-6736, Fax: (409) 770-6736.

Filed: August 31, 1994, 8:25 a.m.

TRD-9447383

### Texas Employment Commission

Thursday, September 8, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; executive session to consider Dallas Paralegals vs. Texas Employment Commission and Natural Environments vs. Texas Employment Commission; actions, if any, resulting from executive session; consideration of proposed amendment to Rule 301.20; consideration of proposed amendment to Rule 301.21; consideration of proposed amendment to Rule 301.23; staff reports; internal procedures of Commission appeals; consideration and action on higher level appeals in unemployment compensation cases listed on Commission Docket 36; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: August 31, 1994, 4:11 p.m.

TRD-9447469

### Texas Energy Coordination Council

Thursday, September 8, 1994, 9:15 a.m.

Capital Extension, Room E2.014

Austin

AGENDA.

1. Approval of minutes for prior meeting.
2. Executive director's report.
3. TECC policy statement.
4. Finalize request for proposal
5. Possible projects and prioritization of proposed projects
6. Discussion on individuals to review RFP's
7. Discussion of items pertinent to TECC mission and goals.

Contact: Alan Sowards, 201 East 11th Street, Room 104, Austin, Texas 78701, (512) 463-1609

Filed: August 31, 1994, 4:08 p.m.

TRD-9447459

### Texas Commission on Fire Protection

Wednesday-Friday, September 14-16, 1994, 9:00 a.m.

12675 North Research

Austin

Fire Protection Personnel Advisory Committee

AGENDA:

Call to order. Approval of previous minutes. Overview of agenda. New matters from committee and public. Report of Testing Committee. Discussion/possible action on: possible rule change to 37 TAC Chapters 423, 425, 427, 431, 439, 449; standards for higher levels of certification for all disciplines; statistics for failure rates on basic certification examinations; proposal to limit frequency of rule changes relating to fire departments and fire protection personnel; rule recommendations for commission assistance in performing staffing studies in accordance with Government Code, §419.022(a) (4); public comments; future meeting dates, agenda items, and locations.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100.

Filed: August 31, 1994, 11:11 a.m.

TRD-9447414

Saturday-Sunday, September 17-18, 1994, 9:00 a.m.

12675 North Research

Austin

Volunteer Fire Fighter Advisory Committee

AGENDA:

Call to order. Discussion/approval of previous minutes. New matters from committee members and public for future meeting agendas.

Discussion/possible action on proposed new rules and rule changes pertaining to 37 TAC Chapters 471, 473, 475-479, 481, 483, 485, 487, and 489; suggestions for increasing communication with volunteer fire fighters about the Commission volunteer certification program; proposal to take curricula for volunteer fire fighters and fire inspection personnel out of the rule making process; and future meeting dates, times, and agenda items.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100

Filed: August 31, 1994, 11:11 a.m.

TRD-9447415

### Texas Funeral Service Commission

Wednesday, September 14, 1994, 9:00 a.m.

Howard Johnson North Plaza, 7800 North IH-35

Austin

Board Meeting

AGENDA:

9:00 a.m.-Meeting called to order

Public comment period; committee reports

Consideration of proposed adoption of rules; publication of proposed rules

Consideration of proposed changes to employee grievance and disciplinary policies

Presentation of proposed agreed orders

Presentation of proposals for decision in Case Numbers 94-49, 94-68, and 94-69

Consideration of cases to be closed and penalties to be assessed

Executive session

Executive director's report

Election of vice chair and secretary; adjourn

Contact: Wayne Goodrum, 8100 Cameron Road, #550, Austin, Texas 78753, (512) 834-9992.

Filed: August 31, 1994, 8:25 a.m.

TRD-9447384

Wednesday, September 14, 1994, 9:00 a.m.

Howard Johnson North Plaza, 7800 North IH-35

Austin

Revised Agenda

Board Meeting

AGENDA:

9:00 a.m.-Meeting called to order

Public comment period; committee reports

Consideration of proposed adoption of rules; publication of proposed rules

Consideration of proposed changes to employee grievance and disciplinary policies

Presentation of proposed agreed orders

Presentation of proposals for decision in Case Numbers 94-49, 94-68, and 94-69

Consideration of cases to be closed and penalties to be assessed

Executive session

Executive director's report

Election of vice chair and secretary; adjourn

Contact: Wayne Goodrum, 8100 Cameron Road, #550, Austin, Texas 78753, (512) 834-9992.

Filed: August 31, 1994, 2:19 p.m.

TRD-9447425

## General Land Office

Monday, September 12, 1994, 3:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room #831

Austin

Veterans Land Board

AGENDA:

42. Approval of the July 14, 1994, minutes of the VLB Board meeting.
43. Consideration to lease forfeited tracts.
44. Consideration to increase maximum amount of a land loan.
45. Consideration of all steps for issuance of state bonds to refund monies.
46. Consideration of all steps for issuance of bonds for Veteran Housing Assistance Program.
47. Consideration of designation of an amount to exceed 10,000,000 of an issue of State of Texas general obligation bonds for Vet Assistance Program.
48. Consideration of the selection of underwriter(s) for Housing Program transaction.
49. Consideration of a Request for Information for suggestions on obtaining additional funds to serve the unrestricted pool of veterans
50. Consideration of loan rates in the Housing Assistance Program.
51. Consideration of the issuance of taxable bonds to fund loans in amounts not to exceed \$40,000 in the Veterans Land Program
52. Consideration of all steps re issuance of bonds of Texas Veterans Taxable Land Bonds, Series 1994, in an amount not to exceed \$35,000,000.
53. Consideration of the selection of underwriter(s) for Land Program transaction.
54. Consideration of adopting rules for expanded land loan.
55. Consideration of a resolution authorizing return by the Board of excess monies received as interest on veterans' land sale contracts.

56. Consideration of amending the State of Texas Veterans Housing Assistance Bonds, Series 1984 Resolution to permit expanded investment authority.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: September 1, 1994, 8:52 a.m.

TRD-9447474

## Texas Department of Health

Thursday, September 8, 1994, 10:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

County Indigent Health Care Program (CIHCP) Advisory Committee

AGENDA:

The committee will discuss approval of the minutes from the March 24, 1994 meeting, and discuss and possibly act on: results of Senate Bill 383 requirements for review of advisory committees and status of advisory committee vacancies; election of chair and vice-chair; income producing property; indigent health care staffing report; CIHCP state assistance fund report; report on 1994 indigent health care workshops; subcommittee reports on legislative initiatives; and schedule of future meetings and suggested agenda items.

Contact: Jane Jaggard, 1100 West 49th Street, Austin, Texas 78756, (512) 338-6461. For ADA assistance, contact Richard Butler at (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 31, 1994, 2:20 p.m.

TRD-9447430

Friday-Saturday, September 9-10, 1994, 6:00 p.m. and 8:30 a.m. respectively.

Hawthorne Suites, 7900 Brookriver

Dallas

Medical Radiologic Technologist Advisory Board, Program Committee

AGENDA:

The committee will discuss and possibly act on: amendments to the rules relating to standards for the approval of curricula and instructors, 25 Texas Administrative Code §143.9; and determine the next meeting dates

The meeting will continue on Saturday, September 10, 1994 at 8:30 a.m., if necessary.

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512)

834-6617. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 31, 1994, 2:19 p.m.

TRD-9447428

Saturday, September 10, 1994, Noon.

Hawthorne Suites, 7900 Brookriver

Dallas

Medical Radiologic Technologist Advisory Board, Continuing Education Committee

AGENDA:

The committee will discuss and possibly act on: amendments to the rules relating to the continuing education requirements, 25 Texas Administrative Code §143.11; and determine the next meeting date.

Filed: August 31, 1994, 2:20 p.m.

TRD-9447429

## Statewide Health Coordinating Council

Thursday, September 8, 1994, 10:00 a.m.

Georgian Room, St. Anthony Hotel, 300 East Travis Street

San Antonio

Plan Development Committee

AGENDA:

The committee will discuss and possibly act on: the North America Free Trade Agreement; Health Effects for Texas; prescriptive authority for advanced nurse practitioners and physician assistants; health professionals recruitment in rural areas; and review draft State Health Plan.

Contact: Trish O'Day, 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: August 31, 1994, 2:20 p.m.

TRD-9447432

Thursday, September 8, 1994, 6:00 p.m.

Room 309-310L, University of Texas Health Science Center, 7703 Floyd Curl Drive

San Antonio

Public Meeting

AGENDA:

The council will hear and possibly act on public comments regarding issues to be addressed in the update to the 1993-1994 Texas State Health Plan.

Contact: Trish O'Day, 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: August 31, 1994, 2:20 p.m.

TRD-9447431

Friday, September 9, 1994, 8:30 a.m.

Room 1.208, Nursing School, University of Texas Health Science Center, 7703 Floyd Curl Drive

San Antonio

Plan Development Committee

AGENDA:

The committee will discuss and possibly act on: physician incentives in underserved areas; and review draft State Health Plan

Contact: Trish O'Day, 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: August 31, 1994, 2.20 p.m.

TRD-9447433

Friday, September 9, 1994, 2:30 p.m.

Room 1.208, Nursing School, University of Texas Health Science Center, 7703 Floyd Curl Drive

San Antonio

Legislative Committee

AGENDA:

The committee will discuss and possibly act on council goals for 1995 Texas Legislative Session

Contact: Trish O'Day, 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: August 31, 1994, 2.20 p.m.

TRD-9447434

Friday, September 9, 1994, 3:30 p.m.

Room 1.208, Nursing School, University of Texas Health Science Center, 7703 Floyd Curl Drive

San Antonio

AGENDA:

The committee will discuss and possibly act on minutes of the July 20, 1994 meeting; committee reports from the August 9-10, 1994 meetings; draft State Health Plan; and next meetings dates and agenda planning.

Contact: Trish O'Day, 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: August 31, 1994, 2:20 p.m.

TRD-9447435

### Texas High-Speed Rail Authority

Thursday, September 8, 1994, 9:30 a.m.

Public Listening Area: Reception Area, Suite 1502, 823 Congress Avenue

Austin

Standing Budget Committee Teleconference Public Meeting

AGENDA:

Call to order, consideration of fiscal year 1995 operating budget; consideration of adoption of recommended annual operating budget for action by Board of Directors, under provisions of §1.42 of the Budgeting and Funds Management chapter of the proposed operations manual; and adjourn

Contact: Allan Rutter, 823 Congress Avenue, #1502, Austin, Texas 78701, (512) 478-5484

Filed: August 31, 1994, 4:08 p.m.

TRD-9447461

Thursday, September 8, 1994, 10:00 a.m.

Public Listening Area Reception Area, Suite 1502, 823 Congress Avenue

Austin

Board of Directors Teleconference Public Meeting

AGENDA

Call to order; authority operations, consideration of Standing Budget Committee recommendation for fiscal year 1995 operating budget; and adjourn.

Contact: Allan Rutter, 823 Congress Avenue, #1502, Austin, Texas 78701, (512) 478-5484.

Filed: August 31, 1994, 4:08 p.m.

TRD-9447460

### Texas House of Representatives

Wednesday, September 7, 1994, 1:30 p.m.

Capitol Extension, Room E2 028

Austin

Committee on Natural Resources, Subcommittee on Mitigation of Property Rights

AGENDA:

I. Welcome and introduction

II. Review of interim charges

III. Discussion of testimony from public hearings

IV. Discussion of interim report

V. Closing statements and comments

VI. Adjourn

There will not be an opportunity for public testimony at this hearing.

Contact: John Hoffman, P.O. Box 2910, Austin, Texas 78768, (512) 463-0644

Filed: August 30, 1994, 11.20 a.m.

TRD-9447333

### Texas Department of Human Services

Friday, September 9, 1994, 9:00 a.m.

9101 Burnet Road, Suite #216

Austin

Family Violence Advisory Committee

AGENDA

According to the complete agenda, the Family Violence Advisory Committee will be called to order, make introductions, review the minutes from the June meeting, make announcements or explanations of absences and scheduling of agenda items, discuss new business, discuss election of officers for fiscal year 1995, discuss old business, review committee goals and evaluation of work plan, hear reports from DHS staff, hear report on the family violence contract unit, hear a report on DHS Board responses to advisory committee recommendations, hear a report on the Texas Council on Family Violence, and adjourn

Contact: Connie Berry, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4151

Filed: August 30, 1994, 1.18 p.m.

TRD-9447335

### Texas State Library and Archives Commission

Wednesday, September 21, 1994, 1:00 p.m.

210 North Main Street, Boerne Public Library Board Room

Boerne

AGENDA:

1. Approve minutes of July 20-21, 1994 Commission meeting.

2. Consider reports of internal audits on Accounting and State Archives and approval of internal audit plan for fiscal year 1995.

3 Consider adoption of Micrographics Services fee schedule fiscal year 1995.

4 Consider adoption of state records retention schedules and scheduling process.

5. Consider adoption of local records retention schedules for public health and safety agencies, public utilities, county clerks and district clerks to replace the Country Records Manual

6 Consider draft proposal to seek foundation funding for automation of public libraries

7 Committee reports

Contact: William D Gooch, Box 12927, Austin, Texas 78711-2927, (512) 463-5460.

Filed: August 31, 1994, 8 25 a.m.

TRD-9447385

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**State Medical Education Board**

Saturday, September 17, 1994, 2:30 p.m.

Chevy Chase Office Complex, Building Four, Room 4100, 7715 Chevy Chase Drive

Austin

Board Meeting

AGENDA

Review of February 26, 1994 minutes; signing certificates of completion; review of accounts needing Board attention, and other business

Contact: Mack Adams, P O Box 12788, Austin, Texas 78711, (512) 483-6340

Filed: August 31, 1994, 8.57 a.m.

TRD-9447387

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**Texas Mental Health and Mental Retardation Board**

Thursday, September 8, 1994, 8:30 a.m.

Doubletree at Post Oak, 2001 Post Oak Boulevard

Houston

Audit Committee

AGENDA

1 Citizens comments

2 Audit activity update

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: August 30, 1994, 1:24 p.m.

TRD-9447344

Thursday, September 8, 1994, 9:30 a.m.

Doubletree at Post Oak, 2001 Post Oak Boulevard

Houston

Human Resources Committee

AGENDA:

1. Citizens comments

2. Human resources update

3. Consideration of approval of a superintendent for Terrell State Hospital

4. Consideration of approval of a director for Laredo State Center

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 12688, Austin, Texas 78711, (512) 206-4506

Filed: August 30, 1994, 1:24 p.m.

TRD-9447345

Thursday, September 8, 1994, 10:30 a.m.

Doubletree at Post Oak, 2001 Post Oak Boulevard

Houston

Business and Asset Management Committee

AGENDA

1 Citizens comments

2 Discussion regarding workers compensation

3 Update regarding historically underutilized businesses

4. Update regarding the fiscal year 1996-1997 legislative appropriations request

5 Consideration of approval of fiscal year 1995 operating budget adjustments

6 Consideration of approval of the central kitchen renovations in Building 525 of the San Antonio State Hospital

7. Status report regarding the proposed purchase of the Texas Research Institute of Mental Sciences by the University of Texas Health Sciences Center

8 Consideration of a recommendation from the Travis State School Alternative Use Committee

9 Consideration of a sublease on surplus property at Central Park

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: August 30, 1994, 1:24 p.m.

TRD-9447343

Thursday, September 8, 1994, 1:30 p.m.

Doubletree at Post Oak, 2001 Post Oak Boulevard

Houston

Planning and Policy Development Committee

AGENDA.

1. Citizens comments

2 Legislative update

3 Update to the board regarding Community Services Steering Committee

4. State school closure update

5 Medicaid briefing

Additional items to be considered per attached agenda.

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: August 30, 1994, 1:24 p.m.

TRD-9447346

Friday, September 9, 1994, 8:30 a.m.

Doubletree at Post Oak, 2001 Post Oak Boulevard

Houston

Texas Mental Health and Mental Retardation Board

AGENDA.

I Call to order-roll call

II Presentation of the 1994 STAR Awards

III Citizens comments

IV Approval of minutes of July 28, 1994 meeting

V. Issues to be considered per attached agenda

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: August 30, 1994, 1.24 p.m.

TRD-9447342



## Texas Natural Resource Conservation Commission

Wednesday, September 7, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

### AGENDA:

Addendum to uncontested agenda, settled hearing on City of Brackettville.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3317.

Filed: August 30, 1994, 5:13 p.m.

TRD-9447377

Wednesday, September 7, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

### AGENDA:

Addendum to contested agenda, executive session to discuss appointment of the Executive Director and Assistant Executive Director as well as Acting Chief Hearings Examiner

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3317.

Filed: August 30, 1994, 3:21 p.m.

TRD-9447356

Monday, September 12, 1994, 4:30 p.m.

6300 Ocean Drive, Texas A&M University Corpus Christi, Conrad Blucher Institute

Corpus Christi

Citizens Advisory Committee of the Corpus Christi Bay National Estuary Program

### AGENDA

I. Call to order/introduction/minutes

II Program update

III Discussion and approval of public participation strategy

IV. Discussion and approval of Bay guidebook outline

V Discussion and approval of newsletter elements and selection of newsletter title

VI Discussion of media tour

VII. Update on public workshops

VIII. Additional items/adjourn

Contact: Richard Volk, TAMU-CC, Campus Box 290, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: August 30, 1994, 3:56 p.m.

TRD-9447361

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## Board of Nurse Examiners

Monday, September 12, 1994, 3:00 p.m.

Pier 21, Harbor House, Stevedore Room Galveston

Strategic Planning Committee

### AGENDA:

Call to order

Roll call

Minutes of March 7 and May 9, 1994 meetings

1. Old business

1.1. Review strategic plan for the 1995-99 period

1.2. Review report of status of FY 94 action

2. New business

2.1. Discuss strategic plan format

2.2. Discuss report to full board on September 13, 1994

Adjourn

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: August 30, 1994, 11:20 a.m.

TRD-9447331

Tuesday-Wednesday, September 13-14, 1994, 8:00 a.m.

Pier 21, 2100 Water Street North

Galveston

Revised Agenda

### AGENDA:

The Board of Nurse Examiners will consider an additional 17 agreed orders, consider informal proceedings and meet in executive session pursuant to Government Code, §551.074.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: August 30, 1994, 5:13 p.m.

TRD-9447378

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## Texas Department of Protective and Regulatory Services

Friday, September 9, 1994, 9:00 a.m.

701 West 51st Street, Southwest Section and Main Section of Public Hearing Room

Austin

Texas Board of Protective and Regulatory Services

### AGENDA:

The Texas Board of Protective and Regulatory Services will conduct a work session at 9:00 a.m. to discuss: issues related to mini-

mum standards for licensed day-care centers and companion rules for investigations in facilities of MHMR. The board will then meet in closed executive session to conduct the annual performance evaluation of the executive director. The board will convene in open session to take action, if necessary, resulting from discussion in the executive session. The board will move to the main public hearing room at 1:00 p.m. to approve the minutes of July 29, 1994, meeting; hear public testimony (To testify, individuals must complete a registration form no later than 12:45 p.m. Testimony on issues not on agenda will be heard during Item Number Four. Testimony on agenda items will be heard when item is considered. Testimony will be limited to 40 minutes per item—20 minutes in support and 20 minutes against item, three minutes per individual.); hear chair's comments and announcements; hear comments and announcements from the board; hear the executive director's report; consider and approve minimum standards for licensed day care centers, and legislative initiatives; consider and select members to the Advisory Committee on Child-Care Administrators and Facilities, hear an update on methodology for reimbursement rates for 24-hour child-care facilities; consider and approve draft revisions to §2000 of the CPS handbook; hear an overview of the services to runaway and at-risk youth program; consider and approve procedural guidelines for conducting public testimony at board meetings of PRS; and adjourn.

Contact: Michael Gee, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 450-3645

Filed: August 31, 1994, 11:11 a.m.

TRD-9447416

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## Texas State Board of Examiners of Psychologists

Wednesday-Friday, September 21-23, 1994, 8:30 a.m.

9101 Burnet Road, Suite 212

Austin

### AGENDA

The Board will meet to consider public comments; comments from Jennifer Gulchrist with the Governor's Office; comments from a representative with the Office of the Attorney General; minutes, legislative/legal matters; policies and procedures; reports from the chair, the executive director, the Psychological Associate Advisory Committee, the Opinion and Tone Committee, the Written Examinations Committee, the Oral Examination Committee, the Personnel Committee, the Search Committee, the Newsletter Committee, the NAFTA Committee, the Continuing Education Com-

mittee, the Reciprocity Committee, the Public Information Committee, the Complaint and Enforcement Committee, the Rules Committee, and the Applications Committee; and planning for the next Board meeting. The Board will also consider proposed Agreed Board Orders for approval, dismissals of allegations for ratification, proposed rules, adopted rules, and a Proposal for Decision. The Board will also hold executive sessions to seek legal advice and to discuss personnel and hold interview with applicants for the positions of executive director and attorney.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036

Filed: August 31, 1994, 5:35 p.m.

TRD-9447472

### Public Utility Commission of Texas

Monday, September 12, 1994, 10:00 a.m. (Rescheduled from September 15, 1994.)

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA

A hearing on the merits has been rescheduled to the above date and time 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: August 30, 1994, 3:39 p.m.

TRD-9447359

Thursday, September 15, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA

A prehearing conference is scheduled in Docket Number 13369: application of West Texas Utilities Company for authority to change rates and a request for good cause exceptions.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: August 31, 1994, 4:09 p.m.

TRD-9447468

### Texas State Board of Social Worker Examiners

Friday, September 9, 1994, 8:30 a.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Revised Agenda

Compliance/Complaints Committee

AGENDA

The committee will meet to discuss and possibly act on orders relating to T. P. and W. G.

The Compliance/Complaints Committee will also be meeting on Saturday, September 10, 1994 at 1:00 p.m. as originally filed in the August 23, 1994 issue of the *Texas Register* (19 TexReg 6668).

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. 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: August 31, 1994, 2:19 p.m.

TRD-9447426

Friday-Saturday, September 9-10, 1994, 9:00 a.m., (Rescheduled from September 10, 1994, Noon.)

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Revised Agenda

AGENDA

The board will meet to discuss and possibly act on orders relating to T. P. and W. G.

In addition to the added agenda item above, the time for the Board's meeting Saturday, September 10, 1994 was originally filed to begin at Noon. The meeting will begin at 9:00 a.m. The original meeting notice was in the August 23, 1994, issue of the *Texas Register* (19 TexReg 6668)

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. 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: August 31, 1994, 2:19 p.m.

TRD-9447427

### Texas Sustainable Energy Development Council

Friday, September 9, 1994, 8:00 a.m.

1000 Red River, Teacher Retirement System Cafeteria

Austin

AGENDA:

- I. Call to order
- II. Discuss administrative matters
- III. Discuss strategic planning
- IV. Adjourn

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: August 31, 1994, 11:11 a.m.

TRD-9447413

Friday, September 16, 1994, 8:00 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 513 F

Austin

AGENDA:

- I. Call to order
- II. Discuss administrative matters
- III. Discuss strategic planning
- IV Adjourn

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: August 31, 1994, 11:11 a.m.

TRD-9447411

Friday, September 22, 1994, 8:00 a.m.

1000 Red River, Teacher Retirement System Cafeteria

Austin

AGENDA:

- I. Call to order
- II. Discuss administrative matters
- III. Discuss strategic planning
- IV Adjourn

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 850, Austin, Texas 78701, (512) 463-1745.

Filed: August 31, 1994, 11:11 a.m.

TRD-9447412

### Teacher Retirement System of Texas

Thursday, September 8, 1994, 8:30 a.m.

1000 Red River, Room 514E

Austin

Audit Committee

AGENDA

1. Approval of minutes of June 9, 1994, meeting

2. Review of real estate related audits:

- a. TRST Houston, Inc./special project
  - b. TRST Atlanta, Inc.
  - c. TRST Congress, Inc. construction
3. Operational audits/special projects:

- a. Human resources
  - b. Annuity payroll
  - c. Annuity payroll death match
4. EDP audits:

a. General ledger accounting system/uni-form statewide accounting system

5. Other internal audit activity

- a. Quarterly report
- b. Internal audit plan for fiscal year 1994/1995
- c. Annual performance evaluation of the director of Internal Audit

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400

Filed: August 31, 1994, 4:09 p.m

TRD-9447465

Thursday, September 8, 1994, 8:30 a.m.

1000 Red River, Room 514E

Austin

Board of Trustees Ethics Policy Committee

AGENDA

Approval of minutes of August 10, 1994, and August 31, 1994, meetings, review and consideration of recommended modifications to TRS Ethics Policy; review and consideration of Standardized Ethics Policy Reporting and Disclosure Forms; consideration of recommendation for designation of key employees, review and consideration of standards of conduct for advisors and consultants; discussion and consideration of recommendation to create an Ethics Committee of the Board of Trustees; consideration of rule requiring contractors to file reports detailing expenditures on behalf of trustees or employees.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: August 31, 1994, 4:09 p.m.

TRD-9447463

Thursday, September 8, 1994, Noon

1000 Red River, Room 420

Austin

Board of Trustees Nominations Committee

AGENDA:

Approval of minutes of June 9, 1994, meeting; consideration of nomination for Chairman of the Board of Trustees; consideration

of nomination for Vice Chairman of the Board of Trustees; discussion of process for selecting nominees for Medical Board; discussion of process for selecting candidates for investment advisors; discussion of process for selecting candidates for real estate consultants.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: August 31, 1994, 4:09 p.m.

TRD-9447464

Thursday, September 8, 1994, 1:30 p.m.

1000 Red River, Fifth Floor Board Room

Austin

Board of Trustees Investment Committee

AGENDA:

Consideration of operating guidelines for Investment Committee; consideration of changes to investment policy; review of investment outlook and market conditions; analytical review of equity portfolios and related criteria, review of investments; consideration of changes to approved common stock lists; consideration of recommended allocation of cash flow for current quarter, discussion of selection of brokers; report and discussion of brokerage commission; report and discussion of portfolio turnover, review of portfolio performance, and review of real estate performance.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400

Filed: August 31, 1994, 4:09 p.m

TRD-9447462

Tuesday, September 13, 1994, Noon

1000 Red River, Room 420E

Austin

Medical Board

AGENDA:

Discussion of 1) the files of members who are currently applying for disability retirement and 2) the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400

Filed: August 31, 1994, 4:09 p.m

TRD-9444766

The Texas A&M University System, Board of Regents

Monday-Tuesday, September 5-6, 1994, 1:00 p.m. and 8:00 a.m., respectively

10110 U.S. Highway 281 North, Embassy Suites Hotel, Mesquite and Live Oak Rooms and Suite 908

San Antonio

Board of Regents

AGENDA:

Monday, 1:00 p.m. to 6:30 p.m. (Mesquite and Live Oak Rooms): Discussion of ethics policies, discussion of general Board policies and procedures.

Monday, 8:15 p.m. or immediately following dinner (Suite 908): Consider any and all things leading to the selection of the President of Prairie View A&M University including interviewing a candidate for the position.

Tuesday, 8:00 a.m. to 4:00 p.m. (Mesquite and Live Oak Rooms): Review strategic plans for the Texas A&M University System.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: August 30, 1994, 4:13 p.m

TRD-9447365

Texas Board of Veterinary Medical Examiners

Thursday, September 22, 1994, 2:30 p.m.

1946 South IH-35, Suite 306

Austin

September Examination Review Committee

AGENDA:

The committee will meet in open session and then go into executive session to review the September examination results. This executive session is held in accordance with Attorney General Opinion H-484, 1974 and HM-460, 1987.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183

Filed: September 1, 1994, 9:24 a.m

TRD-9447475

Board of Vocational Nurse Examiners

Monday-Tuesday, September 12-13, 1994, 8:00 a.m.

Courtyard Marriott, Conference Room, 5660 North IH-35

Austin

Board Meeting

AGENDA:

Monday, September 12, 1994, 8:00 a.m.: Call to order; introduction of new staff; approval of minutes; education report (program matters, program actions, meetings/conferences/seminars attended); unfin-

ished business (budget presentation, TPAPN, health professions council, school nurse update); executive director's report; new business (rule changes—§§231.1, 231.17, 231.20, 231.30, 231.32, 233.1, 233.26, 235.9, 235.17, 235.48, 237.19, 239.1, 239.11, 239.18, 239.19, 239.22, 239.24, 239.25, 239.33, 239.53, 239.55, 240, 11-240.13—proposed revision to board position statements, NCSBN delegate assembly)

Tuesday, September 13, 1994, 8:00 a.m.: Administrative hearings; new board members review, any unfinished business and adjournment

On call—executive session to discuss personnel changes/matters

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

Filed: August 30, 1994, 11:20 a.m.

TRD-9447332

## Texas Council on Workforce and Economic Competitiveness

Monday, September 12, 1994, 10:00 a.m.

Texas Higher Education Coordinating Board, 7745 Chevy Chase Drive, Building 1, Room 100

Austin

Executive Committee

### AGENDA

Welcome and introductions; public comment, action item, consolidation task force report and recommendations, and adjourn.

Notice. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 707-8222 (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) 707-8222

Filed: August 30, 1994, 3:21 p.m.

TRD-9447355

## Regional Meetings

Meetings Filed August 30, 1994

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number 1 Board of Directors will meet at 226 Highway 132, Natalia, September 6, 1994, at 8:00 a.m. Information may be ob-

tained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 665-2132. TRD-9447349.

The Brazos Valley Development Council Brazos Valley Regional Advisory Committee on Aging will meet at the Council Offices, 1706 East 29th Street, Bryan, September 6, 1994, at 2:30 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9447347.

The Central Texas Area Consortium (Revised Agenda.) Bluebonnet Health and Human Services met at the Great Southwest Restaurant, 1012 East Second Avenue, Belton, September 2, 1994, at Noon. Information may be obtained from Wynonah Wineman, P.O. Box 937, Belton, Texas 76513, (817) 933-8663. Fax: (817) 933-8665 TRD-9447316

The Sabine River Authority of Texas Toledo Bend Operating Board will meet at the Texas Damsite Office, Burkeville, September 9, 1994, at 10:30 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-2192. TRD-9447357

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, September 8, 1994, at 5:00 p.m. Information may be obtained from Mollie Parker, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9447351

## Meeting Filed August 31, 1994

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One (Revised Agenda.) Board of Directors will meet at 226 Highway 132, Natalia, September 6, 1994, at 8:00 a.m. Information may be obtained from J. W. Ward, P.O. Box 170, Natalia, Texas 78059, (210) 665-2132. TRD-9447436.

The Capital Area Planning Council General Assembly will meet at the Wyndham Southpark Hotel, IH 35 South at Ben White Boulevard, Austin, September 14, 1994, at 11:45 a.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, #100, Austin, Texas 78704, (512) 443-7553. TRD-9447424

The Coryell County Appraisal District Board of Directors will meet at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, September 6, 1994, at 6:00 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9447437.

The Dawson County Central Appraisal District Board of Directors will meet at

1806 Lubbock Highway, Lamesa, September 7, 1994, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9447418.

The Education Service Center, Region VII Board of Directors will meet at 2344 Old Longview Road, Henderson, September 8, 1994, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9447417

The Hays County Appraisal District Board of Directors will meet at 21001 North IH 35, Kyle, September 8, 1994, at 3:00 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH 35, Kyle, Texas 78640, (512) 268-2522. TRD-9447441

The Hays County Appraisal District Board of Directors will meet at 21001 North IH 35, Kyle, September 8, 1994, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH 35, Kyle, Texas 78640, (512) 268-2522. TRD-9447442

The San Patricio County Appraisal District Board of Directors will meet at 1146 East Market, Sinton, September 8, 1994, at 10:00 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9447467

The Tarrant Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, August 12-15, 19-22, 26-29, 1994, at 8:00 a.m. Information may be obtained from Landa Smith, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-884. TRD-9447422

## Meetings Filed September 1, 1994

The Brazos Valley Development Council (Revised Agenda.) Board of Directors will meet in the Council Conference Room, 1706 East 29th Street, Bryan, September 8, 1994, at 1:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9447476

The Dallas Central Appraisal District Board of Directors will meet in the Community Room, Second Floor, 2949 North Stemmons Freeway, Dallas, September 7, 1994, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons, Dallas, Texas 75247, (214) 631-0520. TRD-9447473

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Office of the Attorney General Natural Resource Damages Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of a lawsuit for natural resource damages and response costs regarding the Galveston Bay oil spill of July and August, 1990. The settlement document, entitled Joint Stipulation and Rule 54(b) Final Judgment, has been lodged with the United States District Court, subject to public notice and comment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of applicable law.

Case Title and Court: Golnoy Barge, et al. v. M/T Shinoussa, et al., Number H-90-2414, In the U.S. District Court for the Southern District of Texas, Houston Division.

Nature of Occurrence: Collision of vessels along the Houston Ship Channel in July 1990, resulting in the release of petroleum substance into the waters of Galveston Bay.

Proposed Judgment: The proposed judgment requires the vessel owners to pay \$1.7 million for natural resource damages, state response costs, and other associated costs. (The United States has already been reimbursed for \$1.8 million in federal response costs.)

For a complete description of the proposed settlement, the complete proposed judgment may be reviewed. Requests for copies of the judgment and written comments on the judgment should be directed to Ken Cross, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0052. To insure consideration, written comments must be received within 30 days of publication of this notice. Comments received also will be forwarded for consideration by the state and federal natural resource agencies represented in the lawsuit, namely the Texas Natural Resource Conservation Commission, the Texas Parks & Wildlife Department, the Texas General Land Office, the U.S. Department of the Interior, and the National Oceanic and Atmospheric Administration.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447354

Jerry Benedict  
Assistant Attorney General  
Office of the Attorney General

Filed: August 30, 1994

## Texas Commission for the Blind Correction of Error

The Texas Commission for the Blind submitted an open meeting notice, which was published in the September 2, 1994, issue of the *Texas Register* (19 TexReg 6924).

The notice listed an open meeting of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for Friday, September 9, 1994 at 9:00 a.m. The following error was made in printing:

Incorrect—"Each person will be allowed a minimum of five minutes to speak."

Correct—"Each person will be allowed a maximum of five minutes to speak."

## Texas Bond Review Board Bi-Weekly Report on the 1994 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of August 13-26, 1994.

Total amount of state ceiling remaining unreserved for the \$252,434,000 subceiling for qualified mortgage bonds under the Act as of August 26, 1994: \$0.

Total amount of state ceiling remaining unreserved for the \$157,771,250 subceiling for state-voted issues under the Act as of August 26, 1994: \$47,770,363.96.

Total amount of state ceiling remaining unreserved for the \$67,616,250 subceiling for qualified small issues under the Act as of August 26, 1994: \$24,116,250.

Total amount of state ceiling remaining unreserved for the \$45,077,500 subceiling for residential rental project issues under the Act as of August 26, 1994: \$0.

Total amount of state ceiling remaining unreserved for the \$378,651,000 subceiling for all other bonds requiring an allocation under the Act as of August 26, 1994: \$1,000.

Total amount of the \$901,550,000 state ceiling remaining unreserved as of August 26, 1994: \$71,887,613.96.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from August 13-26, 1994:

- 1) Portland HFC, Eligible Borrowers, MRBs/MCCs: \$1,289,333.
- 2) Central Texas HFC, Quattro Partners, Homestead Apartments: \$6,322,500.
- 3) Texas Department of Housing and Community Affairs, Eligible Borrowers, MRBs: \$84,144,667.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from August 13-26, 1994:

- 1) South Texas Higher Education Authority, Eligible Borrowers-Student Loans: \$23,650,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from August 13-26, 1994: None.

Following is a comprehensive listing of applications which released a portion or their reserved amount pursuant to the Act from August 13-26, 1994:

- 1) South Texas Higher Education Authority, Eligible Borrowers-Student Loans: \$1,000.

Issued in Austin, Texas, on August 29, 1994.

TRD-9447303      Albert L. Becarisse  
Executive Director  
Texas Bond Review Board

Filed: August 29, 1994



The information that follows is a report of the allocation activity for the period of July 30-August 12, 1994.

Total amount of state ceiling remaining unreserved for the \$252,434,000 subceiling for qualified mortgage bonds under the Act as of August 12, 1994: \$85,434,000.

Total amount of state ceiling remaining unreserved for the \$157,771,250 subceiling for state-voted issues under the Act as of August 12, 1994: \$47,770,363.96.

Total amount of state ceiling remaining unreserved for the \$67,616,250 subceiling for qualified small issues under the Act as of August 12, 1994: \$26, 116,250.

Total amount of state ceiling remaining unreserved for the \$45, 077,500 subceiling for residential rental project issues under the Act as of August 12, 1994: \$6,322,500.

Total amount of state ceiling remaining unreserved for the \$378,651,000 subceiling for all other bonds requiring an allocation under the Act as of August 12, 1994: \$0.

Total amount of the \$901,550,000 state ceiling remaining unreserved as of August 12, 1994: \$165, 643,113.96.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from July 30-August 12, 1994:

- 1) Mesquite IDC, Morrison Products, IDB: \$4,500,000.
- 2) San Antonio IDA, Gruna Corporation, IDB: \$6,750,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from July 30-August 12, 1994:

- 1) Brazos Higher Education Authority, Eligible Borrowers, Student Loans: \$50,000,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from July 30-August 12, 1994: None.

Following is a comprehensive listing of applications which released a portion or their reserved amount pursuant to the Act from July 30-August 12, 1994: None.

Issued in Austin, Texas, on August 15, 1994.

TRD-9447304      Albert L. Becarisse  
Executive Director  
Texas Bond Review Board

Filed: August 29, 1994



## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(3)</sup>/Agricultural/ Commercial <sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	09/05/94-09/11/94	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	09/01/94-09/30/94	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/94-12/31/94	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	10/01/94-12/31/94	18.00%	18.00%
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	10/01/94-12/31/94	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	10/01/94-12/31/94	18.00%	N.A.
Retail Credit Card Annual Rate - Art. 1.11(3)	10/01/94-12/31/94	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	09/01/94-09/30/94	10.00%	N.A.
		10.00%	10.00%

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on August 29, 1994.

TRD-9447386 Al Endsley  
Consumer Credit Commissioner

Filed: August 31, 1994

◆ ◆ ◆  
**Texas Education Agency**  
**Invitation for Bids for Large Type**  
**Textbooks for the Visually**  
**Handicapped**

The Texas Education Agency (TEA) invites bids for the large type reproduction of textbooks. All companies are required to submit a sample textbook that has been constructed within specifications. Specifications may be obtained from the Texas Education Agency, Division of Curriculum Development and Textbooks. The book to be enlarged will be designated in the specifications.

Bids should be submitted in two parts: 1) a cost per page basis, which should include the cost of enlarging the book and of page reproduction; and 2) a per volume binding cost.

Bids are to be filed with the Division of Curriculum Development and Textbooks on or before 4:00 p.m., September 30, 1994. Bids will be opened at approximately 4:01 p.m., September 30, 1994, in Room 3-110, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas.

Inquiries or requests for specifications for production of large type textbooks should be addressed to Charles E. Mayo or Deanna Marotz, Division of Curriculum Development and Textbooks, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

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

TRD-9447396 Cries Cloudt  
Associate Commissioner for Policy Planning  
and Evaluation  
Texas Education Agency

Filed: August 31, 1994

◆ ◆ ◆  
**Executive Council of Physical Therapy**  
**and Occupational Therapy**  
**Examiners**

**Correction of Errors**

The Executive Council of Physical Therapy and Occupational Therapy Examiners proposed new §366.1, concerning Application for License. The rule appeared in the August 5, 1994, issue of the *Texas Register* (19 TexReg 6087).

Due to submission the language in the first paragraph of the preamble needs to be corrected to read: "...concerning setting of requirements for applying for licensure, and requiring licensees to be knowledgeable of the Act and rules."

The Executive Council of Physical Therapy and Occupational Therapy Examiners proposed new §368.1. The rule appeared in the August 2, 1994, issue of the *Texas Register* (19 TexReg 5941).

Due to submission in §368.1(a)(4) the apostrophe is missing in "requestor's".

The Executive Council of Physical Therapy and Occupational Therapy Examiners proposed new §369.1-369.3. The rules appeared in the August 2, 1994, issue of the *Texas Register* (19 TexReg 5941).

Due to submission in §§369.3(b) line four and eight the periods are missing after the sentences ending with the acronyms OTA and COTA.

◆ ◆ ◆  
**Texas Higher Education Coordinating**  
**Board**

**Notice of Meeting**

The Family Practice Advisory Committee will meet on Wednesday, September 7, 1994, beginning at 10:00 a.m. and ending at 1:00 p.m. The meeting will be held at the Coordinating Board office, 7700 Chevy Chase Drive, Building One, Room 1.100. The purpose of the meeting is to consider issues related to the Rural Rotation Program and possible revisions to the program guidelines. The Committee will also be electing new officers at this meeting. For further information please contact Stacey Silverman at (512) 483-6206.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447388 James McWhorter  
Assistant Commissioner for Administration  
Texas Higher Education Coordinating Board

Filed: August 31, 1994

◆ ◆ ◆  
**Texas Department of Insurance**  
**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 admission to Texas for Rogers, Atkins, Gunter & Associates Insurance, Inc., a foreign third party administrator. The home office is in Tallahassee, Florida.

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 August 30, 1994.

TRD-9447376 D. J. Powers  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: August 30, 1994

◆ ◆ ◆  
**Texas Natural Resource Conservation**  
**Commission**

**Correction of Errors**

The Texas Natural Resource Conservation Commission adopted the repeals and amendment to §§330.801-330.803, 330.805-330.809, 330.811-330.817, 330.821-330.827, 330.831-330.835, 330.837-330.843, 330.845-330.848,

330.851-330.854, 330.856, 330.858, 330.861-330.863, 330.865-330.878, 330.885, 330.886, 330.888, 330.889. The rules appeared in the August 16, 1994, issue of the *Texas Register* (19 TexReg 6436).

Due to submission in §330.807(b)(5) on the second line, the word "momentarily" should be "monetarily".

In §330.822(e) on the ninth line, the word "voccur" should be "occur".

In §330.923(d) on the sixth line, "10%" should be "10%".

The Texas Natural Resource Conservation Commission submitted §330.817(c) of the proposed issue. The rule appeared in the April 19, 1994, issue of the *Texas Register* (19 TexReg 2837), the word "transportated" should be "transported." Notice of this section appeared in the adopted issue of the Register dated August 16, 1994, as adopted without changes therefore, it was not republished.

◆ ◆ ◆

## Texas State Board of Pharmacy

### Correction of Errors

The Texas State Board of Pharmacy proposed amendments to §§291.71-291.75, concerning Purpose, Definitions, Personnel, Operational Standards, and Records in a Class C Pharmacy. The rules appeared in the August 23, 1994, issue of the *Texas Register* (19 TexReg 6638).

Due to submission the rule as published contained several errors, which are as follows.

In §291.72, the following text was dropped from this definition section, after the definition for "Pharmacy and therapeutics function:" "Prepackaging-The act of repackaging and relabeling quantities of drug products from manufacturer's original container..."

In §291.73(b)(2)(H), the text published indicates that the word "participating" was being deleted and added as new language. The text should read: "(H) [(E)] participating [participation]..."

In §291.73(b)(2)(K), new and deleted language was dropped in the text published. The text should read: "(K) [(H)] assuring that the pharmacy maintains and makes [maintaining and making] available..."

In §291.73(e)(4)(C), the text indicates "(i)-(v) (No change.)" and it should indicate "(i)-(iv) (No change.)" The text for (v) should read: "(v) signature (first initial and last name or full signature) of the supportive person and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training of supportive personnel."

In §291.74(a)(11)(A), the word "personnel" is misspelled in line 6 of the subparagraph.

In §291.74(c)(2), the text should read: "If the institutional pharmacy compounds [prescriptions or] medication orders..."

In §291.74(f)(1)(D)(iii), the first word in the second sentence should begin with an upper case C (i.e. Controlled).

In §291.74(f)(3)(B)(ii), the word contained should be container so the text should be corrected to read: "...drug dispensing system container..."

The Texas State Board of Pharmacy proposed amendments to §§291.31, 291.33, and 291.36, concerning Definitions and Operational Standards in a Class A Pharmacy and Class A Pharmacies compounding Sterile Pharmaceuticals.

In §291.36(b)(17)-(18), (17) should be numbered (16), there are two (18)'s. The definitions should be numbered as follows: "(16) Controlled areas-, (17) Controlled substance-, (18) Critical areas-"

In §291.36(B)(45), change the word ensure to assure so the text reads: "...used to assure that the..."

In §291.36(b)(49), the text should read "...listed in subparagraphs (A), (B), or (C)..."

In §291.36(d)(2)(B)(iii)(I)(-b), there should be a comma instead of a period in the last part of this subclause after the word "cover" so the text reads: "...shoe cover, and gloves."

In §291.36(d)(4)(A), the text published, indicates "[ (A) ]" before this subparagraph. The (A) before this subparagraph should not be deleted.

◆ ◆ ◆

## Texas Department of Protective and Regulatory Services

### Notice of Intent to Contract

In accordance with Texas Government Code, Chapter 2254, Subchapter B, the Texas Department of Protective and Regulatory Services (TDPRS) is proposing to contract with a current consultant, Institute for Human Services Management, Inc., to provide additional service deliverables. The additional services relate to services provided by this consultant for the project "Initiatives in Child and Adult Protective Services and Child Care Licensing." Unless a better offer to provide these services is received, PRS will issue the award of this purchase of services to the Institute for Human Services Management, Inc.

**Description of Services:** Consultation to assist in the continued development and implementation of the project entitled "Initiatives in Child and Adult Protective Services and Child Care Licensing" under a Request for Proposals issued in July 1993. The project continues to examine current PRS programs and to design new or revised PRS programs that increase or initiate federal financial participation and enhance service delivery. Federal funding sources applicable to this project are: SSA Title IV-A Emergency Assistance, Title IV-E Foster Care and Adoption Assistance, and Title XIX Medical Assistance (Medicaid). Under this purchase of services, the consultant will assist in developing a new 24-Hour child care cost reimbursement methodology utilizing the Foster Care Time Study Database; transitioning the foster care time study to scanning technology; evaluating federal funding opportunities for Adult Protective Services contracted services; and additional services related to the initial deliverables and intended to enhance their effectiveness during the implementation and finalization phases of the project at PRS request. These additional service deliverables will enable PRS to further utilize federal financial assistance and enhance service delivery consistent with the intent and purpose of the initial contract.

**Eligible Applicants:** Eligible applicants are Historically Underutilized Businesses, public or private profit or non-profit agencies, and individuals with demonstrated knowledge, competence, and qualifications in developing and



implementing similar statewide initiatives (i.e. multi-funding source, multi-agency, and multi-level of government). Eligible applicants must be able to coordinate with and build upon deliverables being completed under the initial contract.

**Closing Date for Receipt of Offers:** The last date offers and modifications of offers will be received is Thursday, October 6, 1994, at 4:00 p.m. PRS shall be the sole and final arbitrator of when offers are received based on post mark prior to the closing date or log of hand delivery of offers before or on the closing date.

**Evaluation and Selection:** A panel of PRS program and administrative staff will assess new offers received based on predetermined criteria. Objective evaluation criteria include detailed service description, relevant prior experience, ability to build upon and coordinate with the existing deliverables under the initial contract, and cost effectiveness and efficiency.

**Amount of Award:** The amount of the award for these additional services shall not exceed \$75,000.

**Limitations:** Funding will be dependent upon available appropriations. PRS reserves the absolute right to reject any and all offers received in response to this notice of intent to purchase services, and to amend, suspend, or cancel this notice in whole or part if it is deemed in PRS's best interest.

**Contact Person:** Further information pertaining to this purchase of services will be provided upon written request addressed to the attention of the Texas Department of Protective and Regulatory Services, Deborah Williams, Contract Management Mail Code E-559, P.O. Box 149030, 701 West 51st Street, Austin, Texas 78714-9030

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

TRD-9447398 Nancy Murphy  
Section Manager, Media and Policy  
Services  
Texas Department of Protective and  
Regulatory Services

Filed: August 31, 1994

◆ ◆ ◆  
**Public Utility Commission of Texas**  
**Correction to Request Comments on Cost**  
**Allocation Matrix**

A request for comments on the Cost Allocation Matrix was published in the In Addition Section of the August 26, 1994 issue of the *Texas Register* (19 TexReg 6795) wherein it was stated that comments should be submitted within 20 days of publication of the announcement. Interested parties should note that comments should be submitted within 30 days of publication of that notice on August 26, 1994 (i.e. no later than September 25, 1994). Questions about this correction to change in the due date for comments on the Cost Allocation Matrix should be directed to Missy Powell at (512) 458-0179.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447336 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: August 30, 1994

**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 General Services Administration, Fort Worth, 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 13374.

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 Fort Worth, 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 August 30, 1994.

TRD-9447340 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: August 30, 1994

◆ ◆ ◆  
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 115-Station Addition to the Existing Plexar-Custom Service for Southside State Bank pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13373.

The Application. Southwestern Bell Telephone Company is requesting approval of a 115-station addition to the existing 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 August 30, 1994.

TRD-9447339 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: August 30, 1994

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 Hondo ISD, Hondo, Texas.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a New Plexar-Custom Service for Hondo ISD pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13372.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for Hondo ISD. 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 August 30, 1994.

TRD-9447338      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: August 30, 1994



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 Hardin-Simmons University, Abilene, Texas.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a new Plexar-Custom Service for Hardin-Simmons University pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13364.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for Hardin-Simmons University. The geographic service market for this specific service is the Abilene, 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 August 30, 1994.

TRD-9447337      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: August 30, 1994



## Stephen F. Austin State University Renovations and Expansions

Stephen F. Austin State University is accepting proposals from firms which are interested in providing architectural services on the following projects:

Music building renovation and expansion North and South Residence Halls renovations, and the Austin Building Financial Aid Office renovation.

If your firm wants to be considered for any or all of these projects, please contact Charles Hardy at (409) 568-2203 for a biographical questionnaire and provide the information requested no later than September 19, 1994. You may include any other materials which you think might be helpful to the Architect Selection Committee.

Once the materials have been received, you will be given an opportunity to make a presentation before the Committee. However, making a presentation before the Committee is not required for consideration.

In order for your proposal to be considered under the HUB (Historically Underutilized Business) category, it is necessary that your firm be registered with the General Services Commission. To obtain the necessary registration forms, please contact: Grace Munoz, (512) 463-3371, General Services Commission, 1711 San Jacinto, P.O. Box 13047, Austin, Texas 78711-3047.

Any inquiries or questions should be addressed to Charles Hardy.

Issued in Austin, Texas, on August 29, 1994.

TRD-9447325      Charles Hardy  
Vice President, Business Affairs  
Stephen F. Austin State University

Filed: August 30, 1994



## Texas Department of Transportation Request for Proposals

**Notice of Invitation:** The Texas Department of Transportation (TxDOT) intends to engage an architectural/engineering consultant, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services: Develop schematics, detailed plans, specifications and estimates and provide construction inspection for the renovation of the Old Santa Fe Railroad Depot in Fort Stockton, Texas.

**Deadline:** Deadline for Letters of Intent notifying TxDOT of the Architectural/Engineering Consultants intent to submit a proposal, is September 23, 1994 at 5:00 p.m. at the TxDOT Odessa District Office, 3901 East Highway 80, Odessa, Texas 79761.

**Agency Contact:** Requests for additional information regarding this notice of invitation should be addressed to Charles L. Webb, P.E. (915) 333-9212, Fax (915) 333-9156.

Issued in Austin, Texas, on August 30, 1994.

TRD-9447360      Diane L. Northam  
Legal Executive Assistant  
Texas Department of Transportation

Filed: August 30, 1994



# TAC Titles Affected

The following is a list of the administrative rules that were published in the August 1994 issues.

## TITLE 1. ADMINISTRATION

### Part II. Texas Ethics Commission

1 TAC §§48.1, 48.3, 48.5, 48.7, 48.9 ..... 6351

### Part III. Office of the Attorney General

1 TAC §§61.2, 61.6, 61.7, 61.10, 61.17, 61.19-61.21, 61.23-61.28, 61.31, 61.32, 61.35-61.38..... 6420

1 TAC §§61.7, 61.10, 61.19-61.21, 61.23-61.26, 1.28..... 6420

1 TAC §61.33..... 6323

### Part IV. Office of the Secretary of State

1 TAC §71.8..... 6761

1 TAC §77.1..... 6762

### Part VII. State Office of Administrative Hearings

1 TAC §§159.1, 159.3, 159.5, 159.7, 159.9, 159.11, 159.13, 159.15, 159.17, 159.19, 159.21, 159.23, 159.25, 159.27, 159.29, 159.31, 159.33, 159.35, 159.37, 159.39, 159.41..... 6073

1 TAC §161.1..... 6187, 6691

### Part IX. State Aircraft Pooling Board

1 TAC §181.11..... 6689, 6691

### Part X. Department of Information Resources

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

1 TAC §251.2..... 6631

1 TAC §251.3..... 6323

1 TAC §251.6..... 6078

1 TAC §252.2..... 6631

### Part XV. Health and Human Services Commission

1 TAC §351.9..... 6411

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

4 TAC §§1.28-1.30 ..... 6081

4 TAC §§1.40-1.45, 1.49, 1.50 ..... 6082

4 TAC §1.300..... 6325

4 TAC §3.70, §3.71..... 6091

4 TAC §3.80, §3.81..... 6189

4 TAC §§3.100-3.107 ..... 6501

4 TAC §5.62, §5.63..... 6409, 6411

4 TAC §5.154..... 6502

4 TAC §5.178..... 6084

4 TAC §§9.1, 9.2, 9.4-9.6 ..... 6326

4 TAC §9.30 ..... 6557

4 TAC §§15.51, 15.52, 15.56 ..... 6762

4 TAC §§17.100-17.104 ..... 6085

4 TAC §§19.2-19.4 ..... 6327

4 TAC §30.4 ..... 6503

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