

# 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**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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*  
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The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

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

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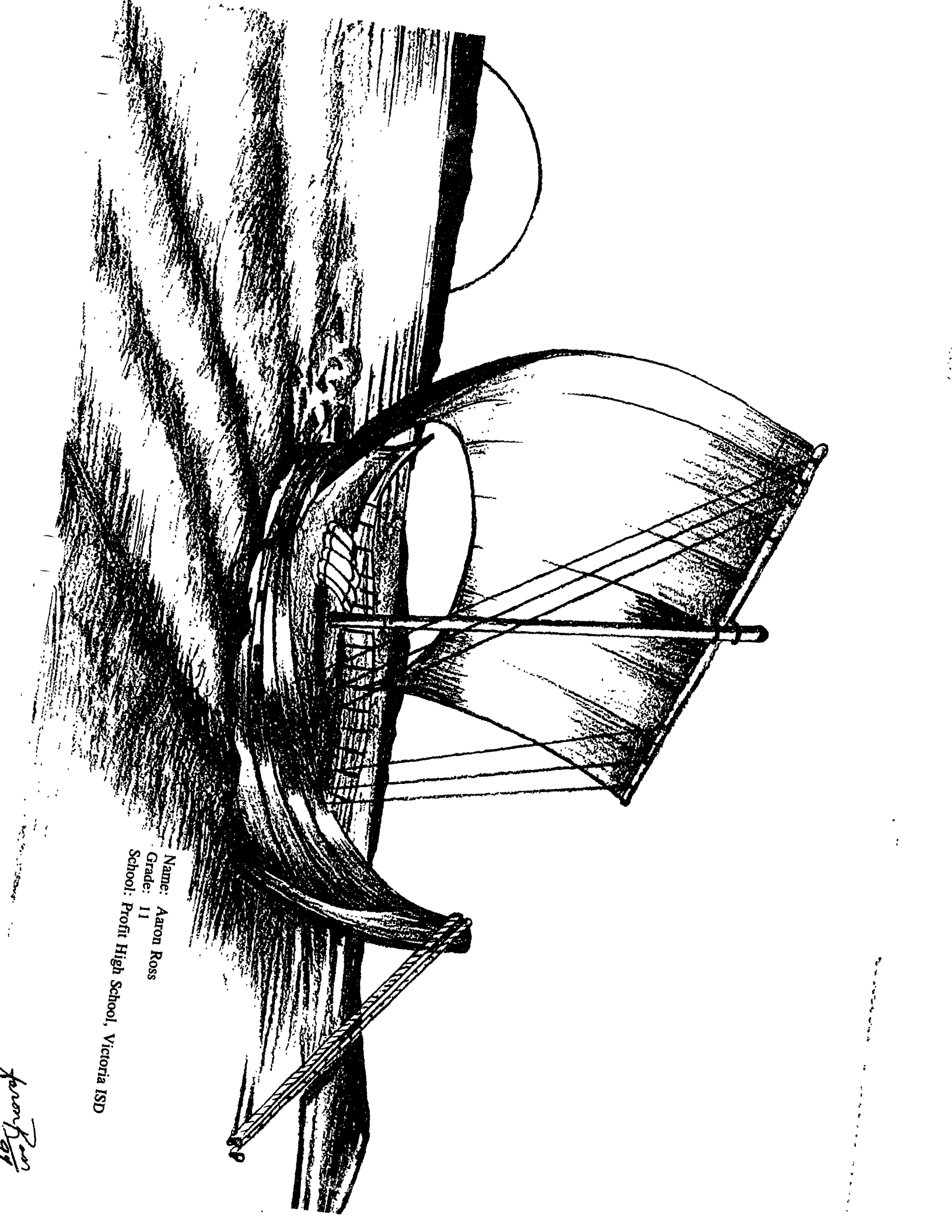




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School: Lomax Junior High, La Porte ISD





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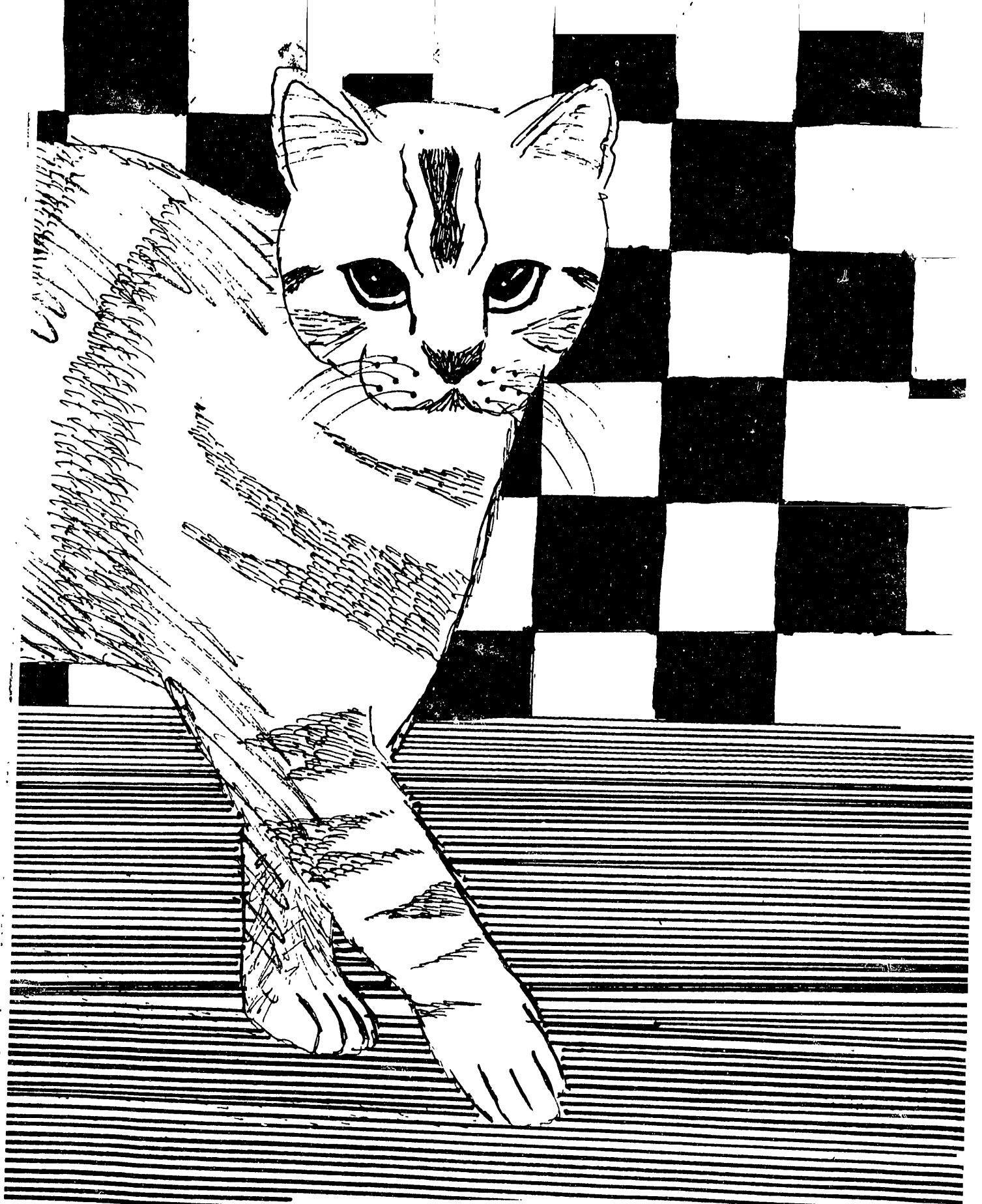
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# THE GOVERNOR

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

## Executive Order

AWR 94-21

### Emergency Suspension of Laws

Pursuant to Emergency Disaster Proclamations issued by me on October 17, 1994 and October 18, 1994 in response to heavy storms in State Disaster Districts 2A, 2B, and 6A and Subdistrict 2B, and in accordance with Government Code, §418.016, all statutes and rules, including all provisions requiring competitive bidding by local political subdivisions, that may inhibit or prevent prompt response to this disaster are suspended for the duration of the disaster.

This suspension applies to all purchases or acquisitions of equipment, goods, supplies, and services necessary for the local political subdivisions to respond to this disaster.

This Executive Order shall terminate when the state of disaster described in the October 17 and 18 Proclamations terminates.



AWR 94-22

### Relating to Electronic Transmission in the Voting Process

WHEREAS, the Secretary of State, Chief Election Officer of Texas, has been contacted by the Presidential Designee under the Uninformed and Overseas Citizens Absentee Voting Act, 42 United States Code 1973ff, for the purpose of informing the State that military personnel partaking in Operation Uphold Democracy could experience a delay of four weeks to receive and return ballots; and

WHEREAS, the Presidential Designee has provided a toll-free number for the purpose of faxing election materials, including absentee ballots, to military personnel stationed in the Caribbean; and

WHEREAS, the Secretary of State has informed me that special procedures such as those used in the emergency of Operation Desert Shield in 1990 will allow overseas voters involved in Operation Uphold Democracy to cast ballots in a timely fashion for the November 8, 1994 General Election;

NOW, THEREFORE, I, Ann W. Richards, Governor of Texas, under the authority vested in me, do hereby order the Secretary of State to cooperate with the Presidential Designee to ensure that overseas military personnel involved in Operation Uphold Democracy are able to vote in the November 8, 1994 General Election.

The Secretary of State is hereby directed to notify the appropriate county officials and to prescribe such rules, regulations, or directives as necessary to protect the integrity of the military ballot while providing for the systematic and orderly transmission of the ballots in order to be received for the General Election.

In accordance with the statutory requirements, copies of this Executive Order shall be filed with the applicable authorities.

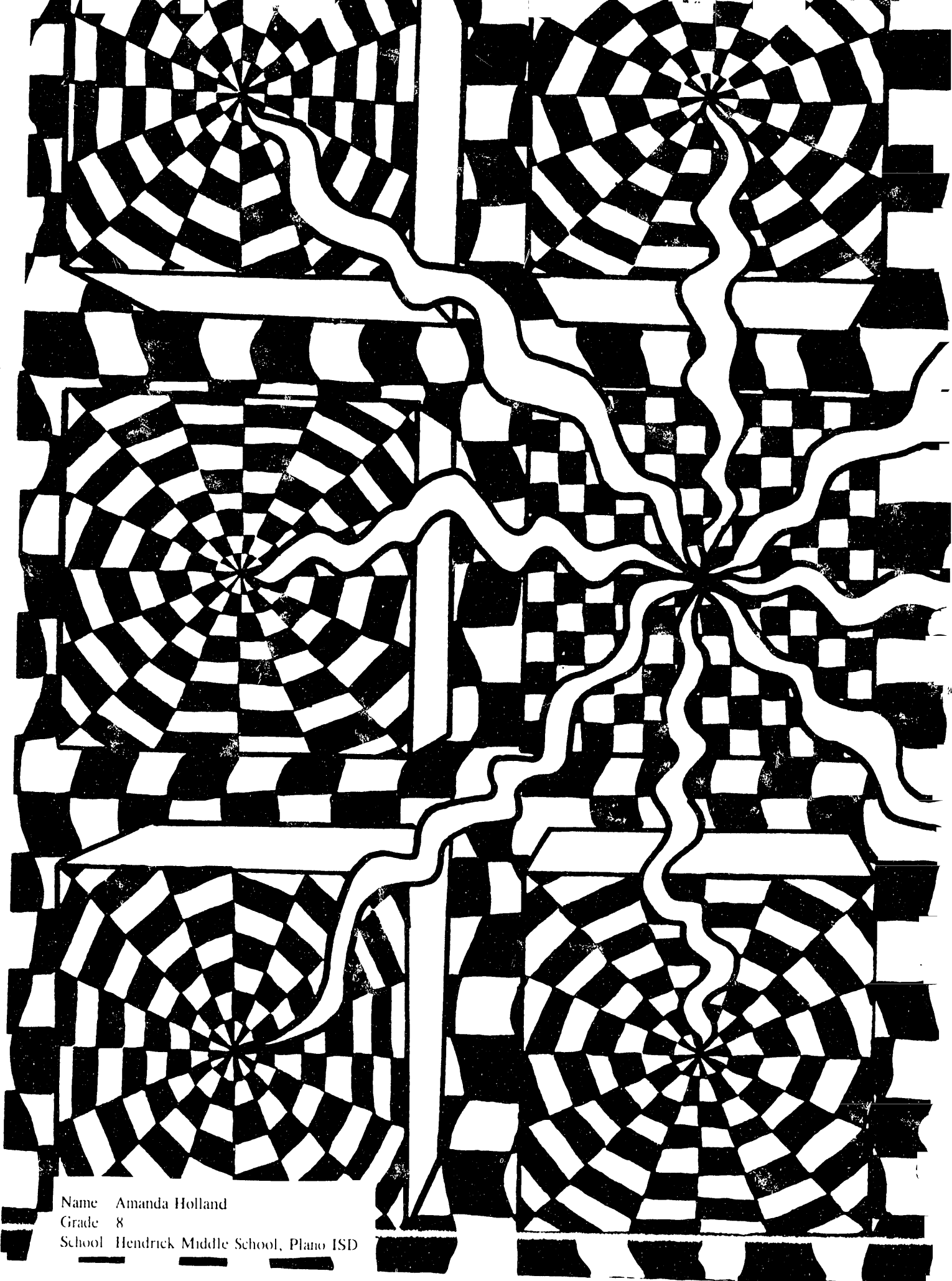
This Executive Order shall be effective immediately and shall remain in full force and effect for a period of thirty days.

Issued in Austin, Texas, on October 19, 1994.

TRD-8448983

Ann W. Richards  
Governor of Texas





Name Amanda Holland  
Grade 8  
School Hendrick Middle School, Plano 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 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 5. Quarantines

#### Pink Bollworm Quarantine

##### • 4 TAC §5.179

The Texas Department of Agriculture (the department) adopts on an emergency basis, an amendment to §5.179, concerning authorized planting and stalk destruction dates for the Zone 2 pest management zone.

The department is acting upon requests from the pest management committee members, county extension agents, and ASCS personnel within pink bollworm quarantine Zone 2 (Zone 2), and on behalf of cotton farmers in Chambers, Colorado, Fayette, Galveston, Gonzales, Harris, Jefferson, Lavaca, Liberty, Orange, Waller, and Washington counties for an immediate change of the cotton destruction date in those counties. The current cotton destruction deadline is October 20. The committee members have requested that the cotton destruction date be extended through November 20. The department believes that changing the cotton destruction date as requested is both necessary and appropriate.

Adverse weather conditions have created a situation compelling an immediate extension of the cotton destruction date for certain counties in the Zone 2. The unusually wet weather since the beginning of the cotton destruction period has prevented many cotton producers from cotton destruction by the October 20 deadline. A failure to act to extend the cotton destruction deadline could create a significant loss to Texas cotton producers and the state's economy.

The department believes that extending the cotton destruction deadline in the counties in the Zone 2 designated above as requested will not result in significant pest population increasing in the zone.

The emergency amendment to §5.179(a)(2)(B) will extend the date for cotton destruction through November 20 of this year in Chambers, Colorado, Fayette, Galveston, Gonzales, Harris, Jefferson, Lavaca, Liberty, Orange, Waller, and Washington counties.

The amendment is adopted on an emergency basis under the Texas Agriculture Code, §74.054, which provides the Texas Department of Agriculture with the authority to adopt

rules as necessary for the control and eradication of the pink bollworm; §74.057, which authorizes the department to establish regulated areas, dates and appropriate methods of destruction of host plants and host plant products for pink bollworm control; and the Government Code, §2001.34, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

#### §5.179. Authorized Planting and Stalk Destruction Dates.

(a) All cotton plants in any of the quarantine zones set forth in §5.178 of this title (relating to Quarantine Zones) must be mechanically destroyed by the authorized planting and stalk destruction deadlines indicated for each zone. This must be accomplished by shredding or plowing out the plants in such a way as to absolutely prevent further growth and to the point where there are no standing cotton stalks or regrowth.

(1) (No change.)

(2) Zone 2.

(A) (No change.)

(B) Stalk destruction date: on or before November 20 [October 20].

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

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

Issued in Austin, Texas, on October 21, 1994.

TRD-9449869

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: October 21, 1994

Expiration date: December 5, 1994

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

◆ ◆ ◆

## Chapter 6. Boll Weevil Control

### • 4 TAC §6.4

The Texas Department of Agriculture (the department) adopts on an emergency basis, an amendment to §6.4, concerning the authorized cotton destruction date for the Upper Coastal Bend pest management zone.

The department is acting upon requests from the pest management committee of the Upper Coastal Bend Zone, and on behalf of cotton farmers in Austin, Brazoria and Fort Bend counties and that portion of Wharton County east of the Colorado River for an immediate change of the cotton destruction date in those counties. The current cotton destruction deadline is October 15. The committee members have requested that the cotton destruction date be extended through November 21. The department believes that changing the cotton destruction date as requested is both necessary and appropriate.

Adverse weather conditions have created a situation compelling an immediate extension of the cotton destruction date for certain counties in the Upper Coastal Bend Zone. The unusually wet weather prior to the cotton destruction period has prevented many cotton producers from cotton destruction by the October 15 deadline. A failure to act to extend the cotton destruction deadline could create a significant loss to Texas cotton producers and the state's economy.

The department believes that extending the cotton destruction deadline in the counties in the Upper Coastal Bend Zone designated above as requested will not result in significant pest population increasing in the zone.

The emergency amendment to §6.4(a)(3)(B)(ii) will extend the date for cotton destruction through November 21 of this year in Austin, Brazoria and Fort Bend counties and that portion of Wharton County east of the Colorado River.

The amendment is adopted on an emergency basis under the Texas Agriculture Code, §74.006, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the effective enforcement and administration of Chapter 74, Subchapter A, and §74.004, which provides the department with the authority, on request of a pest management zone's administrative committee, to establish regulated areas,

dates and appropriate methods of destruction of stalks, other parts, and products of host plants for boll weevil and provides the department with the authority to consider a request for a cotton destruction extension due to adverse weather conditions; and the Government Code, §2001.34, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

*§6.4. Authorized Planting Dates, Cotton Destruction Dates, and Prescribed Methods of Destruction.*

(a) Except as provided in subsection (c) of this section, all cotton in the pest management zones must be planted and/or

mechanically destroyed by the following authorized dates. Destruction must be accomplished by shredding and plowing out the plants to prevent further growth and to prohibit any cotton plants from remaining after the following cotton destruction dates.

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

(3) Upper Coastal Bend pest management zone.

(A) (No change.)

(B) Area (2):

(i) (No change.)

(ii) cotton destruction date: on or before November 21 [October 15].

(b)-(d) (No change.)

Issued in Austin, Texas, on October 21, 1994.

TRD-9449870

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: October 21, 1994

Expiration date: December 5, 1994

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



# PROPOSED RULES

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

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

## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules

##### Records and Reports

###### • 16 TAC §23.11

The Public Utility Commission of Texas proposes an amendment to §23.11, relating to filing reports. The proposed amendment is in response to Senate Bill Number 83 directing the Commission to develop and maintain systems to publicly monitor and verify state agency rates regulated by the Commission. The proposed rule requires each electric utility and local exchange company to report to the Commission all state governmental customer accounts served by that utility, including the account number and the rate class under which each account receives service. Additionally, each time a new state governmental customer applies for service or an existing state governmental customer changes rate class each public utility must report to the Commission the state governmental customer account affected, including the account number and the new rate class under which each account receives service.

Thomas Brocato, Assistant General Counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section.

Mr. Brocato 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 greater knowledge of the utility service received by state governmental customers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Brocato has determined that for each of the first five years the section is in effect, there will be no impact on employment in the geographical areas affected by implementing the requirements of the section.

Comments on the proposal (13 copies) may

be submitted to John Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Comments should be submitted within 30 days after publication of the proposed section and should refer to Project Number 13402. The Commission specifically requests interested parties to comment on the appropriateness of continual versus periodic updating of reports to account for new customers and changes to customers' service.

The addition is proposed under the Public Utility Regulatory Act, Article 1446c, §§16(a), 17(e), 37, and 38 which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; exclusive original jurisdiction over rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction; and all the authority and power of the State of Texas to insure compliance with the obligations under the Public Utility Regulatory Act.

Cross-Reference to Statute(s): Texas Civil Statutes, Article 1446c, §§6, 17, 37, 38. Government Code, §2001.004.

##### §23.11. General Reports.

(a)-(o) No change

(p) Within six months of the adoption of this subsection each electric public utility, including municipally owned utilities, and each local exchange carrier shall report to the Commission the following information:

##### (1) Electric Utilities.

(A) A list of all of the state governmental customer accounts served by that utility;

(i) all account numbers for that customer;

(ii) the rate class under which each account receives service;

(iii) the relative rate of return for that rate class;

(iv) the approved costing methodology for that rate class; and

(v) the percent of allocated costs recovered by that rate class.

(B) A list of all alternative tariffs which are available exclusively to public entities.

(C) Each time a new state governmental customer applies for electric service or an existing state governmental customer changes rate class each electric public utility, including municipally owned utilities, shall report such to the Commission and shall update its report accordingly.

##### (2) Local Exchange Carriers.

(A) A list of all state governmental customer accounts served by that utility;

(i) all of the account numbers for that customer;

(ii) each service purchased by that customer listed by Universal Service Order Code account number, if one is available, and by other account number if a Universal Service Order Code is not available; and

(iii) if applicable, the quantity of units purchased under the applicable code.

(B) A definition of each service, by each applicable code, which includes an easy to understand explanation of what is technically necessary for a customer to qualify to purchase that service.

(C) Each time a new state governmental customer applies for telephone service or an existing state governmental customer changes any service from a local exchange carrier, each local exchange carrier shall report such to the Commission and shall update its report accordingly.

(3) Each report filed pursuant to this subsection must be in a format that is easy to understand and subject to the protections provided by the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Texas Civil Statutes, Article 6252-17a).

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 October 20, 1994.

TRD-9449865 John M. Renfrow  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

Earliest possible date of adoption: November 28, 1994

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

### Part III. Texas Alcoholic Beverage Commission

#### Chapter 31. Administration

##### Administrative Functions of the Commission

###### • 16 TAC §31.4

The Texas Alcoholic Beverage Commission proposes an amendment to §31.4, concerning the size requirements for a sign to be posted by licensees and permittees advising them to inform the Texas Alcoholic Beverage Commission should they have a complaint as required by Alcoholic Beverage Code, Texas Civil Statutes, §5.53.

Gayle Gordon, General Counsel, has determined that there will not be fiscal implications as a result of enforcing or administering the amendment to the section on state or local government. The effect on small business will be negligible.

Ms. Gordon also has determined for each year of the first five years the amendment to the section as proposed is in effect the public benefits anticipated as a result of enforcing the section will be increased public awareness of the functions of the Texas Alcoholic Beverage Commission and the receipt and resolution of complaints heretofore unrepresented at a reduced signage cost.

The anticipated economic cost to persons who are required to comply with the section as proposed will be negligible, but reduced by allowing a greater size range.

Comments on the proposal may be submitted to Gayle Gordon, General Counsel, P.O. Box 13127, Austin, Texas 78711. The telephone number is (512) 206-3496.

The amendment is proposed under Alcoholic Beverage Code, §5.53, which provides the Texas Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of this Code.

Cross Reference to Statute: Alcoholic Beverage Code, §5.53.

#### §31.4. Public Information Signs.

(a) (No change.)

(b) This sign shall be no smaller than 6[8-1/2] inches by 3-1/2 inches and shall be in lettering or type of a size sufficient to render it both conspicuous and readily legible.

(c)-(d) (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 October 20, 1994.

TRD-9449851 Doyme Bailey  
Administrator  
Texas Alcoholic Beverage  
Commission

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 206-3496

### TITLE 19. EDUCATION

#### Part VI. Foundation School Budget Committee

##### Chapter 203. Education Index for Public Education Budget Committee

The Foundation School Fund Budget Committee proposes amendments to §§203.1, 203.20, and 203.25, and the repeal of §203.15, concerning the cost of education index (CEI), an adjustment to the formula allocations of public school districts. The proposed section to be repealed defined the calculation for the diseconomies of scale adjustment. The proposed amendments to the rule remove references to the diseconomies of scale adjustment and make the existing cost of education index applicable for the 1995-1996 and 1996-1997 school years.

Brian Wilson, Committee Clerk for the FSFBC, has determined that if the FSFBC does not act to adopt an index, the existing index and its funding would expire at the end of the 1994-1995 school year. Therefore the fiscal impact of enforcing or administering the proposed rules will be to continue to distribute \$1.1 billion in state aid to school districts for each of the 1995-1996 and 1996-1997 school years. The rules expire at the end of the 1996-1997 school year.

Mr. Wilson also has determined that for each year of the two years that the sections are in effect the public benefit anticipated as a result of enforcing the rules will be an adjustment to the formula allocations to school districts for

factors beyond the control of school districts. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be presented at a public hearing at 2:00 p.m. on November 10, 1994, at Room E1.014 of the Capitol Extension, Austin, Texas, or by writing Brian Wilson, FSFBC Committee Clerk, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711.

###### • 19 TAC §§203.1, 203.20, 203.25

The amendments are proposed under the Foundation School Fund Budget Committee's authority in Texas Education Code, §16.25B.

The Texas Education Code, Chapter 16, Subchapters C, D, G, and H and Chapter 36, Subchapter A are affected by these proposed amendments.

§203.1. *General Provisions.* This rule establishes a formula for the calculation of each public school district's cost of education index which will be used by the Central Education Agency in determining each district's state aid for the 1995-1996 [1991-1992] and 1996-1997 [1992-1993] school years. The cost of education index shall [consist of a component to] adjust for cost variations caused by factors beyond the control of school districts [and a diseconomies of scale component to adjust for variations from optimal district size. Variations will be based on the most efficient service delivery systems].

§203.20. *Computation of Cost of Education Index.* A district's cost of education index adjustment [adjustments] for the 1995-1996 [1991-1992] and 1996-1997 [1992-1993] school years shall be computed by the commissioner of education by calculating each district's cost adjustment in §203.10 [combining the district's cost adjustment and diseconomies of scale adjustment for the relevant school year as follows:

Cost of Education Index = (Cost Adjustment \* Diseconomies of Scale Adjustment) where the Cost Adjustment is the adjustment in §203.10 and the Diseconomies of Scale Adjustment is the adjustment in §203.15].

§203.25. *Adjustment of Basic Allotment.* For the 1995-1996 [1991-1992] and 1996-1997 [1992-1993] school years, the commissioner shall adjust each district's basic allotment by applying the following formula:

ABA = BA \* (((Cost of Education Index - 1) \* .71) + 1) where "ABA" is the adjusted basic allotment; "BA" is the basic allotment; and "Cost of Education Index" is the Cost of Education Index [for the relevant school year] computed in §203.20.

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 October 24, 1994.

TRD-9449989 David A. Talbot, Jr.  
General Counsel, Office of  
the Governor  
Foundation School Budget  
Committee

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 463-1750

◆ ◆ ◆  
• 19 TAC §203.15

*(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 Foundation School Budget Committee or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Foundation School Fund Budget Committee's authority in Texas Education Code, §16.256.

The Texas Education Code, Chapter 16, Subchapters C, D, G, and H and Chapter 36, Subchapter A are affected by this proposed repeal.

§203.15. *Calculation of Adjustment for Diseconomies of Scale Variations.*

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 October 24, 1994.

TRD-9449990 David A. Talbot, Jr.  
General Counsel, Office of  
the Governor  
Foundation School Budget  
Committee

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 463-1750

◆ ◆ ◆  
Chapter 205. Equalized  
Funding Elements

• 19 TAC §§205.1, 205.11, 205.21,  
205.31, 205.41, 205.51, 205.61

The Foundation School Fund Budget Committee (FSFBC) proposes new §§205.1, 205.11, 205.21, 205.31, 205.41, 205.51, and 205.61, concerning equalized funding elements for the Foundation School Program. The purpose of the proposed rule is to adopt funding elements for the Foundation School Program which will meet the state funding policies in Texas Education Code, §16.001.

Brian Wilson, Committee Clerk for the FSFBC, has determined that if the FSFBC does not act to adopt one of the equalized

funding elements, the cost of education index, the existing index and its funding would expire at the end of the 1994-1995 school year. Therefore the fiscal impact of enforcing or administering the proposed §205.21 will be to continue to distribute \$1.1 billion in state aid to school districts for each of the 1995-1996 and 1996-1997 school years. There will be no fiscal implications for state or local government as a result of enforcing or administering all other sections of the proposed rules. The rules expire at the end of the 1996-1997 school year.

David Dunn, Manager, Public Education Team of the Legislative Budget Office, has determined that the public benefit anticipated as a result of enforcing the proposed rules for the two-year period will be that the school funding formulas will meet the level of fiscal neutrality accepted by the district court in the *Edgewood v. Meno* lawsuit. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be presented at a public hearing at 2:00 p.m. on November 10, 1994, at Room E1.014 of the Capitol Extension, Austin, Texas, or by writing Brian Wilson, FSFBC Committee Clerk, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711.

The new sections are proposed under the Foundation School Fund Budget Committee's authority in Texas Education Code, §16.256.

The Texas Education Code, Chapter 16, Subchapters C, D, G, H, and I, and Chapter 36, Subchapter A are affected by these proposed new sections.

§205.1. *General Provisions.* This rule establishes the equalized funding elements to be used by the Central Education Agency in determining each district's Foundation School Program allocations and state aid for the 1995-1996 and 1996-1997 school years. The equalized funding elements are to be appropriately set to meet the state funding policy in Texas Education Code, §16.001.

§205.11. *Basic Allotment.* The basic allotment shall be \$2,300 per student in average daily attendance as defined in Texas Education Code, §16.101.

§205.21. *Cost of Education Adjustment.* The cost of education adjustment shall be the cost of education index as defined in Chapter 203 of this title (relating to Education Index for Public Education Budget Committee).

§205.31. *Program Cost Differentials.* The program cost differentials for special education, compensatory education, bilingual education, vocational education, and gifted and talented education shall be those defined in the Texas Education Code, Subchapter D. The allotments for transportation, teacher compensation, and technol-

ogy shall be those defined in the Texas Education Code, Subchapter D.

§205.41. *Maximum Guaranteed Level for the Guaranteed Yield Program (Tier 2).* The guaranteed yield shall be \$20.55 per weighted pupil per cent of tax effort as defined in Texas Education Code, §16.302.

§205.51. *Enrichment and Facilities Tax Rate under Tier 2.* The enrichment and facilities tax rate shall be calculated as provided in Texas Education Code, §16.302 and may not exceed \$0.64 per \$100 of valuation as specified in Texas Education Code, §16.303.

§205.61. *Calculation of Weighted Students.* The number of students in weighted average daily attendance shall be calculated as specified in Texas Education Code, §16.302. For purposes of this calculation, the allotments under Texas Education Code, Subchapters C and D shall represent the net allotments to each district.

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 October 24, 1994.

TRD-9449988 David A. Talbot, Jr.  
General Counsel, Office of  
the Governor  
Foundation School Budget  
Committee

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 463-1750

◆ ◆ ◆  
TITLE 28. INSURANCE  
Part I. Texas Department  
of Insurance  
Chapter 5. Property and  
Casualty  
Subchapter D. Fire and Allied  
Lines Insurance  
Mitigation of Residential Prop-  
erty Insurance Losses  
• 28 TAC §5.3600

The Texas Department of Insurance proposes new §5.3600, concerning the Residential Property Insurance Loss Mitigation Advisory Committee, which is created and appointed pursuant to Commissioner's Order Number 94-1029 (September 27, 1994), to advise and make recommendations, including proposals for rulemaking, to the Commissioner on reducing residential property insurance losses. The appointment of this Advisory Committee is a result of the May 25,

1994, hearing on reducing residential property insurance losses caused by wind and hail and freezing weather and the June 29, 1994, hearing on reducing residential property insurance losses from crime. Proposed pursuant to Texas Civil Statutes, Article 6252-33, which govern State Agency Advisory Committees, the new section is necessary to specify the purpose, task, reporting requirements, membership composition, and duration of the Residential Property Loss Mitigation Advisory Committee. Article 6252-33 requires a state agency that is advised by an advisory committee to adopt rules stating the committee's purpose and tasks, the manner in which the committee will report to the agency, and the duration of the committee. Article 6252-33, §1 defines "advisory committee" to mean a committee, council, commission, task force, or other entity in the executive branch of state government that is not a state agency, is created by or under state law, and has as its primary function the advising of a state agency.

Lyndon Anderson, associate commissioner, property and casualty program, has determined that for each year of the first five years that the proposed section will be in effect there will be fiscal implications to state government. The Department estimates that this cost will be approximately \$10,600 for each year that the committee is active. This cost will cover reimbursements for committee members' expenses, including travel expenses, and other expenses for the committee's operation, including rental of meeting rooms, postage, and office supplies. The proposed section provides that the committee will be automatically abolished on December 31, 1995, unless continued in existence by order of the Commissioner. Mr. Anderson has also determined that there will be no fiscal implications to local government nor to small business as a result of enforcing or administering the section, and there will be no effect on local employment or local economy.

Mr. Anderson has determined that for each year for the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section is development and implementation of new and innovative ways for reducing residential property insurance losses. Because the amount of losses paid by insurers is a factor in determining rates, a reduction in such losses will ultimately reduce residential property insurance rates in Texas. There will be no economic costs to any persons required to comply with the proposed section.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas, 78714-9104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas, 78714-9104. Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to Texas Civil Statutes, Article 6252-33; the Insurance Code, Articles 1.35C, 5.25, 5.33, and

1.03A; and the Government Code, §2001.004 et seq. Texas Civil Statutes, Article 6252-33, §5, require a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the committee, and the manner in which the committee will report to the agency. Pursuant to the Insurance Code, Article 1.35C(a), at least one-half of the membership of each advisory body appointed by the Commissioner, other than an advisory body whose membership is determined by the Insurance Code or by another law relating to the business of insurance in this state, must represent the general public. The Insurance Code, Article 1.35C(b) provides who may not be a public representative on an advisory committee appointed by the Commissioner. The Insurance Code, Article 5.25(a) authorizes the Commissioner to promulgate the rates of premiums (as provided by the Insurance Code, Chapter 5, Subchapter M, i.e., Flexible Rating Program for Certain Insurance Lines) to be charged and collected for residential property insurance. Article 5.25(a) also authorizes the Texas Department of Insurance to collect data to aid in determining methods of reducing residential property insurance rates and authorizes the Department to employ clerical help, inspectors, experts and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of Article 5.25. The Insurance Code, Article 5.33 authorizes the Commissioner to compel any company to give credits for any hazards a policy holder may reduce or remove. Articles 5.25 and 5.33 by their terms delegate the foregoing authority to the State Board of Insurance; however, this authority is interpreted to be delegated to the Commissioner of Insurance and the Department of Insurance under the Insurance Code, Article 1.02, which provides that a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §2001.031(b) (Administrative Procedure Act) authorizes a state agency to appoint committees of experts or interested persons or representatives of the public to advise the agency about contemplated rulemaking, and §2001.031(c) provides that the power of a committee appointed under §2001.031 is advisory only. The Government Code, §2001.004 et seq. authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption for rules by a state agency.

The following statutes are affected by this rule: Insurance Code, Articles 1.35C, 5.25, and 5.33; Texas Civil Statutes, Article 6252-33.

§5.3600. Residential Property Insurance Loss Mitigation Advisory Committee.

(a) Purpose and Scope of this Section. Adopted pursuant to Texas Civil Statutes, Article 6252-33, which governs State Agency Advisory Committees, the purpose of this section is to specify the purpose, task, reporting requirements, membership composition, and duration of the Residential Property Insurance Loss Mitigation Advisory Committee, which operates pursuant to Commissioner's Order Number 94-1029 (September 27, 1994).

(b) Purpose of the Advisory Committee. The purpose of the Residential Property Insurance Loss Mitigation Advisory Committee is to advise and make recommendations, including proposals for rulemaking and legislation, to the Commissioner of Insurance on reducing residential property insurance losses.

(c) Tasks. The tasks of the Advisory Committee are determined by the Commissioner of Insurance and include identifying specific areas of residential property insurance losses to be reviewed for recommendation; reporting these areas to the Commissioner; determining the best means to address mitigation of losses in these areas, including educational efforts, proposals for rulemaking and legislation, and consumer and industry initiatives; and preparing final recommendations for the Commissioner's consideration.

(d) Reporting Requirements. The Advisory Committee shall identify the areas of residential property insurance losses to be reviewed for recommendation and report these identified areas to the Commissioner no later than six months from the date of the Advisory Committee's first meeting and shall present its recommendations for the mitigation of losses in these areas to the Commissioner no later than December 31, 1995.

(e) Membership. Appointed by the Commissioner of Insurance, the Advisory Committee is composed of 13 members: four consumer representatives, two academia representatives, one law enforcement representative, and six insurance industry representatives. Other members may be appointed to the Advisory Committee as may be deemed appropriate by the Commissioner. Any appointee resigning from the Advisory Committee shall be replaced by the Commissioner with another appointee representing the same constituency as the resigning appointee.

(f) Duration. Pursuant to Commissioner's Order Number 94-1029 (September 27, 1994), the members appointed to the Advisory Committee shall continue to serve on the Advisory Committee at the discretion of the Commissioner of Insurance. The Advisory Committee is authorized to operate until December 31, 1995, at which time, the Advisory Committee shall be automatically

abolished unless continued in existence by order of the Commissioner.

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 October 20, 1994.

TRD-9449848

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

Earliest possible date of adoption: November 28, 1994

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part I. General Land Office

#### Chapter 19. Oil Spill Prevention and Response

The General Land Office (GLO) proposes amendments to Chapter 19 concerning Oil Spill Prevention and Response. Sections 19.2, 19.12-19.14, 19.17-19.20, 19.33, 19.34, 19.36, and 19.54 are being amended to enhance and clarify GLO procedures under the rules. Sections 19.3-19.6, 19.15, 19.16, 19.32, 19.35, 19.37, 19.51-19.53 and 19.55 are being amended to reflect editorial changes. These amendments are being proposed pursuant to the Oil Spill Prevention and Response Act of 1991 (OSPRA), §40.117.

Russel Lutz, Deputy of the Oil Spill Prevention and Response Division, has determined that for the first five-year period the rule is in effect there will be no negative implications for General Revenue as a result of these amendments.

Mr. Lutz also has determined that for each of the first five years the rules are in effect there will be no public cost implications to persons complying with these amendments. The amendments benefit the public by facilitating more effective administration by the GLO of the rules under OSPRA.

Comments on the proposed amendments may be submitted to Ingrid K. Hansen, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701-1495. In order to be considered, comments must be received by 5:00 p.m. on November 28, 1994.

#### Subchapter A. General Provisions

##### • 31 TAC §§19.2-19.6

The amendments are proposed under Texas Natural Resources Code, §40.117, which authorizes the land commissioner to promulgate rules necessary and convenient to the administration of OSPRA.

The Texas Natural Resources Code, Chapter 40, is affected by these proposed amendments.

#### §19.2. Definitions.

(a) The following words, [and] terms and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1)-(10) (No change.)

(11) Oil—Means oil of any kind or form including, but not limited to, crude oil, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code, §9601 et seq), §101(14), subparagraphs (A)-(F), and which is subject to the provisions of that Act, and which is so designated by the Texas Natural Resource Conservation Commission.

(12)[(11)] OPA—The Oil Pollution Act of 1990, Public Law 101-380.

(13)[(12)] OSPRA—The Oil Spill Prevention and Response Act of 1991, Natural Resources Code, Chapter 40.

(14)[(13)] Owner or operator—Any person, individual, partnership, corporation, association, governmental unit, or public or private organization of any character:

(A) owning, operating or responsible for operating, or chartering by demise a vessel;

(B) owning, operating, or responsible for operating a facility; or

(C) operating a facility by lease, contract, or other form of agreement. The term does not include a person who owns only the land underlying a facility or a person who owns only a security interest in a vessel or facility if the person does not participate in the operation of the vessel or facility, does not own a controlling interest in the owner or operator of the vessel or facility, and is not controlled by or under common ownership with the owner or operator of the vessel or facility.

(15)[(14)] Regulated vessel—A vessel with a capacity to carry 10,000 U.S. gallons or more of oil as fuel or cargo.

(16)[(15)] Unauthorized discharge—Discharges excluding those authorized by and in compliance with a

government permit, seepage from the earth solely from natural causes, and unavoidable, minute discharges of oil from a properly functioning engine, of a harmful quantity of oil from a vessel or facility either:

(A) into coastal waters; or

(B) on any waters or land adjacent to coastal waters where harmful quantities of oil may enter coastal waters or threaten to enter coastal waters if the discharge is not abated nor contained and the oil is not removed.

(17)[(16)] Underground storage tank—Any tank or container used for storing oil which is located completely under the surface of the earth. Tanks which are partially buried or which are contained in aboveground vaults or other aboveground containment structures are not considered underground tanks for the purpose of certification requirements under these sections.

(18)[(17)] Underwriter—An insurer, a surety company, a guarantor, or any other person, other than an owner or operator of a vessel or facility, that undertakes to pay all or part of the liability of an owner or operator.

(19)[(18)] Waste—Oil or contaminated soil, debris, and other substances removed from coastal waters and adjacent waters, shorelines, estuaries, tidal flats, beaches, or marshes in response to an unauthorized discharge. Waste means any solid, liquid, or other material intended to be disposed of or discarded and generated as a result of an unauthorized discharge of oil. Waste does not include substances intended to be recycled if they are in fact recycled within 90 days of their generation or if they are brought to a recycling facility within that time.

(20)[(19)] Worst case unauthorized discharge—The largest foreseeable unauthorized discharge under adverse weather conditions. For facilities located above the high water line of coastal waters, a worst case discharge includes those occurring in weather conditions most likely to cause oil discharged from the facility to enter coastal waters.

(21)[(20)] Coastal Facility Designation Line—The Coastal Facility Designation Line delineates the area within which a facility may be subject to the certification requirements of §19.12 of this title (relating to Facility Certification). The line does not delineate OSPRA's response or notification requirements; rather, it gives notice to facilities located coastward of the line that they may be subject to facility certification requirements. These facilities should contact the General Land Office (GLO) [GLO].



The GLO will then, based on the precise location of the facility and based on the quantity of oil handled, determine whether facility certification is required. A description of [map showing] the coastal facility designation line and a map can be found in [is attached as] Appendix 1. Figure 1: 31 TAC §19.2(a)(21).

(b) (No change.)

### §19.3. Inspections and Access to Property.

(a) Officers, employees, or authorized agents of the General Land Office (GLO) may enter and inspect any land, building, facility, vessel, device, equipment, or other property to respond to an unauthorized discharge, to determine compliance or noncompliance with OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)] or any rule, order, or certificate issued under OSPRA, to ascertain discharge prevention and response capability, and to assess natural resources damages. Drills, audits, and inspections may be announced or unannounced. If unannounced, the GLO will make a reasonable effort to obtain the consent of the owner of the vessel or facility prior to entry. In the event of a response to an unauthorized discharge of oil or the threat of an unauthorized discharge of oil, the GLO will also make a reasonable effort to obtain consent; this effort will be consistent with the need for prompt abatement and containment actions for the protection of health, safety, and natural resources. A reasonable effort to obtain consent means that a readily identifiable owner or owner's representative has been informed of the GLO's authority to undertake the proposed actions requiring entry and that the purpose of the entry has been described and the owner and or his representative have been afforded the opportunity to accompany the GLO during the audit or inspection or to be kept informed of GLO activities during a response event.

(b) The GLO's officers, employees, and agents will present credentials and explain the purpose and scope of the requested entry onto private property. Upon gaining access to the property, the GLO's representative may:

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

(c) The GLO's officers, employees, and agents must observe a vessel's or facility's standard safety requirements. Standard safety requirements as set forth in the Occupational Safety and Health Act (OSHA) [OSHA] (29 United States Code Annotated §651 et seq) and applicable regulations or in any State of Texas statute or rule will be observed. Any additional or other requirement imposed by the owner or operator will be observed only to the extent that it does not unreasonably hinder the objective of the authorized entry.

### §19.4. Waiver.

(a) Upon written request, the commissioner may waive a provision of this chapter if the commissioner determines that the application of the provision would be inconsistent with the fundamental intent and purpose of OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)]. The commissioner may also waive any requirement of this chapter if the commissioner determines that other existing federal or state statutory or regulatory provisions provide requirements necessary to implement OSPRA.

(1) (No change.)

(2) Waiver from facility certification requirements. Any person may request a waiver from the facility certification requirement of this chapter by submitting the following information to the commissioner:

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

(C) vicinity map and United States Geological Survey (USGS) [USGS] Quad map (1:24,000) showing the location of the facility for which waiver is requested;

(D)-(F) (No change.)

(3)-(4) (No change.)

(b) (No change.)

§19.5. Forms. The General Land Office (GLO) will promulgate forms for applications, filings, and reports required by OSPRA [the Oil Spill Prevention and Response Act of 1991] or this chapter. Where this chapter specifies that a particular form is available from the GLO, the applicant, claimant, or person filing information with the GLO must use the GLO form. The applicant, claimant, or person filing may supplement the GLO form with separate documentation where not inconsistent with this chapter.

§19.6. Confidentiality. An applicant, claimant, or person filing information with the General Land Office (GLO) must make any claim of confidentiality of documentation, records, or information when it is filed with the GLO or the claim of confidentiality is waived.

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 October 21, 1994.

TRD-9448971

Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

## Subchapter B. Spill Prevention and Preparedness

### • 31 TAC §§19.12-19.20

The amendments are proposed under Texas Natural Resources Code, §40.117, which authorizes the land commissioner to promulgate rules necessary and convenient to the administration of OSPRA.

The Texas Natural Resources Code, Chapter 40, is affected by these proposed amendments.

### §19.12. Facility Certification.

(a) The owner of a regulated facility must apply to the General Land Office (GLO) for a discharge prevention and response certificate [six months after this rule becomes final]. No facility may commence or continue operations after January 1, 1993, without a discharge prevention and response certificate issued by GLO. However, any person who has requested a waiver from facility certification requirements, pursuant to §19.4 of this title (relating to Waiver), is deemed to be in compliance with all time limits set forth herein. Application forms are available from the General Land Office, Oil Spill Response Prevention and Response Division, 1700 North Congress Avenue, [Room 740.] Austin, Texas 78701-1495.

(b)-(d) (No change.)

(e) A regulated facility may not handle oil after January 1, 1993, without a discharge prevention and response certificate issued by GLO. Facilities which commence operation after January 1, 1993, shall be granted a 90-day period from the commencement of operations or production to apply for facility certification. Facilities must [should] notify GLO when oil is first handled at the site by calling the Oil Spill Prevention and Response Division at (512)475-1575. Facilities must recertify their discharge prevention and response certificates at the expiration of five years from the date the original discharge and response certificate was issued by the GLO. The fee for recertification will be 10% of the cost of the original application fee.

(f) Proof of financial responsibility as required by OSPRA [the Oil Spill Prevention and Response Act of 1991] and by this chapter means any proof of financial responsibility already required by any other federal or state law. Requirements under this chapter will be based on regulations yet to be promulgated by the federal government. The commissioner will not deny certification to any facility because of failure



to meet any specific amount or form of financial responsibility until specific rules under this chapter are adopted. Pending promulgation of rules under this chapter, the request for proof of financial responsibility in the application for facility certification is for informational purposes only. Facilities are requested to inform the commissioner of the amount and type of financial responsibility currently in place for the particular facility.

(g) In lieu of the separate applications required in §19.13 and §19.14 of this title (relating to Applications for Small Commercial Facilities, Underground Storage Facilities, and Small Facilities; and Applications for Major Facilities, respectively), applicants may submit to the GLO two duplicate copies of their Federal Response Plan(s) prepared under OPA if that plan(s) is complete, but undergoing approval as required by the United States Coast Guard or the Environmental Protection Agency, Mineral Management Service and the Research and Special Programs Administration. Applicants are required to forward to the GLO copies of all correspondence among the applicant and any or all of the following agencies: the United States Coast Guard or the Environmental Protection Agency, Mineral Management Service and the Research and Special Programs Administration relating to the receipt, acceptance, deficiencies and notification of changes in the Federal Response Plan(s) submitted for approval. The applicant should submit the plan(s) and correspondence by mail to: Texas General Land Office, Oil Spill Prevention and Response Division, 1700 North Congress Avenue, Austin, Texas 78701-1495.

(h) A guidance document outlining the procedures for application for facility certification can be obtained by submitting a request to the Texas General Land Office, Oil Spill Prevention and Response Division, 1700 North Congress Avenue, Austin, Texas 78701-1495 (telephone: (512) 475-1575).

*§19.13. Applications for Small Commercial Facilities, Underground Storage Facilities, and Small Facilities.*

(a) All applicants for certification as small commercial facilities and/or as underground storage facilities must submit the following information:

(1) the name and address of the facility including street address and directions from the nearest highway, the name and address of the owners and operators of the facility, the person or persons in charge of the facility, as that term is defined in §19.16 of this title (relating to Person in

Charge), and the registered agent for service as required by OSPRA [the Oil Spill Prevention and Response Act of 1991];

(2) a description of the facility, including:

(A) (No change.)

(B) the maximum quantity of oil stored or handled at the facility [and material safety data sheets (MSDSs) for], a list of all the types of oil handled and or stored and the location of and contact person for the material safety data sheets for all the types of oil handled;

(C)-(E) (No change.)

(F) a description of the facility's plan for responding to an unauthorized discharge of oil; [and]

(G) the Texas Natural Resource Conservation [Water] Commission petroleum storage tank facility identification number (i.e., PST ID number, facility registration number[.] ; and

(H) schedules, methods and procedures at the facility for maintaining and evaluating the readiness of available response equipment and supplies.

(b) All applicants for certification as small facilities must submit the following information:

(1) the names and addresses of the facility (including street address and directions from the nearest highway of the facility), the owner of the facility, the operator of the facility, the person or persons in charge required by §19.16 of this title (relating to Person in Charge), and the registered agent for service as required by OSPRA [the Oil Spill Prevention and Response Act of 1991];

(2) a description of the facility, including:

(A) the date the facility began operations under the current owner or operator, whichever is earlier, the types of oil handled, the material safety data sheets [MSDSs] for all the types of oil handled, the oil storage and transfer capacity, the throughput capacity, and the average daily throughput; [and]

(B) the location of the facility by latitude and longitude, N.A.D. 27 or N.A.D. 83, or by state plane coordinates indicating zone or by Universal Transverse Mercator coordinates indicating zone and all environmentally sensitive areas that

would be affected by a worst case discharge from the facility; and

(C) a map showing the protection strategies for environmentally sensitive areas at the facility;

(3) proof of financial responsibility as required by regulations either adopted or continued in effect under OPA [the Oil Pollution Act of 1990, Public Law 101-380], §1016 (33 United States Code §2716), if applicable to the facility;

(4)-(8) (No change.)

*§19.14. Applications for Major Facilities.* All major facility applications must contain the following information:

(1) the names and addresses, including street address and directions from the nearest highway, of the facility, the owner of the facility, the operator of the facility, the person or persons in charge required by §19.16 of this title (relating to Person in Charge), and the registered agent for service as required by OSPRA [the Oil Spill Prevention and Response Act of 1991];

(2) a description of the facility, including:

(A) the date the facility began operations under the current owner or operator, whichever is earlier, a list of all of the types of oil handled, the location of and the contact person for obtaining the material safety data sheets for all the types of oil handled, the oil storage and transfer capacity, the throughput capacity, and the average daily throughput; and

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

(3) proof of financial responsibility as required by regulations either adopted or continued in effect under OPA [the Oil Pollution Act of 1990, Public Law 101-380], §1016 (33 United States Code §2716), if applicable to the facility;

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

(6) a statement of the applicant's discharge prevention and response capability, including:

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

(D) a description of the facility's response plan, including:

(i)-(v) (No change.)

(vi) plans and maps showing the strategy for protection of environmentally sensitive areas in the event of an unauthorized discharge; [and]

(vii) plans for providing emergency medical treatment, site safety and security, [and] fire prevention in the event of an unauthorized discharge and a site-specific safety plan (29 Code of Federal Regulations §1910.120); and

(viii) schedules, methods and procedures at the facility for maintaining and evaluating the readiness of available response equipment and supplies;

(7)-(9) (No change.)

(10) a list of environmental permits and registration or identification numbers that have been obtained for the facility, including those for wastewater discharge, injection wells, and underground or above-ground storage tanks. Any other permit or license related to discharges into ground or surface waters of the State of Texas must be included;[.]

(11) if applicable, a statement describing the applicant's participation in the National Preparedness for Response Exercise Program (PREP) .

#### *§19.15. Issuance; Modification and Suspension of Facility Certificates*

(a) Prior to issuance or denial of a certificate, the General Land Office (GLO) may require an applicant to submit additional information to resolve any substantial questions concerning the applicant's discharge prevention and response capability. The GLO may also require an applicant to develop and implement additional discharge prevention and response measures to achieve adequate discharge prevention and response capability.

(b) The GLO will issue certificates to those facilities that submit completed applications unless the preponderance of all evidence demonstrates the applicant lacks the capability to respond adequately to a worst case unauthorized discharge at the particular facility.

(c) If the GLO refuses to issue a certificate to an applicant, the applicant may request and is entitled to a hearing on the denial in the same manner provided for certificate suspensions under Chapter 21 of this title (relating to Oil Spill Prevention and Response Hearings Procedures).

(d) At least 30 days prior to issuance or renewal of a certificate for an oil or gas pipeline or facility used in the exploration, development, or production of oil or gas, the GLO will send the Railroad Commission of Texas a copy of the application for review and comment.

(e) The certificate will be issued for a term of five years. The GLO may issue certificates on terms and conditions appropriate to the facility or type of facility. All

certificates are subject to review and modification by GLO in the event of a material change in spill response capability. All certificates are subject to suspension in the event the registrant violates OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)], rules or orders adopted or issued thereunder, or any requirement of the facility's certificate. A certificate may also be suspended if a registrant does not have a discharge response plan or does not have adequate containment, prevention, or cleanup ability. A certificate is void ab initio if the registrant knowingly submitted false information in the application for the certificate or in support of the application.

(f) Material changes in discharge prevention and response capability include, among other things:

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

(4) a determination by the GLO that the owner or operator responded inadequately to an unauthorized discharge at the facility; or

(5) (No change.)

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

#### *§19.16. Person in Charge.*

(a) Upon applying for a certificate, the applicant must designate a person or persons in charge of the facility for purposes of ensuring that General Land Office (GLO) is notified of unauthorized discharges at the facility and that the facility meets all other requirements of OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)]. The designation must be by name and by job title.

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

#### *§19.17. Vessel Response Plans and Proof of Financial Responsibility.*

(a) Response plans.

(1) Vessels subject to OPA [the Oil Pollution Act of 1990 (OPA) ], 33 United States Code §2701 et seq[.] and the Federal Water Pollution Control Act (Clean Water Act), 33 United States Code §1251 et seq[.], as amended by OPA. Vessels operating in coastal waters of the State of Texas that are subject to OPA must have response plans as required by 33 United States Code §1321(j)(5) and §2716.

(A) (No change.)

(B) Submission of United States Coast Guard letter of acknowledgment or deficiency. Vessel owners and operators are required to forward to the GLO copies of all correspondence between the United States Coast Guard and the vessel

owner or operator relating to the receipt, acceptance, deficiency, corrections of deficiencies and notification of changes in the vessel response plan submitted pursuant to OPA, §2716. The vessel response plans and letters should be submitted by mail to: Texas General Land Office, [Division of] Oil Spill Prevention and Response Division, 1700 North Congress Avenue, [Room 740,] Austin, Texas 78701-1495 [, Attention: Tricia Clark].

(2) Vessels subject to OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)], Texas Natural Resources Code, Chapter 40. Regulated vessels, under OSPRA, are those vessels whose capacity to carry oil as fuel or cargo exceeds 10,000 U.S. gallons. These vessels will be required to meet the vessel response plan requirements of the Texas Natural Resources Code, §40.114, when rules are adopted thereunder.

(b) (No change.)

#### *§19.18. Audits, Drills, and Inspections To Determine Prevention and Response Capability.*

(a) An audit is a full review of a facility's or vessel's compliance with the requirements of OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)] and regulations adopted pursuant thereto. An audit may be announced or unannounced. Audits will be commenced between the hours of 7:00 a. m. and 6:00 p.m. The owner and/or operator of the facility or vessel subject to audit must produce records related to unauthorized discharges of oil into coastal waters, discharge prevention and response [contingency] plans, equipment inventory, maintenance and repair, material safety data sheets for oil handled, oil storage and throughput, financial responsibility, personnel certification and training, and daily records and other documents and records containing information relevant to compliance with OSPRA and the National Preparedness for Response Exercise Program. The representative of the General Land [Law] Office (GLO) [conducting the audit] is authorized to view all equipment at the facility that is available for responding to unauthorized discharges of oil. The GLO representative is authorized to enter any portion of the facility and vessel where oil is handled, [and] where discharge prevention and response equipment and supplies are stored and maintained or where oil transfer operations are being performed. Although the audit may be unannounced, prior to entering the facility, the GLO representative will make a reasonable effort, as defined in §19.3(a) of this title (relating to Inspections and Access to Property), to obtain the consent of the owner or operator or his representative.

(b) An inspection is a review of a specified area or areas of a facility or vessel for a specified purpose. An inspection may be announced or unannounced. Inspections between the hours of 7:00 a.m. and 6:00 p.m. may be unannounced. Inspections after 6:00 p.m. and before 7:00 a.m. will be announced. The GLO will make a reasonable effort to obtain the consent of the owner or operator or a representative of either prior to entering property to conduct the inspection. [The inspection will be commenced between the hours of 7:00 a.m. and 6:00 p.m.] At the commencement of the inspection, the GLO representative will inform the owner or operator of the area or areas to be inspected and the purpose of the inspection. The areas and purposes of an inspection are limited to those set forth in subsection (a) of this section.

(c) A drill is a test of equipment and personnel in operation. A drill is in response to a mock discharge which is conducted by GLO representatives who determine the extent and parameters of the exercise. A drill may be announced or unannounced. Prior to entering property in order to conduct the drill, the GLO will make a reasonable effort to obtain consent of the owner or operator or representative of either to enter the property. Drills will be commenced between the hours of 7:00 a.m. and 6:00 p.m. and all drills involving vessels will be conducted in cooperation with the United States Coast Guard. A drill involving a facility will be conducted in cooperation with any other governmental agencies whom the GLO intends to involve in the mock operation.

(d) A vessel or facility will not be subjected to more than a total of two audits and/or drills in one 12-month period. A vessel or facility that is participating in the National Preparedness for Response Exercise Program will not be drilled separately under OSPRA or these rules. These limitations [This limitation] will not apply to any vessel or facility that has violated OSPRA, any regulation promulgated thereunder, or any order of the commissioner.

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

#### §19.19. Denial of Entry Into Port.

(a) Denial of entry into port of any vessel without evidence of financial responsibility or without a discharge prevention and response plan in violation of §19.17 of this title (relating to Vessel Response Plans and Proof of Financial Responsibility) will be done in cooperation with the United States Coast Guard.

(b) Before being granted entry into any port in this state, the person in charge of the vessel under OSPRA, §40.115, may be required to report or show the following:

(1) any unauthorized discharges from the vessel since leaving the last port;

(2) any mechanical or operational problem on the vessel creating the possibility of an unauthorized discharge;

(3) any denial of entry into any port during the current voyage of the vessel;

(4) that the vessel has a discharge prevention and response plan and the trained personnel and equipment to implement it as required under OSPRA; and

(5) that the vessel has evidence of financial responsibility as required by federal law or OSPRA.

#### §19.20. Certification of Discharge Cleanup Organizations.

(a) Persons or organizations desiring certification as discharge cleanup organizations must apply to the General Land Office (GLO) before June 15, 1992. Application forms are available from the GLO.

(b) A [After August 1, 1992, a] discharge cleanup organization must be certified by the GLO to be listed by an owner or operator as a source of adequate response equipment and/or personnel in a facility or vessel discharge prevention and response plan.

(c) (No change.)

(d) Discharge cleanup organizations will be categorized as either industry or volunteer.

(1) (No change.)

(2) Volunteer organizations are those entities whose primary purpose is protecting, rescuing, or rehabilitating wildlife and natural resources injured or damaged by an unauthorized discharge. Volunteer organizations must only be permitted by the Texas Parks and Wildlife Department or have certification from an organization with equivalent standards for the purposes of wildlife rehabilitation and other response activities concerning rescuing of any animal affected by a discharge. A separate GLO certificate is not required of the above-described wildlife and natural resource volunteer organizations. Volunteer organizations are also those entities who assist in other response activities approved by the on-scene coordinator but who do not receive compensation for their efforts.

(e) Industry organizations must be certified by the GLO in order to be listed on a vessel or facility discharge response plan, and in order to be employed by the GLO when it expends fund monies in re-

sponse to a discharge. Organizations exempt from the certification requirement are those whose primary business activity is vacuum trucks, earth moving, or oil field equipment maintenance. Any other business enterprise which does not represent itself as a spill response entity is not required to be certified under this subsection. Certificates will be issued for a three-year term with annual review. Certificates may be suspended if the discharge cleanup organization fails to maintain adequate response capability. Pursuant to Chapter 21 of this title (relating to Oil Spill Prevention and Response Hearing Procedures) the notice of suspension can be challenged.

(f) (No change.)

(g) In certifying industry organizations, the GLO will consider factors including:

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

(h) Industry organizations must report material changes in response capability to the GLO within 30 days of the change. Material changes in response capability include among other things:

(1) (No change.)

(2) a change in the organization's ownership or full-time personnel to the extent that such change affects discharge response capability; such change [it] shall be reported within 72 hours.

(i) Volunteer organizations who register with the GLO are considered certified. Registration forms are available from the GLO. The registration must include the organization's size, experience in discharge response, ability to properly dispose of or arrange for the disposal of waste from discharges, the qualifications of persons who will lead or coordinate response activities for the organization, and the quantity and quality of equipment and supplies owned or available to the organization. Volunteer organizations engaged in wildlife rescue or rehabilitation will be certified only if they comply with requirements of the Texas Parks and Wildlife Department's regulations related to such organizations or with equivalent regulations. The GLO may suspend a certificate if the organization's response activities are inconsistent with state or federal requirements.

(j) Volunteer discharge cleanup organizations or any discharge cleanup organization that is a not-for-profit entity must appoint a minimum of two ex officio representatives from local governments to its governing body to advise it on discharge response matters. The representatives from local government may be from any level or agency of local government but must be from the geographic area to be served by the organization. The Marine Spill Response Corporation and for-profit entities

are exempt from this requirement pursuant to OSPRA [the Oil Spill Prevention and Response Act of 1991], §40.117(b).

(k) Those entities having federal Oil Spill Response Organization classification may, on proper proof of such classification, be certified by the GLO as a discharge clean-up organization. Proper proof includes, but is not limited to, all information submitted to the United States Coast Guard, National Strike Force Coordination Center.

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 October 21, 1994.

TRD-9449976 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

### Subchapter C. Spill Response

#### • 31 TAC §§19.32-19.37

These amendments are proposed under Texas Natural Resources Code, §40.117, which authorizes the land commissioner to promulgate rules necessary and convenient to the administration of OSPRA.

The Texas Natural Resources Code, Chapter 40, is affected by these proposed amendments.

#### §19.32. Reporting an Unauthorized Discharge.

(a) (No change.)

(b) The person in charge of the facility or vessel from which an unauthorized discharge emanates or threatens to emanate and the person responsible for the discharge both have the duty to immediately report the discharge to the GLO. Reporting by either of those persons or by an employee or agent of either shall satisfy the notice requirement.

(c) Immediately, for purposes of this section, means within one hour of the time the discharge is discovered. In determining immediate notification the GLO will consider the need for initial abatement, containment, and response actions, the accessibility of communication devices and the reasonableness of the person's efforts to immediately report, and whether the discharge could reasonably have been discovered earlier.

(d)-(e) (No change.)

(f) The duty to report is a continuing one where any material changes occur

prior to the arrival of a state on-scene coordinator. Material changes include, but are not limited to, changes in the quantity, quality, or location of the discharge event. Both the responsible person and the person in charge have the duty to report material changes to the GLO.

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

#### §19.33. Response.

(a) When the General Land Office (GLO) receives notice of an actual or threatened unauthorized discharge, the GLO will determine whether state response action is required. If state response action is required, the GLO will assess the discharge and determine whether further response actions should be initiated or required. If assessments of the discharge indicate it involves predominantly a hazardous substance, the GLO shall coordinate all response actions until the Texas Natural Resource Conservation [Water] Commission can assume responsibility over hazardous substance discharge response operations. A substance is predominantly a hazardous substance when analytical testing of a representative sample indicates the presence of more than 50% of a substance that is not oil as defined by OSPRA [the Oil Spill Prevention and Response Act of 1991], and that is a hazardous substance as defined by the Texas Natural Resource Conservation [Water] Commission or its successor agency. Pending results of analytical tests of the substance, the determination of its predominant characteristics shall be made by investigating the source of the discharge, its physical properties, and its behavior in the environment. The GLO will notify the [state natural resource] trustees of the actual or threatened unauthorized discharge.

(b) In response to any actual or threatened unauthorized discharge, the commissioner may designate a state on-scene coordinator to act on the commissioner's behalf at the site of the actual or threatened discharge.

(1) It is the duty of the state on-scene coordinator, in cooperation with the federal on-scene coordinator, to assess in detail all aspects of the actual or threatened unauthorized discharge, evaluate and direct the responsible person's response activities, initiate and direct other response activities, carry out orders of the commissioner, and report at regular intervals to the commissioner. The state on-scene coordinator has an ongoing duty to evaluate, assess, and direct all response activities in order to insure compliance with applicable contingency plans, discharge response plans, and to ensure public health and safety, and to minimize to the greatest extent possible property damage and damages to natural resources.

(2) In the event a discharge appears to be from a facility for the exploration, development, or production of oil or gas or from an oil or gas pipeline, a Railroad Commission designee shall act as the state on-scene coordinator for spills of 240 barrels or less. When the spill exceeds 240 barrels, it is the responsibility of the GLO to provide the state on-scene coordinator.

(c) The GLO will coordinate its response with the federal on-scene coordinator and will contact other state agencies who have jurisdiction over the unauthorized discharge.

(d) Based on the assessment of the state on-scene coordinator, the GLO will determine whether and where to establish an on-scene command post. The state on-scene command post will serve as the single point of communication and coordination for state oversight and coordination of response actions. The post will be staffed until response operations are declared complete.

(e) The GLO will utilize the Incident Command System for all spills where a state on-scene coordinator is appointed by the commissioner.

#### §19.34. Duties of Responsible Person

(a) (No change.)

(b) The GLO may determine that the responsible person is unknown or appears unwilling or unable to respond adequately to the discharge, including reasonably foreseeable worst case scenarios of the discharge. The commissioner may delegate this determination to the state on-scene coordinator. In the event of such a determination the state on-scene coordinator may order the responsible person to take certain response actions. The state on-scene coordinator may also initiate response action by the state, either in addition to or in lieu of further response actions by the responsible person. As soon as possible after a determination of inadequate response, the state on-scene coordinator will notify the responsible person or the person acting for the responsible person of the inadequacy of response and inform the person of the intended corrective action. A determination that a responsible person appears unwilling or unable to respond adequately will be made by evaluating the resources committed to the response, the degree of cooperation with directions of the on-scene coordinator, the ability to commit further resources, and adherence to response and contingency plans.

(c) The responsible person or anyone acting on behalf of the responsible person must notify the state on-scene coordinator if the person intends not to comply with, or has not complied with,

state response orders or actions. The GLO may determine the person has unreasonably failed to comply with state response actions if noncompliance is for any reason other than an objective and reasonable belief that compliance unavoidably conflicts with federal requirements or poses an unjustifiable risk to public safety or natural resources. Any failure to comply may be grounds for a determination of inadequate response under subsection (b) of this section.

(d) The responsible person must orally state the reasons for noncompliance with an order of the state on-scene coordinator and must give written justification for the refusal within 48 hours as required by OSPRA [the Oil Spill Prevention and Response Act of 1991], §40.106.

(e) The responsible person is required to provide an emergency response plan consistent with 29 Code of Federal Regulations [CFR] §1910.120 for the health and safety of spill response personnel at the spill response scene. In order to comply with the National Contingency Plan, responsible persons must ensure that contractors and others under their employ have an emergency response plan program for the health and safety of personnel responding during the spill response. Failure to provide an emergency response plan for the health and safety of responders will be considered a failure to adequately respond to a spill event.

(f) The responsible person is required to operate in compliance with the appropriate Area Contingency Plan.

(g) The GLO will utilize the Incident Command System for all spills where a state on-scene coordinator is appointed by the commissioner.

#### §19.35. Assistance.

(a) (No change.)

(b) Any person or discharge cleanup organization participating in response operations shall not receive or be eligible to receive compensation from the fund unless the participation was authorized by the GLO. A person or organization is entitled to a qualified immunity from liability for damages, response costs, or penalties only if acting pursuant to request of the on-scene coordinator, the responsible person, or in accord with the applicable contingency plan or response plan.

(c) The GLO may waive the prior authorization requirement only if the assistance rendered was consistent with applicable contingency plans, and response plans, and was effective, cost-efficient, reasonably necessary, and did not endanger life, property, or natural resources.

#### §19.36. Disposal.

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

(d) The responsible person is required to provide a copy of the waste manifest(s) to the on-scene coordinator within 30 days of the completion of all response operations.

#### §19.37. Completion of Response.

(a) The General Land Office (GLO) will consider the opinions of the designated [natural resource] trustees in determining whether response actions are complete.

(b) In addition to reporting an unauthorized discharge at the time it occurs, the responsible person must file a written report of any such discharge with the GLO within 30 days of the response actions being declared complete. The report must contain details of the information listed in §19.32(e) [§19.32(d)(2)] of this title (relating to Reporting an Unauthorized Discharge) and must state the known extent of the damages to and loss of real and personal property. The report must also contain a listing of known damages to natural resources. Reporting forms are available from the GLO.

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 October 21, 1994.

TRD-9449875 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

### ◆ ◆ ◆ Subchapter D. Compensation and Liability

#### • 31 TAC §§19.51-19.55

The amendments are proposed under Texas Natural Resources Code, §40.117, which authorizes the land commissioner to promulgate rules necessary and convenient to the administration of OSPRA.

The Texas Natural Resources Code, Chapter 40, is affected by these proposed amendments.

§19.51. State Agency Reporting and Reimbursement Procedures. To receive reimbursement from the fund for costs incurred in responding to an unauthorized discharge, a state agency must, within 90 days of the General Land Office's (GLO) declaration of the completion of response actions, submit to the GLO a report of its response activities and an itemization of the response costs it incurred. The GLO will approve reim-

bursement from the fund for costs of response actions it authorized or for any other reasonable and necessary response costs consistent with state response actions. The GLO may require additional information to support a response costs reimbursement claim under this section.

#### §19.52. Designation of Responsible Person; Advertising Claims.

(a) The General Land Office (GLO) will conduct a preliminary investigation of the discharge. If the GLO determines that the unauthorized discharge has caused any damages compensable under OSPRA [the Oil Spill Prevention and Response Act of 1991 (OSPRA)], the GLO will identify the person or persons who appear responsible for the discharge.

(1) Upon a determination that damages compensable under OSPRA have resulted from an actual unauthorized discharge of oil or are likely to result from a threatened discharge, the GLO will immediately designate the responsible person. The GLO will make this determination based on the actual conditions observed at the site of the discharge or threatened discharge and will consider the following factors:

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

(2) the GLO shall give notice to the responsible person immediately upon a determination that damages have resulted or will result from the discharge. The notice will be in writing and may also be conveyed orally. The designation may be challenged within five days of the written notice. One or more persons or entities may be designated as persons responsible. The designation will be made by reviewing and assessing the following factors:

(A)-(D) (No change.)

(E) any other relevant factor which comes to the attention of the GLO.

(b) (No change.)

(c) A challenge to the proposed designation must be made within five days in writing, fully state the grounds for the challenge, and be filed with the GLO. If the proposed designation is challenged or the GLO is unable to make a designation for any other reason, the GLO shall advertise the manner in which claims for response costs and damages must be filed.

(d) If the proposed designation is not challenged within five days, the designated responsible person must inform the GLO of its intended advertising, claims, and payment procedures, including the name of any agent handling claims on the

responsible person's behalf and the name of any underwriter for liability from the discharge. As a part of all claims procedures, the designated responsible person must inform all claimants of the availability of the state fund and the federal fund to pay claims.

(e) Claims advertisements by the GLO or designated responsible persons must be printed each day for one week, beginning no later than 14 days after completion of the designation process, in the newspaper of largest general circulation in the locality in which the unauthorized discharge occurred. The locality means the county and contiguous counties where real or personal property affected by the discharge is located. Advertisements must also be placed in designated newspapers of general circulation anywhere in the State of Texas when the commissioner so orders due to the impact of the discharge on natural resources and on persons economically reliant on the use of acquisition of the natural resources. Advertising requirements may also include radio and television announcements of claims procedures.

#### §19.53. Claims Procedures.

(a) OSPRA [The Oil Spill Prevention and Response Act of 1991] established the fund to provide immediately available compensation for response costs incurred and damages suffered as a result of an unauthorized discharge. The intent of this section is to avoid economic displacement and to simplify resolution of liability issues by creating procedures conducive to settlement and adjustment of claims in as orderly, efficient, and timely a manner as possible. "Reasonably responded" for the purposes of this section means that the receipt of the claim has been acknowledged, that claimant has been advised of the need for any further documentation to complete claims processing, and that the claimant has been advised in writing whether or not the responsible person will make an offer of settlement on any part or all of the claim and the date by which such offer will be made.

(b) If there is a designated responsible person, all claims must be presented to the designated responsible person first.

(1) (No change.)

(2) If the claim is for over \$50,000 and is not reasonably responded to within 90 days of presentation to the designated responsible person, the claimant must present the claim to the federal fund prior to the presentation to the GLO. If a claim presented to the federal fund is not settled within 60 days of presentation, the claimant may then present it to the GLO.

(c) If there is no designated responsible person, either because the identity of the person responsible for the unauthorized discharge is unknown or a proposed designation is challenged, claims of \$50,000 or less may be presented to the GLO first. Claims over \$50,000 must be presented to the federal fund first. Any such claim not reasonably responded to within 60 days may then be presented to the GLO.

(d) A claim is presented when the GLO actually receives it. Claimants must present claims to the GLO within 180 days from the date the claim is first eligible to be filed with the GLO. When necessary to meet this deadline, the claimant may present the claim even though it is under consideration by the responsible person or the federal fund. The GLO may extend [toll] the 180-day period if the claimant cannot present it within that time for reasons beyond the claimant's control.

(e) (No change.)

(f) The GLO may prescribe appropriate claim forms. Claimants must present claims to the GLO accompanied by evidence supporting the claim and proof that all prerequisites to filing a claim with the GLO have been satisfied, including a copy or summary of any offer of settlement or payment by the responsible person or the federal fund. Claimant must provide the GLO with a copy of the claim previously submitted to the designated responsible person. The GLO may require additional information or evidence to support a claim.

(g) The GLO shall review the evidence and any settlement offer and may require or consider additional evidence or proof from the claimant or from the designated responsible person.

(h) The GLO may, in its discretion, treat separately each class of damages or costs set out in a claim. The GLO may make partial awards of damages or costs set out in the claim based on separate classes of damages or costs or for other good cause.

(i) If the GLO determines that the settlement offer was reasonable, and the claimant did not make reasonable effort to settle, or that the evidence submitted is insufficient to support the claim, the GLO will deny the claim. The GLO will inform the claimant and the designated responsible person of denial in writing. After denial, if a claimant attempts reasonable efforts to settle and the person responsible or the federal fund does not tender a reasonable settlement offer, the GLO may allow the claim to be reinstated.

(j) If the GLO determines a settlement offer is not reasonable, or if a settlement offer is not a prerequisite to the claim, the GLO will propose an award amount. The GLO will notify the claimant and the

responsible person of the proposal in writing.

(k) The GLO will hold a hearing on the proposed award if either the claimant or the designated responsible person files a written request for a hearing within 20 days of issuance of the proposal.

(l) If no hearing is requested within 20 days, or after the hearing if one is requested, the GLO will either notify the claimant and the designated responsible person of denial or tender the award to the claimant and notify the designated responsible person of the award amount. The claimant may reject the tender by returning it to the GLO within ten days of receipt.

(m)-(n) (No change.)

(o) The GLO will not consider any claim filed by a claimant who is pursuing substantially the same claim through litigation.

§19.54. *Natural Resource Damages.* To determine natural resource damages for purposes of an action under OSPRA [the Oil Spill Prevention and Response Act of 1991], the General Land Office (GLO) may use the natural resource damages assessment methods adopted pursuant to Chapter 20 of this title (relating to Natural Resource Damage Assessment) or the methods by the United States Department of Interior under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 United States Code §1321 [§§1321] et seq.), or by the United States Department of Commerce under OPA [the Oil Pollution Act of 1990, Public Law 101-380. GLO may also use the guidelines on fish and wildlife values established by the Parks and Wildlife Department for civil liability for violations of the Parks and Wildlife Code. These guidelines are found at §§69.20-69.31 of this title (relating to Fish and Wildlife Values) .] The GLO may use any reliable [other] methods of assessment that it deems reasonable given the particular resources affected.

#### §19.55. Response Costs.

(a) The General Land Office (GLO) is required to recover expenditures from the coastal protection fund pursuant to OSPRA, §40.153 and §40.161(a), and therefore the GLO will assess response costs as delineated in this subsection.

(b) Whenever the GLO is unable to identify the person responsible for an unauthorized discharge of oil into or posing an imminent threat to coastal waters, the GLO will respond to the unauthorized discharge by initiating cleanup and other necessary response actions. Upon identification of the responsible person, the GLO will seek reimbursement for all monies expended from



the coastal protection fund including, but not limited to, the following:

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

(c) (No change.)

(d) The GLO will assess response costs when:

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

(e) The GLO will not assess response costs when:

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

(f) The minimum response cost of \$250 will be billed whenever GLO personnel are required to monitor prevention or response activities and the time spent at the spill scene, excluding travel time, is less than eight hours. In the event that more than eight hours of GLO response personnel time is required at the scene of the spill, the responsible party will be assessed the actual costs of response incurred by the GLO. Response costs will not be assessed where either the Railroad Commission of Texas or the Texas Natural Resource Conservation [Water] Commission is the state on-scene coordinator, unless requested by the Railroad Commission of Texas or the Texas Natural Resource Conservation [Water] Commission and approved by the commissioner.

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 October 21, 1994.

TRD-9449974 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

### Subchapter C. Spill Response • 31 TAC §19.38

*(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 General Land Office or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas General Land Office, Division of Oil Spill Prevention and Response, proposes the repeal of §19.38, concerning remediation. This section is being repealed because it has been replaced by natural resource damage assessment rules, promulgated pursuant to the Oil Spill Prevention and Response Act, §40.107.

Russel Lutz, Deputy Commissioner for Oil Spill Prevention and Response, has determined that for the first five-year period the rule is repealed there will be no fiscal impact

to state or local governments resulting from the repeal of this section.

Mr. Lutz also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated is clarification of the appropriate remediation processes. There will be no particular effect on small businesses, nor any anticipated economic costs to persons who may be affected by the repeal.

Comments on the proposed repeal may be submitted to Ingrid K. Hansen, Legal Services Division, Texas General Land Office, 1700 North Congress Avenue, Room 630, Austin Texas 78701-1495. In order to be considered, comments must be received by 5:00 p.m. on November 28, 1994.

The repeal is proposed under the Texas Natural Resources Code, Chapter 40, Subchapter C, §40.107, which provides the commissioner of the General Land Office with the authority to promulgate rules relating to natural resource damage assessment.

The Texas Natural Resources Code, Chapter 40, Subchapter C, §40.107, is affected by this proposed repeal.

#### §19.38. Remediation.

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 October 21, 1994.

TRD-9449973 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services Chapter 19. Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

The Texas Department of Human Services (DHS) proposes the repeal of §§19.1701-19.1708 and new §§19.1701-19.1727, concerning Long Term Care Nursing Facility Requirements for Licensure and Medicaid Certification. The purpose of the repeals and new sections is to combine nursing facility licensure standards and certification requirements into one chapter in compliance with Texas Civil Statutes, Article 4413(502) historical note (Vernon Supplement 1994) (Act of August 9, 1991, 72nd Legislature, First Called Session, Chapter 15, §1.11, 1991 Texas General Laws 298). The majority of the rules

have been only reorganized and edited for clarity; there are few substantive changes. This proposal completes the publication for public comment of the revised Chapter 19 which DHS initiated in its proposal of new Subchapter C, Nursing Facility Licensure Application Process; new Subchapter P, Pharmacy Services; and new Subchapter V, Enforcement, in the September 30, 1994, issue of the *Texas Register* (19 TexReg 7765). Also, in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8007), DHS proposed related repeals, amendments, and new sections in its Chapter 90, Intermediate Care Facilities Serving Persons with Mental Retardation or a Related Condition (formerly Nursing Facilities and Related Institutions).

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

Mr. Ralford also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be one set of rules that cover licensure and certification requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of the proposal may be directed to Susan Syler at (512) 450-3111 in DHS's Institutional Policy Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-386, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

### Subchapter R. Vendor Payment • 40 TAC §§19.1701-19.1708

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

The repeals are proposed under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities; the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The repeals implement the Health and Safety Code, §§242.001-242.186, and the Human Resources Code, §§22.001-22.024 and 32.001-32.042.

§19.1701. Vendor Payment (Items and Services Included).

*§19.1702. Additional Charges (Items and Services Excluded from Vendor Payment).*

*§19.1703. Therapeutic Home Visits Away from the Facility.*

*§19.1704. Vendor Payment Information.*

*§19.1705. Effective Date of Vendor Coverage.*

*§19.1706. Supplementation of Vendor Payments.*

*§19.1707. Penalties for Supplementation.*

*§19.1708. Limitations on Provider Charges.*

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 October 14, 1994.

TRD-9449786

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

Proposed date of adoption: February 15, 1995

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

◆ ◆ ◆  
**Subchapter R. Physical Plant  
and Environment**

• 40 TAC §§19.1701-19.1727

The new sections are proposed under the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities; the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer its programs; and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The new sections implement the Health and Safety Code, §§242.001-242.186, and the Human Resources Code, §§22.001-22.024 and 32.001-32.042.

*§19.1701. General Requirements.*

(a) The facility must be designed, constructed, equipped, and maintained to protect the health and ensure the safety of residents, personnel, and the public. If children are admitted to the facility, accommodations, furnishings, and equipment appropriate to children must be provided. (See also §19.705 of this title (relating to Environment).)

(b) The requirements of this subchapter are applicable to new and existing nursing facilities unless otherwise stated. Refer to Subchapter D of this chapter (relating to Construction) for additional requirements for new construction, conversions of existing unlicensed buildings, remodeling, and additions. An existing unlicensed building is defined as any building (or portion thereof) which is not presently licensed as a nursing home.

(1) Plans for construction, including the addition or removal of walls, doors, and windows, must be approved by the Texas Department of Human Services' (DHS's) Architectural Section before any construction begins. DHS must be consulted before installing or modifying building systems, such as mechanical and electrical systems, generators, fire alarm and detection systems, and nurse-call systems.

(2) Routine maintenance, repairs, equipment replacement, upkeep, painting, and trim work are not considered remodeling.

*§19.1702. Applicable Codes and Standards.*

(a) The facility must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (NFPA) as designated by federal law and regulations (Health and Safety Code, §242.039(b)). The Life Safety Code is available for inspection at the Office of the Federal Register Information Center, Washington, D.C. Copies may be obtained from the NFPA, Batterymarch Park, Quincy, Massachusetts 02200. The New Health Care Occupancies chapter of the Life Safety Code is applicable to new construction, conversions of existing unlicensed buildings, remodeling, and additions. The Existing Health Care Occupancies chapter of the Life Safety Code is applicable to existing nursing homes. Life Safety features and equipment that have been installed in existing buildings and are now in excess of that required by the Life Safety Code must continue to be maintained or completely removed with the approval of the Texas Department of Human Services (DHS).

(b) In addition to the Life Safety Code, facilities must meet any other codes and standards of the NFPA referenced by the Life Safety Code and those listed in this chapter, except as may be otherwise approved or required by DHS.

(c) The following codes, standards, or guidelines generally govern their subject areas for existing construction:

(1) If the municipality has a building code and a plumbing code, those codes govern.

(2) In the absence of municipal codes, nationally recognized codes must be

used, such as the Standard Building Code and the Standard Plumbing Code, both of the Southern Building Code Congress International, Inc. All nationally recognized codes, when used, must be publications of the same group or organization to assure continuity.

(3) Heating, ventilating, and air-conditioning systems must be designed and installed in accordance with NFPA 90A and the Heating, Ventilating, and Air-Conditioning Guide of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE), except as may be modified in this subchapter.

(4) Electrical and illumination systems must be designed and installed in accordance with NFPA 70 and the Lighting Handbook of the Illuminating Engineering Society (IES) of North America, except as may be modified in this subchapter.

(5) Accessibility for individuals with disabilities must be designed and installed in accordance with the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations must be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

(6) Every building and portion thereof must be capable of sustaining all dead and live loads in accordance with accepted engineering practices and standards.

(7) Each building must be classified as to building construction type for fire resistance rating purposes in accordance with NFPA 220 and the Life Safety Code.

(8) Building insulation materials, unless sealed on all sides and edges in an approved manner with noncombustible material, must have a flame-spread rating of 25 or less when tested in accordance with NFPA 255 and NFPA 258.

*§19.1703. Waivers.*

(a) After consideration of the findings of the Texas Department of Human Services (DHS) for Medicare/Medicaid certified facilities, the Health Care Financing Administration (HCFA) may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship on the facility, but only if the waiver does not adversely affect the health and safety of residents or personnel.

(b) DHS may grant a waiver for certain provisions of the physical plant and



environment which, in DHS's opinion, would be impractical for the facility to meet. In granting the waiver, DHS will determine that there will be no adverse effect on resident health and safety and the requirement, if not waived, would impose an unreasonable hardship on the facility. DHS may require offsetting or equivalent provisions in granting a waiver.

*§19.1704. Emergency power.*

(a) An emergency electrical power system must supply power adequate at least for lighting all entrances and exits; equipment to maintain the fire detection, alarm, and extinguishing systems; and life-support systems if the normal electrical supply is interrupted. Emergency electrical services by generator or battery must be provided to comply with the provisions of the National Fire Protection Association (NFPA) 70. Battery systems must be capable of sustaining power for a duration of at least one and one-half hours.

(1) Life safety systems must include:

(A) illumination for means of egress, nurse stations, medication rooms, dining and living rooms, and areas immediately outside of exit doors;

(B) exit signs and exit directional signs required by the Life Safety Code;

(C) alarm systems, including fire alarms activated by manual stations, water flow alarm devices of sprinkler systems, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed (where hospital-type functions are included in the nursing home facility, applicable standards apply);

(D) task illumination and selected receptacles at any required or provided generator set location;

(E) selected duplex receptacles, including receptacles in resident corridors, each resident-bed location where patient-care-related electrical appliances are utilized, nurse stations, medication rooms, including biological refrigerator, if a generator is required or provided;

(F) nurse calling systems;

(G) elevator cab lighting, control, and communication systems;

(H) all facility telephone equipment; and

(I) those paging or speaker systems that are necessary for the communication plan for an emergency. Radio transceivers that are necessary for emergency use must be capable of operating for at least one hour upon total failure of both normal and emergency power.

(2) Where critical systems are provided, there must be a delayed automatic connection.

(3) The emergency lighting must be automatically in operation within 10 seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be a delayed automatic connection. Receptacles connected to emergency power must be of a uniform and distinctive color. Stored fuel capacity must be sufficient for not less than four-hour operation of required generator.

(4) Emergency motor generator, if required or provided, must meet the following standards:

(A) any emergency generator must be installed in accordance with NFPA 37 and NFPA 99;

(B) generators located on the exterior of the building must be provided with a noncombustible protective cover or be protected as per manufacturer's recommendations; and

(C) motor generators fueled by public utility natural gas must have the capacity to be manually or automatically switched to an alternate fuel source. (Reference NFPA 70).

(5) Wiring for the emergency system must be in accordance with NFPA 70.

(b) When life support systems are used, the facility must provide emergency electrical power with an emergency generator (as defined in NFPA 99, Health Care Facilities) located on the premises.

*§19.1705. Space and equipment.*

(a) The facility must:

(1) provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these standards and as identified in each resident's plan of care; and

(2) maintain all essential mechanical, electrical, and patient care equipment in safe operating condition.

(b) A wing or area which is separated from the rest of the facility by locked

doors for the purpose of securing residents must meet the requirements of §19.2208(a)(5) of this title (relating to Standards for Certified Alzheimer's Facilities).

(c) If children are residents of the facility, the facility must provide:

(1) indoor and outdoor recreation areas designed to encourage exploration within the children's capabilities; and

(2) pediatric equipment and supplies in appropriate size for the age and development level of the children. Pediatric emergency supplies and equipment must be readily available for use.

*§19.1706. Resident rooms.* Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents.

(1) Bedrooms must:

(A) accommodate no more than four residents. The total number of beds in ward rooms with three or more beds must not exceed 50% of the total facility capacity in existing facilities unless approved by the Texas Department of Human Services (DHS);

(B) measure at least 80 square feet per resident in multiple resident bedrooms and at least 100 square feet in single resident rooms;

(C) have direct access to an exit corridor;

(D) be designed or equipped to assure full visual privacy for each resident. Appropriate measures must be taken through the use of cubicle curtains, screens, or procedures to protect the privacy and dignity of the residents. Curtains and screens must be rendered and maintained flame-retardant;

(E) in facilities initially certified after March 31, 1992, except in private rooms, have ceiling-suspended curtains for each bed, which extend around the bed to provide total visual privacy, in combination with adjacent walls and curtain (see subparagraph (D) of this paragraph);

(F) have at least one operable window to the outside which can readily be opened from the inside without the use of tools. The height of the window sill (opening) must not exceed 36 inches above the floor. The minimum area of windows in each bedroom must equal at least 8.0% of the room area. Operable window sections may be restricted to not more than six or

not less than four inches for security or safety reasons if approved in writing by DHS. Each window must be provided with a flame-retardant shade, curtain, or blind; and

(G) have a floor at or above grade level.

(2) The facility must provide each resident with:

(A) a separate bed of proper size and height for the convenience of the resident. The bed will be a minimum of 36 inches wide with a headboard of sturdy construction, a clean, comfortable mattress with a moisture-proof cover, and a comfortable pillow. Each bed must be provided with suitable bedspreads and blankets to assure the comfort and warmth of each resident, and must not be passed from resident to resident without first being laundered. The bed of each resident with physician's orders for bedrails must have bedrails affixed to both sides of the bed;

(B) bedding appropriate to the weather and climate; and

(C) functional furniture appropriate to the resident's needs including a comfortable chair, bedside cabinet, and individual closet space in the resident bedroom with at least 16 inches of hanging space, shelves for personal belongings accessible to the resident, and closeable door(s). Each bedroom must be provided with at least one noncombustible wastebasket.

(3) The Health Care Financing Administration (HCFA) or DHS may permit variations in requirements specified in paragraph (1)(A) and (B) of this section relating to rooms in individual cases when the facility demonstrates in writing that the variations:

(A) are required by the special needs of the residents; and

(B) will not adversely affect residents' health and safety.

(4) The width and length of bedrooms and the arrangement of furniture must assure appropriate resident circulation, especially in relation to emergency evacuation and to usual wheelchair movement. Bedrooms should not be less than 10 feet in the smallest dimension. There must be at least 36 inches between beds and should be at least 18 inches between any bed and the adjacent parallel wall that restricts access by the resident (that is, bed sides should not have to be placed against a wall to meet

other spacing requirements). Beds must not extend into the bedroom door opening, nor must any other piece of furnishing or equipment be located where it might preclude or inhibit the removal of any bed or closing and latching of the bedroom door in an emergency.

(5) Each bed must have access to a nurse-call device that is part of an electrical nurse-call system.

(6) Each bed must be provided with an appropriate, safe, durable, nonglare, permanently bed- or wall-mounted reading-light fixture. The fixture must be wired in accordance with NFPA 70. These fixtures should be mounted at least five feet, six inches above the floor. The switch must be within reach of a resident in the bed.

(7) At least one duplex receptacle must be provided for each bed. Other duplex receptacles must be provided as needed and/or as required by NFPA 70.

(8) Each bedroom must be assured of having general lighting, either by means of appropriate combination reading light or by means of separate fixture.

(9) For emergency separation from fire and smoke, bedroom doors must be maintained to close completely without dragging or binding, to latch securely, and to fit reasonably tight in the frame. The gap between the floor and the bottom of the closed door must not exceed 3/4 inch.

(10) Vacant bedrooms may not be used for hazardous activities or hazardous storage, unless specifically approved by DHS in writing.

(11) Bedrooms must be identified with a raised or recessed unique number placed on or near the door. Refer to §19.1720(c) of this title (relating to Provisions for Persons with Disabilities) and §19.1702(c)(5) of this title (relating to Applicable Codes and Standards).

(12) Residents must be permitted and encouraged to have personal possessions in their rooms that do not interfere with their care, treatment, or well-being, or that of other residents. Pediatric resident's rooms should be decorated and furnished in accordance with the age and developmental level of the children and as an expression of their individual preferences.

(13) Locks on bedroom doors are permitted when they meet definite patient needs, including the following situations:

(A) married couples whose rights of privacy could be infringed upon unless bedroom door locks are permitted;

(B) residents for whom the attending physician wants bedroom door locks to enhance their sense of security; and

(C) residents for whom restraint through confinement to their own rooms is necessary for their own and/or other persons' safety.

(14) In situations such as those listed in paragraph (13) of this section, the following guidelines must be met:

(A) bedroom door locks for other than restraining purposes must be of the type which the occupant can unlock at will from inside the room;

(B) all bedroom door locks must be of the type which can be unlocked from the corridor side;

(C) attendants must carry keys which will permit ready accessibility to the locked bedrooms when entrance becomes necessary;

(D) bedroom doors which are locked for resident restraining purposes must be dutch-doors, with only the lower section locked. The upper part of the doorway must be open to permit visual supervision of the residents from the corridor. The dutch door should be easily unlocked by nurses and attendants. Resident restraints of any nature cannot be applied without orders from the attending physician. (See §19.601 of this title (relating to Resident Behavior and Facility Practice)).

(E) The locking of bedroom doors by residents for privacy or security or by nursing facility staff for restraint (dutch door) will not be permitted except when specifically included in the attending physician's written orders or authorized by the nursing facility administrator.

§19.1707. *Toilet facilities.* Each resident room must be equipped with or located near toilet and bathing facilities.

(1) Bedrooms not provided with their own (or shared) direct-access toilets and baths must have general-use baths and toilets conveniently located for each sex.

(2) Bathtubs or showers must be provided at minimum rate of one for each 20 beds which are not otherwise served by bathing facilities directly accessible from resident bedrooms.

(3) In toilet facilities designed for multi-resident use, water closets must be separated in such a manner that they can be used independently and afford privacy. Toi-

let paper in a suitable dispenser must be provided within reach of each toilet.

(4) Water closets and lavatories must be provided at a minimum rate of one for each eight beds which are not otherwise served by fixtures directly accessible from resident bedrooms. A lavatory must be provided in or adjacent to each area having a water closet.

(5) Lavatories must be equipped with a mixer faucet and hot and cold water. Resident-use hot water must be provided within the temperature guidelines specified in §19.1723(g) of this title (relating to Plumbing).

(6) There must be a sufficient number of toilet rooms and bathing areas designed to accommodate residents in wheelchairs, including sufficient space in or around fixtures. Proper heights, locations, and installations must be made for grab bars, and any mirrors and accessories provided.

(7) Grab bars and lavatories must be substantially anchored to withstand sustained and repeated downward and outward pressure. Grab bars must be provided at all resident water closets and bathing fixtures. New grab bar installations must meet the requirements of the Texas Department of Licensing and Regulation, Elimination of Architectural Barriers Section.

(8) Floors, walls, and ceilings must have a nonabsorbent, cleanable surface. Floors and tub or shower standing surfaces must be slip resistant.

(9) Doors to bathing and toilet facilities must be wide enough for safe and easy passage of residents in wheelchairs. Folding or sliding doors must not be used unless it can be established that no safety hazard exists.

(10) Keys to resident baths or toilets with privacy locks must be kept readily available to staff.

(11) Provision must be made for sanitary hand washing and drying by staff, visitors, or residents at each lavatory.

(12) Bathrooms and toilet rooms must have a negative air pressure in relation to adjacent areas with air exhausted through ducts to the exterior.

(13) Bathing areas must be provided with safe heating.

(14) Bathtubs, showers, and lavatories must be kept clean and in proper working order. They must not be used for laundering or for storage of soiled materials or for the cleaning of mops or brooms.

(15) Nurse-call devices must be provided at resident-use baths and toilets and be within easy reach of residents.

(16) Electrical outlets in wet areas must be provided with ground fault interrupters, excluding toilet rooms where there are no bathing units.

#### §19.1708. Resident Call System.

(a) The nurse's station must be equipped to receive resident calls through a communication system from:

- (1) resident rooms; and
- (2) toilet and bathing facilities.

(b) The call cord does not have to be accessible in all parts of the room, but must be accessible to the resident. The system must be connected to on and off switches operable at each bed, toilet unit, and bathing unit.

(c) Each call entered into the system must activate a corridor dome light above the bedroom/bathroom/toilet corridor door that opens onto a corridor.

(d) A visual signal at the nurses station must indicate the room from which the call was placed with an audible signal of sufficient amplitude to be clearly heard by nursing staff. The amplitude or pitch of the audible signal must not be irritating to residents or visitors.

(e) The system must be designed so calls entered into the system may be canceled only at the calling station. Intercom type systems must be installed only after approval by the Texas Department of Human Services.

#### §19.1709. Dining and Resident Activities.

(a) The facility must provide one or more rooms designated for resident dining and activities. These rooms must be:

- (1) well-lighted;
- (2) well ventilated, with non-smoking areas identified;
- (3) adequately furnished; and
- (4) sufficiently spacious to accommodate all activities.

(b) Resident living areas.

(1) Resident living areas such as living rooms, dayrooms, lounges, recreation rooms, and sunrooms must be provided to meet the needs of the residents' comfort. Combined living and dining areas should be not less than 19 square feet per bed, but must not be less than 10 square feet per bed.

(2) No single room less than 100 square feet will be included as part of the acceptable total area required.

(3) At least one living area must have an outside window.

(4) Living areas must be provided with comfortable furniture of substantial construction and be appropriately decorated to provide a pleasant and comfortable environment for residents and visitors. Furnishings and decorations must not obstruct exits or ways of egress.

(5) Nonsmoking areas must be provided and identified.

(c) Dining areas.

(1) Dining space must be provided to adequately serve needs of the residents and provide an efficient, sanitary, and pleasant environment for dining.

(2) Facilities having continuing deficiencies in the service of meals directly attributable to inadequately sized dining areas will be required to submit a special plan of correction specifying how meal planning or service will be changed, or provide other means to correct the deficiency. This corrective plan will be prepared by a registered or licensed dietitian. Refer to Subchapter D of this title (relating to Facility Construction) for dining and living area requirements related to proposed bed increases.

§19.1710. Other Environmental Conditions. The facility must provide a safe, functional, sanitary, and comfortable environment for residents, staff, and the public.

(1) The facility must:

(A) establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply;

(B) have adequate outside ventilation by means of windows, mechanical ventilation, or a combination of the two;

(C) equip corridors with firmly secured handrails on each side on all walls 18 inches or greater. These rails must be substantially anchored to withstand downward force and must be mounted 33 to 36 inches from the floor; and

(D) maintain an effective pest control program so that the facility is free of pests and rodents. (See §19.1725 of this title (relating to Pest Control)).

(2) No occupancies or activities undesirable to the health, safety, or well-being of residents will be located in the facility.

(3) For pediatric residents, the environment must be the least restrictive allowable while remaining within the parameters of safety. All areas of the facility accessible to children must be "child proof" for safety hazards. This type of safety

proofing is above the normal level of hazard control maintained for adult residents and includes the addition of safety covers on all electrical outlets.

(4) In operations where there is a chance of cross-contamination, clean and soiled operations must be separated to lessen the chance of cross-contamination by facility employees, residents, and others. These separation must be in relation to traffic flow, air currents, air exhaust, water flow, vapors, and other conditions.

(5) An electric water cooler or water fountain must be accessible to residents. When new drinking fountains are provided, at least one must be installed to be accessible to persons in wheelchairs.

(6) Public toilet(s) with sanitary handwashing and drying provisions must be provided or designated.

(7) If deodorant is used for air-freshening purposes, the following procedures must apply:

(A) deodorants or air fresheners are permitted provided the dispensing device is located where it is inaccessible to residents/patients;

(B) these products are not used to cover odors resulting from poor housekeeping practices or unsanitary conditions;

(C) these products are not used in excess;

(D) there is no contradiction on the label of the product indicating that the product should not be used in the presence of the aged or ill;

(E) devices, such as ozone generators, ultra-violet generators, and smoke eliminators, must be approved by the Texas Department of Human Services.

#### §19.1711. Site and Grounds.

(a) Site grades must provide for positive surface water drainage so that there will be no ponding or standing water at or near the building that would present a hazard to health or provide a breeding site or harborage for carriers of disease.

(b) Outdoor activity, recreational, and sitting spaces must be provided for residents as space permits.

(c) Each facility must have parking spaces to satisfy the needs of residents, employees, staff, and visitors. Provisions must be made for handicapped parking and access into the building.

(d) Protection must be provided for resident safety from traffic or other site hazards by the use of appropriate methods, such as fences, hedges, retaining walls, railings, or other landscaping. This protection must not inhibit the free emergency egress to a safe distance away from the building.

(e) Auxiliary buildings located on the site within 20 feet of the main licensed structure and which contain hazardous operations or contents, such as laundries or storage buildings, must meet the same code requirements for safety as the main licensed structure.

(f) Other buildings on the site must meet the appropriate occupancy section or separation requirements of the Life Safety Code.

(g) All outside areas, grounds, and adjacent buildings on the site must be maintained in good condition and kept free of rubbish, garbage, and untended growth that may constitute a fire or health hazard.

(h) Enclosed exterior spaces, such as fenced areas, that are in a means of egress to a public way must meet the requirements of §19.2208(a)(7) of this title (relating to Standards for Certified Alzheimer's Facilities).

#### §19.1712. Fire Service and Access.

(a) The facility must be served by a paid or volunteer fire department. The fire department must provide written assurance to the licensing agency that the fire department can respond to an emergency at the facility within an appropriately prompt time for the travel conditions involved

(b) The facility must be served by an adequate water supply that is satisfactory and accessible for fire department use as determined by the fire department serving the facility and by the Texas Department of Human Services (DHS).

(c) There must be at least one approved, readily accessible fire hydrant located within 300 feet of the building. The hydrant must be on a minimum six-inch service line, or else there must be an approved equivalent (such as a storage tank). The hydrant, its location, and service line, or equivalent must be approved by the local fire department and DHS.

(d) The building must have suitable fire lanes for access as required by local fire authorities and DHS.

#### §19.1713. Means of Egress

(a) Corridors and other means of egress must be kept clear of obstructions and must not be used for any purpose which would interfere with its use as an exit, such as for storage, vending machines, seating,

or similar purposes. The corridor width must be maintained at all times.

(b) Ways of egress and exit signs must be illuminated at all times.

(c) In addition to the required illumination (normal and emergency), the facility must keep on hand and readily available to night staff no less than one working flashlight per nurses station.

(d) Doors within the means of egress must not be equipped with a latch or lock which requires the use of a key or tool to open from the inside of the building. A latch or other fastening device on a door must be provided with a knob, handle, panic bar, or other simple type of releasing device with an obvious method of operation, even in darkness.

(e) A hold-open device must be installed on each exit door.

#### §19.1714. Interior Finishes-Walls, Ceilings, and Floors.

(a) Interior finishes of walls and ceilings must have limited flame-spread rating as required by the Life Safety Code. Where new interior finishes of walls, ceilings, or floors are applied to existing facilities, the new finishes must meet the requirements for flame-spread ratings for new construction. Fire retardant paints or solutions must not be applied to new materials in an effort to meet flame-spread requirements for new construction. This description of interior finishes does not apply to furniture or accessories.

(b) Floors of the facility must be level, smooth, and free of any irregularities which might affect safety

(c) Walls and ceilings not specifically described elsewhere in this chapter must be cleanable, maintained attractively, and in good repair.

(d) Walls and floors must be kept free of cracks. The joint between the walls and floors is to be maintained so as to be free of spaces which might harbor insects, rodents, or vermin.

#### §19.1715. Fire Alarms, Detection Systems, and Sprinkler Systems.

Fire alarms, detection systems, and sprinkler systems must be as required by the Life Safety Code, the National Fire Protection Association (NFPA) 72, and NFPA 13.

(1) Components must be compatible and laboratory listed for the use intended.

(2) Wiring and circuitry for alarm systems must meet the applicable requirements for NFPA standards, including NFPA 70, for these systems.

(3) Fire alarm systems must be installed, maintained, and repaired by an agent having a current certificate of registration with the State Fire Marshal's Office of the Texas Commission on Fire Protection, in accordance with state law. A fire alarm installation certificate must be provided as required by the Office of the State Fire Marshal.

(4) The fire alarm system must be designed so that whenever the general alarm is sounded by activation of any device (such as manual pull, smoke sensor, sprinkler, kitchen range hood extinguisher) the following will occur automatically:

(A) smoke and fire doors which are held open by approved device must be released to close;

(B) air handlers (air conditioning/heating distribution fans) serving three or more rooms or any means of egress must shut down immediately;

(C) smoke dampers must close; and

(D) the alarm-initiating location must be clearly indicated on the fire alarm control panel(s) and all auxiliary panels.

(5) Consistent fire alarm bells or horns must be located throughout the building for audible coverage. Flashing alarm lights (visual alarms) must be installed to be visible in corridors and public areas including dining rooms and living rooms.

(6) A master control panel which indicates location of alarm and trouble conditions (by zone or device) must be visible at the main nurse station. All control panels must be listed in accordance with the provisions of the Underwriters Laboratories, Inc. (UL) for intended use, such as manual, automatic, and water-flow activation. Alarm and trouble zoning must be by smoke compartments and by floors in multi-story facilities.

(7) Remote annunciator panels, indicating location of alarm initiation (by zone or device) and common trouble signals must be located at auxiliary or secondary nurse stations on each floor or major subdivision of single story facilities, that will indicate the alarm condition of adjacent zones and the alarm conditions at all other nurse stations.

(8) Manual pull stations must be provided at all exits, living rooms, dining rooms, and at or near the nurse stations.

(9) The NFPA 13 sprinkler system must be monitored for flow and tamper conditions by the fire alarm system.

(10) The kitchen range hood extinguisher must be interconnected with the fire alarm system. This interconnection may be a separate zone on the panel or combined with other initiating devices located in the same zone as the range hood is located.

(11) Partial sprinkler systems (those provided only for hazardous areas) must be interconnected to the fire alarm system and comply with the Life Safety Code. Each partial system must have a valve with a supervisory switch to sound a supervisory signal, water-flow switch to activate the fire alarm, and an end-of-line test drain.

*§19.1716. Portable Fire Extinguishers.* Portable fire extinguishers must be provided and maintained to comply with the provisions of the National Fire Protection Association (NFPA) 10. This includes such items as type of extinguishers (A, B, or C), location and spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent (with any necessary servicing), and hydrostatic testing as recommended by the manufacturer.

(1) Extinguishers in resident corridors must be spaced so that travel distance is not more than 75 feet. The minimum size of extinguishers must be either 2 1/2 gallon for water type or five pound for ABC type.

(2) Extinguishers must be installed on supplied hangers or brackets or be mounted in cabinets approved by the Texas Department of Human Services (DHS)

(3) Extinguishers must be surface wall-mounted or recessed in cabinets where they are not subject to physical damage or dislodgement.

(4) Extinguishers having a gross weight not exceeding 40 pounds must be installed so that the top of the extinguisher is not more than five feet above the floor. Extinguishers with a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than 3 1/2 feet above the floor. The clearance between the bottom of the extinguisher and the floor must not be less than four inches.

(5) Portable extinguishers provided in hazardous rooms must be located as close as possible to the exit door opening and on the latch (knob) side.

(6) Staff must be appropriately trained in the use of each type of extinguisher in the facility.

*§19.1717. Subdivision of Building Spaces-Smoke Barriers.*

(a) Subdivision of building spaces must be as required by the Life Safety

Code.

(b) The facility must maintain the integrity of smoke barrier walls, including those parts of walls in attics and other concealed spaces.

(c) The facility must maintain the integrity of smoke dampers in air ducts.

(d) Ducts with smoke dampers must have maintenance panels for inspection. The maintenance panels must be removable without tools. Means of access must also be provided in the ceiling or side wall to facilitate smoke damper inspection readily and without obstruction. Location of dampers must be identified on the wall or ceiling of the occupied area below.

*§19.1718. Elevators and Escalators.* Elevators must comply with the provisions of the Life Safety Code and American National Standard Institute Safety Code for Elevators and Escalators (ANSI/ASME A17.1). Elevators are required for buildings having residents' facilities (such as bedrooms, dining, or recreation areas) or services (such as diagnostic or therapy) located on other than the main entrance floor. Passenger elevators and escalators must be inspected by a qualified agent at least every six months. Freight elevators must be inspected every 12 months.

*§19.1719. Other Rooms and Areas.*

(a) Nurses station. A nurses station is an area designated as the focal point on all shifts for the administration and supervision of resident-care activities for a designated number of resident bedrooms.

(1) All resident bedroom corridors must be observable by direct line of sight or by mechanical means from a designated nurses station or auxiliary station. There must be at least one nurses station per floor in multi-storied buildings.

(2) If all resident bedroom corridors are observable by direct line of sight from inside the nurses station or from within 24 inches of the counter or hall of the nurses station, no auxiliary stations are required, even if resident bedrooms are more than 150 feet from the nurses station.

(3) When resident bedrooms are more than 150 feet from the nurses station and the adjacent corridors are not observable from the station by direct line of sight, an auxiliary station must be established and used.

(4) All corridors adjacent to resident bedrooms that are more than 150 feet from a designated nurses station or auxiliary station must be observable by direct line of sight from the designated nurses station or auxiliary station. Corridors located in the service area of an auxiliary station must be

observable, as described in this paragraph and paragraph (3) of this subsection, at the auxiliary station. They may also be observable, usually by mechanical means, at the nurses station.

(5) The 150-foot limitation described in this paragraph and paragraphs (3) and (4) of this subsection may be increased to 165 feet in facilities or additions to facilities completed before August 10, 1983.

(b) Auxiliary Station. Each auxiliary station must include a work area in which nursing personnel can document and maintain resident data, even if the facility's initial decision is to maintain clinical records at the nurses station.

(1) Auxiliary stations must be staffed by nursing personnel during all shifts.

(2) More than one auxiliary station may be assigned to a designated nurses station, regardless of the distance between stations. More than one corridor may be observed by mechanical means from a designated nurses station or auxiliary station.

(3) A nurse call system, located in the service area or a designated auxiliary station, must register calls at the nurses station to which it is assigned.

(4) Each auxiliary station must have an emergency electrical source adequate to power lights at the station.

(5) Medications and clinical records may be maintained at an auxiliary station.

(6) If a required auxiliary station does not already exist and the facility must establish a new auxiliary station, all applicable standards, particularly those pertaining to the physical plan and the Life Safety Code, must be observed. All renovations and structural changes require prior approval from the Texas Department of Human Services (DHS).

(7) All new construction completed after August 10, 1983, must allow direct line-of-sight observation of all resident bedroom corridors from the nurses station or auxiliary station.

(c) Mechanical means for resident observation.

(1) The nursing facility may use mechanical means, such as closed-circuit television and mirrors, to observe residents in the facility.

(2) Closed-circuit television monitoring systems must meet the following criteria:

(A) The camera(s) must be placed to view the entire corridor length, without any "blind spots."

(B) The camera(s) must be capable of providing recognizable images, in minimum and maximum light levels, for the complete viewing area.

(C) The monitor(s) must be installed and be clearly visible to persons in the nurses station or auxiliary station who are assigned to the area monitored by the camera.

(D) The system must be supplied with emergency power that enables the system to function during electrical service failures.

(E) Each camera must have its own separate monitor.

(F) If they perform the minimum basic functions specified in subsections (a)-(d) of this section, television monitoring systems installed before March 1984 may remain in service until the equipment is replaced or the system is expanded. Replacement systems or new component equipment must satisfy subparagraphs (A)-(E) of this paragraph.

(3) Mirrors must meet the following criteria:

(A) The mounting height of the mirror must be no less than six feet and eight inches from the floor to the bottom of the mirror.

(B) The mirror(s) must not extend more than three and one-half inches from the face of the corridor wall, unless the bottom of the mirror is more than seven feet and six inches above the floor.

(C) The mirror image must be clear enough that individuals can be recognized, in minimum and maximum light levels, throughout the viewing area.

(4) The monitoring systems described in this section must not be used to deny privacy to staff or residents.

(d) Resident call system. Each nurses station must be equipped to register residents' calls through a communication system from resident areas. (See §19.1708 of this title (relating to Resident Call System) for specific requirements.)

(e) Medication storage area. There must be sufficient, lockable, enclosed medicine storage spaces, medicine room, or medication cart. The medication storage area must be furnished with a refrigerator. There must be sufficient space available for a medication preparation area equipped with

a sink having hot and cold water. When not in use, the medication cart must be secured in a locked medication storage room designated only for the storage of medications. Only authorized personnel must have access to the medication storage area and the medication cart. Medication storage and preparation areas must be adequately ventilated and temperature controlled. (See §19.1501 of this title (relating to Pharmacy Services)).

(f) Clean utility room. A clean utility room must be provided and must contain a sink with hot and cold water. It must be part of a system for storage and distribution of clean and sterile supply materials and equipment.

(g) Soiled utility room. A soiled utility room must be provided and contain a flushing fixture and a sink with hot and cold water. It must be part of a system for collection and cleaning or disposal of soiled utensils or materials.

(h) Soiled linen room. Soiled linen rooms must be provided as needed commensurate with the type of laundry system used. In relation to adjacent areas, a negative air pressure must be provided with air exhausted through ducts to the exterior. Air must be exhausted continually whenever there are soiled linens in the room. A soiled linen room may be combined with a soiled utility room.

(i) Clean linen storage. Clean linen storage must be provided, conveniently located to resident bedroom areas.

(j) Kitchens.

(1) Nursing facility kitchens will be evaluated on the basis of their performance in the sanitary and efficient preparation and serving of meals. Consideration will be given to planning for the type of meals served, the overall building design, the food service equipment, arrangement, and the work flow involved in the preparation and delivery of food. Evaluation will be based on the number of meals served. Continuing problems directly attributable to an inadequately sized kitchen area will require submission of a special plan of correction specifying how the kitchen area will be changed. This corrective plan will be approved by a registered or licensed dietitian or architect having knowledge in the design of food service operations. The facility must meet Texas Department of Health food service sanitation requirements.

(2) Kitchen temperature, at peak load, must not exceed a temperature of 85 degrees Fahrenheit measured over the room at the five foot level. Sufficient heating must be provided to maintain an average temperature of not less than 70 degrees Fahrenheit in winter (with exhausts operating) at the five-foot level.

(3) The kitchen must have operational equipment for preparing and serving meals and for refrigerating and freezing of perishable foods, as well as equipment in, and/or adjacent to, the kitchen or dining area for producing ice.

(4) The kitchen must have facilities for washing and sanitizing dishes and cooking utensils. These facilities must be adequate for the number of meals served and the method of serving (such as use of permanent or disposable dishware). The kitchen must contain a multi-compartment sink large enough to immerse pots and pans. In all facilities, a mechanical dishwasher is required for sanitizing dishes. Separation of soiled and clean dish areas must be maintained, including air flow and traffic flow.

(5) The kitchen must have an adequate supply of hot and cold water. Hot water for sanitizing purposes must be 180 degrees Fahrenheit or the manufacturer's suggested temperature for chemical sanitizers, as specified for the system in use. For mechanical dishwashers, the temperature measurement is at the manifold. Hot water for general kitchen use must be 140 degrees Fahrenheit.

(6) A kitchen must have at least one handwashing lavatory in the food-preparation area. The dish washing area must have ready access to a handwashing lavatory or handsanitizing device. Handwashing lavatories must be provided with hot and cold running water, a sanitary soap dispenser, and paper towel dispenser (or hot air dryer).

(7) Nonabsorbent smooth finishes or surfaces must be used on kitchen floors, walls, and ceilings. These surfaces must be capable of being routinely sanitized to maintain a healthful environment.

(8) A janitor's closet with service sink must be easily and readily accessible to the kitchen.

(9) Kitchen exhaust hood at cooking equipment and its attached automatic chemical extinguisher must comply with National Fire Prevention Association (NFPA) 96. DHS may waive certain details of NFPA 96 for existing kitchen exhausts at cooking equipment provided that basic function and safety are not compromised.

(10) Gas-fired equipment must be in rooms of one-hour, fire-resistive construction and provided with sprinkler protection.

(k) Food storage areas.

(1) Food storage areas must provide for storage of a seven-day minimum supply of nonperishable (staple) foods and a two-day supply of perishable foods at all times.

(2) Shelves and pallets must be moveable wire, metal, or sealed lumber, and walls must be finished with a nonabsorbent finish to provide a cleanable surface.

(3) Dry food storage must have a venting system to provide for reliable positive air circulation.

(4) The maximum room temperature for food storage must not exceed 85 degrees Fahrenheit at all times. The measurement must be taken at the five-foot level.

(5) Foods must not be stored on the floor. Dunnage carts or pallets may be used to elevate foods not stored on shelving.

(6) Sealed containers must be provided for storing dry foods after the package seal has been broken.

(7) Food storage areas may be located apart from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(l) Auxiliary serving kitchens (those not contiguous to food preparation/serving areas).

(1) Where service areas other than the kitchen are used to dispense foods, these must be designated as food service areas and must have equipment for maintaining required food temperatures while serving.

(2) Separate food service areas must have handwashing facilities as a part of the food service area.

(3) Finishes of all surfaces except ceilings must be the same as those required for dietary kitchens.

(m) Administrative and public areas. Facilities must have administrative area(s) for normal business transactions and maintenance of records.

(n) Laundry.

(1) Laundry facilities must be located in areas separate from resident rooms. The laundry must be designed, constructed, and equipped and appropriate procedures must be utilized to assure that laundry is handled, cleaned, and stored in a sanitary manner.

(2) Laundry for general linen and clothing must be arranged so as to separate soiled and clean operations as they relate to traffic, handling, and air currents. Suitable exhaust and ventilation must be provided to prevent air flow from soiled to clean areas.

(3) Floors, walls, and ceilings must be nonabsorbing and easily cleanable.

(4) Soiled linen must be stored and/or transported in closed or covered con-

tainers. Soiled linen storage or holding rooms must have a negative air pressure in relation to adjacent areas with air exhausted through ducts to the exterior.

(5) Laundry areas must have air supply and ventilation to minimize mildew and odors. Doors must not remain open, for sanitation and safety reasons.

(6) Room size, and number and type of appliances must provide efficient, sanitary, and timely laundry processing to meet the needs of the facility.

(7) The laundry, if located in the facility, must meet Life Safety Code requirements for separation and construction for hazardous areas.

(8) Gas fired equipment must be in rooms of one-hour, fire-resistive construction and provided with sprinkler protection.

(o) Resident-use laundry. This service, if provided, must be limited to not more than one residential type washer and dryer per laundry room. This room must be classified as a hazardous area according to the Life Safety Code.

(p) Personal grooming area. Space and equipment must be provided for the hair care and grooming needs of the residents. Hair care and grooming service will be provided in resident bedrooms or in designated areas which are not in a way of egress.

(q) Storage rooms. General and/or specific storage areas must be provided as needed and required for safe and efficient operation of the facility. Items must not be stored in inappropriate places such as corridors or rooms which are not equipped for special hazard protection.

(r) Janitor closets. In addition to the janitors' closet called for in certain departments, other janitors' closets must be provided throughout the facility to maintain a clean and sanitary environment. All janitor closets must have a negative air pressure in relation to adjacent areas with air exhausted through ducts to the exterior.

(s) Sterilizing and disposal facilities.

(1) An effective system for sterilization of equipment and supplies must be provided for reusable items requiring sterilization.

(2) A policy and procedure for the safe and sanitary disposal of special waste must be provided. The facility must comply with Texas Department of Health requirements as described in Texas Administrative Code, Title 25, §§1.131-1.137 (relating to Definitions and Treatment of Special Waste from Health Care Related Facilities). The facility must also comply



with Texas Natural Resource Conservation Commission requirements for medical waste management (refer to 30 TAC Chapter 330, Subchapter Y). Space and facilities must be provided for the sanitary storage and disposal of waste, not classified as special, by incineration, mechanical destruction, compaction, containerization, removal, or contract with outside resources, or by a combination of these techniques.

(t) Maintenance/engineering service and equipment areas.

(1) The facility must provide storage for building equipment, supplies, tools, parts, and yard maintenance equipment.

(2) Volatile liquids and supplies must not be kept within the main building housing residents.

(3) All equipment requiring periodic maintenance, testing, and servicing must be reasonably accessible. Necessary equipment to conduct these services (such as ladders, specific tools, keys) must be readily available on site.

(u) Oxygen

(1) The facility must implement procedures that assure the safe and sanitary use and storage of oxygen.

(2) Liquid oxygen containers must be certified by Underwriters Laboratory (UL) or other approved testing laboratory for compliance with NFPA 50 requirements. The storage, handling, assembly, and testing must be in compliance with all applicable NFPA standards, including NFPA 99 and NFPA 50 requirements. The facility is responsible for defining all potential hazards both graphically and verbally to all persons involved in the use of liquid oxygen and ensuring that the liquid-oxygen provider does also.

*§19.1720. Provisions for Persons with Disabilities.* New facilities and additions must meet the requirements of the Texas Department of Licensing and Regulation, Elimination of Architectural Barriers Section. Existing facilities must meet the requirements of the Americans with Disabilities Act and must, at a minimum, comply with the following:

(1) The facility must provide and mark at least one parking space for persons with disabilities.

(2) The facility must provide wheelchair access into the building by use of ramps and curb breaks. Ramps must not slope more than 1:12 (one unit of rise to 12 units of run).

(3) Room identification signs or letters must be installed four feet six inches to five feet above finished floor and located

on the corridor walls adjacent to the latch side of the door jamb. Letters or numbers on signs must be raised or recessed at least 1/32 inch minimum. Characters must be at least 5/8 inch in height and no higher than two inches.

(4) Grab bars at toilet and bathing units must be 1 1/4 inch to 1 1/2 inch in diameter.

(5) Toilet facilities must be available and of sufficient size to accommodate wheelchairs. There must be at least one public wheelchair-accessible restroom.

(6) Water closet seat height in toilet facilities must be 17 to 19 inches from floor.

(7) Mirrors and dispensers must be no higher than 40 inches above the floor.

(8) Drinking fountains or coolers must meet ANSI A117.1 (that is, up front spout and controls no more than 36 inches from floor maximum). Fountains existing at the time of this publication do not have to be altered.

(9) Public telephones, if provided, must meet ANSI A117.1. Mounting height must not exceed 48 inches to coin slot.

*§19.1721. Lighting and Illumination.* Current recommendations of the Illumination Engineering Society of North America must be followed to achieve proper illumination characteristics and lighting levels throughout the facility. Minimum illumination must be 10 foot candles in resident rooms and 20 foot candles in corridors, nurses' stations, dining rooms, lobbies, toilets, bathing facilities, laundries, stairways, and elevators. Illumination requirements for these areas apply to lighting throughout the space and should be measured at approximately 30 inches above the floor anywhere in the room. Minimum illumination for overbed reading lamps, medication preparation or storage areas, kitchens, and nurse's station desks must be 50 foot candles. Illumination requirements for these areas apply to the task performed and should be measured on the task.

*§19.1722. Heating, Ventilating, and Air-conditioning Systems (HVAC).*

(a) The heating system must be capable of maintaining a temperature of not less than 71 degrees Fahrenheit at the resident level in all resident-use areas. Auxiliary heating devices permanently installed, such as heat strips in ducts, electric ceiling-mounted heating units, and electric baseboards, may be used to augment a central heating system as approved by the Texas Department of Human Services (DHS). (See §19.705 of this title (relating to Environment) .)

(b) The cooling system must be capable of maintaining a temperature suitable for the comfort of the residents in resident-use areas.

(c) Air flow must be directed or adjusted so that a resident is not in direct drafts that could be harmful to the health and comfort of the resident.

(d) Unvented heating units and portable heaters are prohibited.

(e) The facility must be well ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not have outside windows and which are used by residents or personnel must be provided with functioning mechanical ventilation to change the air on a basis commensurate with the room usage. Air systems must provide for the induction and mixing of at least 10% outside fresh air into the facility unless otherwise approved by DHS (that is, 100% continuous recirculation of interior air in most areas is not acceptable). When certain rooms or areas are dependent on a central air system for proper ventilation, including exhaust, that central air system fan must run continuously.

(f) Operable outside windows must be provided with insect screens. Outside doors must be self-closing to control entry of insects. All exterior doors must be effectively weather stripped.

(g) Heating and air conditioning systems must be provided with clean and effective air filters.

(h) Ducts and piping subject to surface condensation must be insulated to prevent condensation at least in areas which may affect sanitation or cause building deterioration.

(i) A comfortable temperature for residents when bathing must be provided by methods such as central heating and/or by auxiliary units.

(j) Heating, ventilating, and air conditioning systems must comply with the provisions of applicable National Fire Prevention Association (NFPA) standards. Ducts are to be of a Class A material (non-combustible). Gas-fired equipment must be in rooms of one-hour, fire-resistive construction and provided with sprinkler protection. Combustion air for gas-fired equipment must be ducted from the exterior.

(k) Air flow must be designed to prevent cross contamination within any area where applicable, such as laundries and kitchens, as well as the system or facility as a whole.

(l) In relation to adjacent areas, a positive air pressure must be provided for



clean utility rooms, clean linen rooms, and medication rooms. Conditioned supply air must be introduced into these rooms.

(m) In relation to adjacent areas, a negative air pressure must be provided for soiled utility rooms, soiled laundry rooms, bathrooms, toilets, and other odor-producing rooms. Air from these rooms must not be recirculated, but instead must be exhausted through ducts to the exterior by effective means.

(n) Facility temperature must be maintained for the comfort of residents.

#### §19.1723. Plumbing.

(a) If the municipality has a plumbing code, that code must be used as a basis for determining the correctness of plumbing installation. In the absence of a municipal code, a nationally recognized plumbing code must be used, such as the Standard Plumbing Code of the Southern Building Code Congress International, Inc.

(b) The water supply must be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water must be obtained from a water supply system, the location, construction, and operation of which are approved by the Texas Natural Resource Conservation Commission.

(c) Sewage must be discharged into a state-approved sewerage system or the sewage must be collected, treated, and disposed of in accordance with applicable Texas Natural Resource Conservation Commission rules and regulations.

(d) The wastewater drainage and sewage system must assure that sanitation is maintained for residents. Wastewater or sewage must not be discharged on the surface of the ground. Traps must not be allowed to lose their seal. Appliances must have air gaps as required for connections to the sewerage system. Venting must assure a rapid flow of wastewater in the sewerage system.

(e) The interior cold water supply system and piping must be so placed or so insulated as to prevent condensation drip in habitable areas and in storage areas.

(f) Backflow preventers or vacuum breakers must be installed with any water supply fixture where the outlet or attachments may be submerged.

(g) Resident-use hot water must be reliably controlled, such as by thermostatic or mixing valves, to not exceed 110 degrees Fahrenheit at each fixture (and not less than 100 degrees F.).

(h) Hot water for other usages must be provided at the temperatures required for

the appliance or fixture or for the operation involved, such as dishwashing and laundry.

(i) The supply quantity of hot water must be adequate for normal peak load usage. Facilities which continue to experience a shortage of hot water must remedy the situation by such means as adding storage tanks, adding or increasing the size of water heaters, or other approved means.

(j) Water heaters must be equipped with pressure temperature relief valves.

#### §19.1724. Housekeeping Services.

(a) The facility must provide sufficient housekeeping and maintenance personnel, equipment, and supplies to maintain the interior, exterior, and grounds of the facility in a safe, clean, orderly, and attractive manner. Nursing personnel must not be assigned routine housekeeping duties. In a nursing facility, an employee must be designated as responsible for housekeeping services.

(b) Occupied resident rooms must be cleaned and put in order at least daily.

(c) Storage areas must be kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and newspapers. Combustibles, such as cleaning rags and compounds, must be kept in closed metal containers and labeled.

(d) Attics, mechanical rooms, boiler rooms, and other similar areas must not be used for storage purposes.

(e) All bleaches, detergents, disinfectants, insecticides, and other poisonous substances must be kept in a safe place accessible only to employees. They must not be kept in containers previously containing food or medicine. Containers must be labeled.

#### §19.1725. Pest Control.

(a) An effective, safe, and continuing pest control system against insects, rodents, and vermin must be in operation in the facility. Pest control services must be provided by nursing facility personnel or by contract with a licensed pest control company. Care must be taken to use the least toxic and least flammable effective insecticides and rodenticides. These compounds must be stored in nonfood preparation and storage areas. Poisons must be under lock.

(b) The facility must protect against harborage and entrances for insects, rodents, and vermin. Outside doors must be self-closing to control entry of pests.

(c) Garbage and trash must be stored in enclosed containers, protected against leakage, contact with disease carriers, and access to animals. It must be stored in areas separate from those used for the

preparation and storage of food and must be removed from the premises in conformity with state and local practices. Garbage and trash containers must be maintained free of accumulations and coatings of garbage. Garbage storage areas must be kept clean and in a state of good repair.

#### §19.1726. Linen.

(a) The nursing facility must have available at all times a quantity of linen essential for the proper care and comfort of residents. Linens must be handled, stored, and processed so as to control the spread of infection.

(b) Linen will be maintained in good repair. Worn or damaged linen must be discarded and replaced.

(c) Linen must be washed, dried, stored, and transported in a manner which will produce hygienically clean linen. The washing process must have a mechanism for soil removal and bacteria kill.

(d) The linen supply must be at least three times the usual occupancy, with at least one complete set of linen per resident (one towel, one washcloth, one pillow case, and two sheets) clean and available for use at any time.

(e) Clean linen must be stored in a clean linen area easily accessible to the personnel.

(f) Clean towels and washcloths must be provided to each resident as needed or desired. Towels and washcloths must be stored in a sanitary manner between uses by the resident and must not be used by more than one resident between launderings.

(g) Soiled linen and clothing must be stored separately from clean linen and clothing. Soiled linen and clothing must be stored in well ventilated areas, and must not be permitted to accumulate in the facility. Soiled linen and clothing must be transported in accordance with procedures consistent with universal precautions. Bags or containers must not be reused to transport or store clean items.

(h) Soiled linen must not be sorted, laundered, rinsed, or stored in bathrooms, resident rooms, corridors, kitchens, or food storage areas, except soiled linen and clothing which is not contaminated with blood may be rinsed in a resident's bathroom water closet.

(i) Resident's personal clothing that is not soiled with body wastes may be stored in a closed container in the resident's closet. The clothing must be collected and cleaned at least weekly.

(j) Facility staff must wash their hands both after handling soiled linen and before handling clean linen.

**§19.1727. Safety Operations.**

(a) The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties.

(1) The facility must maintain the plan and procedures at the nurses station and with department managers within the facility. The facility must ensure that the plan and procedures are reviewed at least annually. Changes in administrator, construction, or emergency phone numbers will require the facility to review and possibly modify the disaster plan. All reviews of disaster plans must be documented.

(2) The facility must include in the disaster plan, evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, clinical records, medications, and notification of appropriate persons.

(3) All employees must be familiar with the disaster plan and must be instructed in the location and use of the facility's alarm systems, fire-fighting equipment, and procedures. The facility must post fire and explosion evacuation routes prominently throughout the facility. The facility must have a fire safety plan within the disaster plan. The fire safety plan must be rehearsed quarterly on each shift with at least one rehearsal conducted each month. A comprehensive fire drill report form must be completed for each rehearsal of the fire safety plan.

(4) In smaller, simple, one-story buildings where all exits are obvious, the Texas Department of Human Services (DHS) may not require the posting of evacuation routes.

(5) The facility must have an emergency contingency plan to ensure the residents' comfort and safety, including the provision of potable water. An emergency electrical system must be adequate to power lights at nursing stations, telephone switchboard, night lights, exit signs and emergency egress lighting, a light and receptacle in the boiler room, and fire alarm system, until other arrangements can be made.

(6) Emergency telephone numbers must be clearly posted on or near each phone. Emergency telephone numbers must include the local fire department, ambulance, and police.

(b) The facility must report all fires to DHS on Form X-9 within 15 days after the fire. The facility must immediately notify DHS by phone of disasters or any fires which caused death or serious injury. Telephone reports must be followed by written reports. Failure of the fire alarm, emergency

power, or sprinkler system will require that all facility staff be informed of conditions, and the facility must take special precautions such as establishing a fire watch, appropriate to the situation. These situations must be reported to the local fire authority.

(c) Severe weather drills and other emergency drills must be held as needed and as called for by the facility's policy and procedure manual.

(d) The fire alarm and sprinkler systems must be inspected and tested at least once every three months by a licensed agent. Each quarterly inspection and test must be of the complete system, including smoke dampers and individual sprinkler heads. A standard report form of the inspection must be completed by the agent and kept on file by the facility. The report must include the signature of the person making the inspection and the date of the inspection. The facility must maintain a current contract on file for the services of the inspecting company.

(e) The facility may, at its own discretion, make simple periodic tests of the basic fire alarm system, such as by activating a manual-pull station, particularly when conducting required fire drills. At any time the facility staff verifies or suspects some malfunction of the system, the condition must be immediately investigated and corrected.

(f) Emergency generators, if required or provided, must be maintained in operating condition at all times. These must be inspected and run, under load, for at least 30 minutes each week. A signed or initialed record or log must be kept on file by the facility. The condition and proper operation of the emergency egress lighting should also be checked at this time.

(g) A functional test must be conducted on every required battery emergency lighting system at 30-day intervals for a minimum of 30 seconds. An annual test must be conducted for a 1 1/2 hour duration. Equipment must be fully operational for the duration of the test. Written records of testing must be kept by the owner for inspection by the authority having jurisdiction.

(h) Automatic, fixed, dry-chemical extinguishers mounted in kitchen range hoods must be inspected and serviced by a licensed agent (type A license with the State Fire Marshal's office) at least once every six months. A written, signed report must be left on file with the facility. The hood, exhaust ducts, and filters must be kept clean and free of accumulated grease.

(i) Portable fire extinguishers must be visually inspected monthly by facility staff and must have maintenance provided annually by a licensed agent in accordance

with National Fire Prevention Association (NFPA) 10. A record of the annual maintenance must be kept in the facility. Portable extinguishers must be protected from damage and must be kept on their mounting brackets or in cabinets at all times.

(j) Facilities using gas must have the gas piping lines from the meter and appliances tested for leaks annually by a qualified person. A written, signed report must be made of these tests and kept on file. Any unsatisfactory conditions must be noted and corrected promptly.

(k) Smoking policies must be formulated and adopted by the facility. The policies must comply with all applicable codes, regulations, and standards, including local ordinances. The facility is responsible for informing residents, staff, visitors, and other affected parties of smoking policies through distribution and/or posting. The facility is responsible for enforcement of smoking policies which must include at least the following provisions:

(1) Smoking tobacco, matches, lighters, or other smoking paraphernalia are not permitted to be kept or stored in a resident's room or in their possession without supervision.

(2) Smoking by residents on the premises is permitted only when supervised by staff of the facility or visitors. The type of supervision (individual versus group supervision) will be determined by the resident's medical condition. The resident must be within direct view of the smoking supervisor, in reasonably close proximity of the supervisor, and the supervisor must be able to quickly respond in the event of an emergency. Additionally, the supervisor, whether staff or visitor, must be aware of these responsibilities. A facility may establish a no-smoking policy for any public areas of the facility.

(3) Smoking is prohibited in any room, ward, or compartment where flammable liquids, combustible gas, or oxygen are used or stored and in any other hazardous locations. These areas must be posted with "No Smoking" signs.

(l) No storage is permitted in rooms with gas-fired equipment. Bulk storage of volatile or flammable liquids or materials is not allowed anywhere within the building.

(m) Medical equipment, carts, wheelchairs, tables, furniture, dispensing machines, and similar physical objects, must not be stored in corridors or other ways of egress.

(n) Smoke doors, fire doors, and doors to hazardous rooms must be kept closed and must not be propped or wedged open. Only approved devices such as alarm-activated electromagnetic hold-open devices may be used to hold these doors open.

except doors to rooms classified as severe hazard.

(o) Electrical extension cords must not be used on a permanent or semi-permanent basis as a substitute for approved wiring methods. Approved electrical receptacles must be provided in quantity and location for the normal use of appliances.

(p) All abandoned utilities such as electrical wiring, ducts, and pipes, must be removed from the facility when no longer usable.

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 October 14, 1994.

TRD-9449787

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

Proposed date of adoption: February 15, 1995

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



## Chapter 48. Community Care for the Aged and Disabled

The Texas Department of Human Services (DHS) proposes new §48.2614 and an amendment to §48.9302, concerning contracting requirements and additional standards applicable to contracted agencies providing services in a 24-hour attendant service setting or day care facility, in its community care for aged and disabled chapter. The purpose of the proposal is to add license requirements to comply with amendments to Chapter 142 of the Health and Safety Code, which require that agencies providing personal assistance services be licensed by the Texas Department of Health and change the name of those agencies to home and community support services agencies.

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

Mr. Raiford also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be that previously unlicensed agencies will have an opportunity to provide home and community support services. Also, the department's rule will follow the licensing law for home and community support services agencies. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of the proposal may be directed to Maria Montoya at (512) 450-3155 in DHS's Long Term Care department. Written comments on the proposal may

be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-030, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

## Client-Managed Attendant Services

### • 40 TAC §48.2614

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

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

§48.2614. *Contracting Requirements.* To contract with the Texas Department of Human Services to provide client managed attendant services, the home and community support services agency must:

- (1) be licensed by the Texas Department of Health to provide personal assistance services;
- (2) be one of the following:
  - (A) a private non-profit corporation;
  - (B) a private profit corporation; or
  - (C) a public agency; and
- (3) if an out-of-state corporation, be authorized to do business in Texas by the secretary of state.

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 October 14, 1994.

TRD-9449788

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

Proposed date of adoption: December 15, 1994

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



## Minimum Standards for Agencies Contracted to Provide Special Services to Persons with Disabilities

### • 40 TAC §48.9302

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

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

§48.9302. *Additional Standards Applicable to Contracted Agencies Providing Services in a 24-Hour Attendant Service Setting or Day Care Facility.*

(a) Twenty-four-hour attendant service setting. [The contracted agency must:]

(1) To contract with the Texas Department of Human Services to provide special services in a twenty-four-hour attendant service setting, the home and community support services agency must:

(A) be licensed by the Texas Department of Health to provide personal assistance services;

(B) be one of the following:

- (i) a private non-profit corporation;
- (ii) a private profit corporation; or
- (iii) a public agency;

and

(C) if an out-of-state corporation, be authorized to do business in Texas by the secretary of state.

(2) The contracted agency must:

(A)[(1)] arrange for each household to have a telephone or an emergency response device for requesting assistance in emergency situations and for requesting assistance with activities of daily living;

(B)[(2)] have a written emergency assistance and evacuation plan for each residence. The local fire marshal must approve the evacuation plan;

(C)[(3)] train clients in the emergency procedures and evacuation plan within three calendar days from the date of service initiation. The contracted agency must document in each client's case record that the client received the training;

(D)[(4)] ensure that the services specified in the client's service plan are provided to him;

(E)[(5)] ensure that at least one employee, certified in the following courses, is on the premises during the hours services are provided:

(i)[(A)] Red Cross standard first aid and personal safety; and

(ii)[(B)] basic life-support and cardiopulmonary resuscitation; [.]

(F)[(6)] have a director or designee who is responsible for the services provided under the contract; and [.]

(G)[(7)] verify that there are standing physician's orders in accordance with the Texas Medical Practices Act and all state and federal statutes and regulations if the attendant(s) provides the client certain health-related services. Standing physician's orders are orders from the client's physician specifying the delegated health care tasks, the attendant(s) to whom the procedures are delegated, and the patient's name. The contractor must maintain a copy of the standing physician's orders in the client's file.

(i)[(A)] Health-related services requiring standing physician's orders are the following:

(I)[(i)] internal catheter care, including insertion, irrigation, and changing;

(II)[(ii)] administration of oral or external medications;

(III)[(iii)] bowel program, including insertion of prescribed suppository, cleansing enema;

(IV)[(iv)] decubitus care, stages I and II; and

(V)[(v)] changing of sterile dressings.

(ii)[(B)] Health-related services that do not require standing physician's orders include, but are not limited to, the following:

(I)[(i)] assisting with self-administered medication;

(II)[(ii)] changing an external catheter;

(III)[(iii)] inserting a non-prescribed suppository into a normal rectum to cause a bowel movement;

(IV)[(iv)] using external manual manipulation to cause bowel movement;

(V)[(v)] changing a sanitary napkin;

(VI)[(vi)] inserting and removing a tampon;

(VII)[(vii)] ileostomy care, removing and disposing old bag and reapplying the new bag; or

(VIII)[(viii)] colostomy care, removing and disposing old bag and reapplying the new bag.

(b) (No change.)

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

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

TRD-9449789

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

Proposed date of adoption: December 15, 1994

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



## Chapter 90. Intermediate Care Facilities Serving Persons with Mental Retardation or a Related Condition [Nursing Facilities and Related Institutions]

### Subchapter D. General Requirements for Facility Construction [Facility Construction]

#### [Construction Standards for Facilities Serving Persons with Mental Retardation or Related Conditions]

##### • 40 TAC §90.92, §90.102

The Texas Department of Human Services (DHS) proposes amendments to §90.92 and §90.102, concerning introduction, application, and general requirements for facilities serving persons with mental retardation or related conditions; and plumbing (all facilities), in its Intermediate Care Facilities Serving Persons with Mental Retardation or a Related Condition rule chapter (formerly Nursing Facilities and Related Institutions). The purpose for the amendment to §90.92 is to state that Intermediate Care Facilities for the Mentally Retarded with 16 beds or fewer must meet the evacuation requirement for their designated rating under the National Fire Protection Association. The amendment to §90.102 updates references to the Texas Natural Resource Conservation Commission.

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

Mr. Raiford also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be current rule language in these sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

Questions about the content of the proposal may be directed to Susan Syler at (512) 450-3111 in DHS's Institutional Policy Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-381, 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 amendments are proposed under the Health and Safety Code, Chapter 242, which provides the department with the authority to license intermediate care facilities serving persons with mental retardation or a related condition; under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer its programs; and under Texas Civil Statutes, Article 4413 (502), which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§242.001-242.186, and the Human Resources Code, §§22.001-22.024.

§90.92. *Introduction, Application, and General Requirements for Facilities Serving Persons with Mental Retardation or Related Conditions*

(a) (No change.)

(b) Purpose.

(1) (No change.)

(2) The method of determining the evacuation capability of residents under NFPA 101, Chapter 21, is by rating each resident and each staff member to determine an evacuation difficulty score (E-score). If the E-score is 1.5 or less, the evacuation capability of the facility is prompt; greater than 1.5 to five is slow; greater than five is impractical. The worksheets to be completed are located in NFPA 101, 1985 Edition, Appendix F. Intermediate Care Facilities for the Mentally Retarded (ICF-MR) with 16 [15] beds or fewer must meet the evacuation requirement for their designated Chapter 21 rating. The ratings and their requirements follow:

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

- (3) (No change)
- (c)-(f) (No change.)

*§90.102. Plumbing (All Facilities).*

(a) The water supply must [shall] be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water must [shall] be obtained from a water supply system; the location, construction, and operation of which are approved by the Texas Natural Resources Conservation Commission [Texas Water Commission]

(b) Sewage must [shall] be discharged into a state-approved sewerage system or septic system, otherwise, the sewage must [shall] be collected, treated, and disposed of in a manner which is approved by the Texas Natural Resources Conservation Commission [Texas Water 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 October 21, 1994

TRD-9449884 Nancy Murphy  
Section Manager, Media  
and Policy Services  
Texas Department of  
Human Services

Proposed date of adoption February 15, 1995

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

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**Part V. Veterans Land Board**

**Chapter 175. General Rules**

• **40 TAC §175.24**

The Veterans Land Board proposes new §175.24, concerning an Enhanced Land Loan. The proposed new rule will authorize veterans to apply for a loan in an amount not to exceed \$40,000

David Gloier, Deputy Commissioner for the Veterans Land Board, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the new section

Mr. Gloier also has determined that for each year of the first five years the new rule is in effect the public benefit anticipated as a result of enforcing the section will be that eligible veterans will have their land loan benefits increased to \$40,000. There is no anticipated economic cost to persons who are required to comply with the rule as proposed

Comments on the proposal may be submitted to Robert Moreland, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas

78701. In order to be considered, comments must be received by 5: 00 p.m. on November 28, 1994.

The new rule is proposed under the provisions of the Texas Natural Resources Code, §161.061 and §161.063, which provide the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable to ensure the proper administration of the Veterans Land Program.

The Texas Natural Resources Code, §161.283, is affected by the proposed rule.

*§175.24 Enhanced Loan Eligibility.* An eligible veteran who has not previously participated in the Veterans Land Program may apply for an Enhanced Land Loan, rather than the standard Land Loan. Enhanced Land Loans shall be in an amount not to exceed \$40,000, and shall bear an interest rate set by the Veterans Land Board. Funding for such loans shall come from the proceeds of the sale of taxable bonds

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 October 20, 1994.

TRD-9449972 Garry Mauro  
Chairman  
Veterans Land Board

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

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**Chapter 177. Veterans Housing Assistance Program**

• **40 TAC §177.5**

The Veterans Land Board proposes an amendment to §177.5, concerning Loan Eligibility Requirements. The proposed amendment adds as eligible participants in the housing program certain Guardsmen, reservists, and unmarried surviving spouses.

David Gloier, Deputy Commissioner for the Veterans Land Board, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering this amendment

Mr. Gloier also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the section will be that the class of eligible veterans will expand to include members of the Texas National Guard, Reservists who have completed at least 20 years of service, and the unmarried surviving spouse of a veteran killed in the line of duty or missing in action

Comments on the proposed amendment may be submitted to Robert Moreland, Texas General Land Office, Legal Services Division,

1700 North Congress Avenue, Room 630, Austin, Texas 78701. In order to be considered, comments must be received by 5:00 p.m. on November 28, 1994.

The amendment is proposed under the provisions of the Texas Natural Resources Code, §162.003(b), which provides that the Veterans Land Board shall adopt rules governing the administration and the fund and program.

The Texas Natural Resources Code, §162.001, is affected by the proposed amendment.

*§177.5 Loan Eligibility Requirements.*

(a) The Veterans Affairs Commission shall determine all questions of eligibility to participate in the program and shall certify to the chairman whether an applicant is eligible. The Veterans Land Board (board) [board] shall be the final authority in defining and interpreting the eligibility requirements, and the commission shall be the final authority as to whether a veteran loan applicant has actually satisfied those requirements and may prescribe the procedures and forms to be used by veteran loan applicants to evidence eligibility. The board may, in its discretion, agree to review any decision by the commission, but only for the purpose of determining if the eligibility requirements were properly interpreted by the commission. In such event, the board's decision shall be final.

(b) For purposes of this program, a [A] veteran [loan applicant] is someone who [eligible to participate in the program if he or she]:

- (1) is at least 18 years of age;
- (2)[(1)] is a citizen of the United States of America;[ ]
- (3)[(2)] is a bona fide resident of Texas at the time of application for a loan.[ ] For purposes of this chapter, bona fide resident means a person actually living in the State of Texas, with the intention to remain;

(4) has served not less than 90 continuous days in the Army, Navy, Air Force, Coast Guard, Marine Corps, or United States Public Health Service, unless discharged earlier because of a service-connected disability, which service must have been after September 16, 1940, or has completed at least 20 years of active or reserve military service in any of the above branches of service, as computed when determining the person's eligibility to receive retired pay, or has enlisted or received an appointment in the Texas National Guard after completing all initial active duty training required as a condition of enlistment or appointment, and who has not been dis-

honorably discharged from the Texas National Guard.

(3) has completed 90 continuous days of active duty, unless sooner discharged by reason of a service connected disability, in the Army, Navy, Air Force, Coast Guard, Marine Corps, or United States Public Health Service, after September 16, 1940;

(5)[(4)] has not been dishonorably [honorably] discharged from military service;

(6)[(5)] was bona fide resident of Texas at the time of enlistment, induction, commissioning, or drafting; or has resided in Texas continuously for at least two years immediately before the date of application for a loan;

(A) for purposes of determining if an applicant has resided in Texas for two [five] continuous years preceding the date of application, the commission may require an affidavit from the applicant setting forth residence addresses for this two [five] year period. In addition, the commission may require the applicant to furnish documentary evidence of such residence, including, but not limited to, driver's licenses, voter registrations, tax receipts, W-2 forms, etc.;

(B) if there is doubt about an applicant's bona fide residence at time of enlistment, induction, commissioning, or drafting, the commission may require that an affidavit of Texas residence be submitted to show evidence of at least two [five] years of continuous residence in Texas immediately prior to the date of application. The

commission may establish other procedures for verifying that the veteran applicant was a bona fide resident of Texas at time of enlistment, induction, commissioning, or drafting;

(7)[(6)] has not previously participated in the Veterans Housing Assistance Program as a home purchaser. For purposes of this chapter an eligible veteran may obtain both a purchase money loan and a home improvement loan under the veterans housing assistance program. An eligible veteran may also receive a loan under, however, an eligible veteran is entitled to no more than one of each kind of loan, as a veteran purchaser/borrower.

(c) If a veteran dies after the date of filing an application for a loan and before the transaction has been completed, the surviving spouse shall be eligible to complete that transaction if the spouse otherwise meets the qualification requirements of the participating lending institution. In addition, the unmarried surviving spouse of a veteran who dies in the line of duty or is missing in action shall be eligible to participate in the program if the following requirements are satisfied:

(1) the surviving spouse has not remarried and is a bona fide resident of Texas at the time of filing the application with the board;

(2) at the time of enlistment, induction, commissioning, appointment or drafting, the deceased veteran was a bona fide resident of Texas (the two years resident alternative is not available);

(3) the deceased veteran was a citizen of the United States at the time of death;

(4) the deceased veteran had served on active duty in the Army, Navy, Air Force, Coast Guard, Marine Corps, or Public Health Service, after September 16, 1940, or had completed 20 years of reserved military service in any of the above branches of service, which is creditable for retirement under applicable federal laws, or enlisted or received an appointment in the Texas National Guard. The deceased veteran need not have served at least 90 continuous days of active duty;

(5) neither the deceased veteran nor the unmarried surviving spouse previously participated in the Veterans Housing Assistance Program; and

(6) certification is received from the United States Veterans Administration that the unmarried surviving spouse is currently entitled to benefits as the spouse of a veteran who died in the line of duty. The line of duty requirement may be satisfied upon the presentation of other evidence.

(d)-(e) (No change.)

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

Issued in Austin, Texas, on October 20, 1994.

TRD-9449970

Garry Mauro  
Chairman  
Veterans Land Board

Earliest possible date of adoption: November 28, 1994

For further information, please call: (512) 305-9129

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# 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 VIII. Texas Racing Commission

#### Chapter 321. Pari-mutuel Wagering

##### Subchapter C. Simulcast Wa- gering

##### Simulcasting at Horse Race- tracks

- 16 TAC §321.235

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.24(b), the proposed amendment to §321.235, submitted by the Texas Racing Commission has been automatically withdrawn, effective October 20, 1994. The amendment as proposed appeared in the April 19, 1994, issue of the *Texas Register* (19 TexReg 2823).

TRD-9449867



## TITLE 40. SOCIAL SER- VICES AND ASSIS- TANCE

### Part I. Texas Department of Human Services

#### Chapter 90. Nursing Facilities and Related Institutions

##### Subchapter D. Facility Con- struction

##### Construction Standards for Fa- cilities Serving Persons with Mental Retardation or Re- lated Conditions

- 40 TAC §§90.92-90.105

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed repeal of §§90.92-90.105, which appeared in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8017). The effective date of this withdrawal is October 21, 1994.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449883

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

Effective date: October 21, 1994

For further information, please call: (512)  
450-3755



## Part VI. Texas Commission for the Deaf and Hearing Impaired

### Chapter 183. Board for Evaluation of Interpreters and Interpreter Certification

#### Subchapter B. Board Certifica- tion Procedures

- 40 TAC §183.131

The Texas Commission for the Deaf and Hearing Impaired has withdrawn from consideration for permanent adoption a proposed repeal of §183.131 which appeared in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3240). The effective date of this withdrawal is October 21, 1994.

Issued in Austin, Texas, on October 21, 1994.

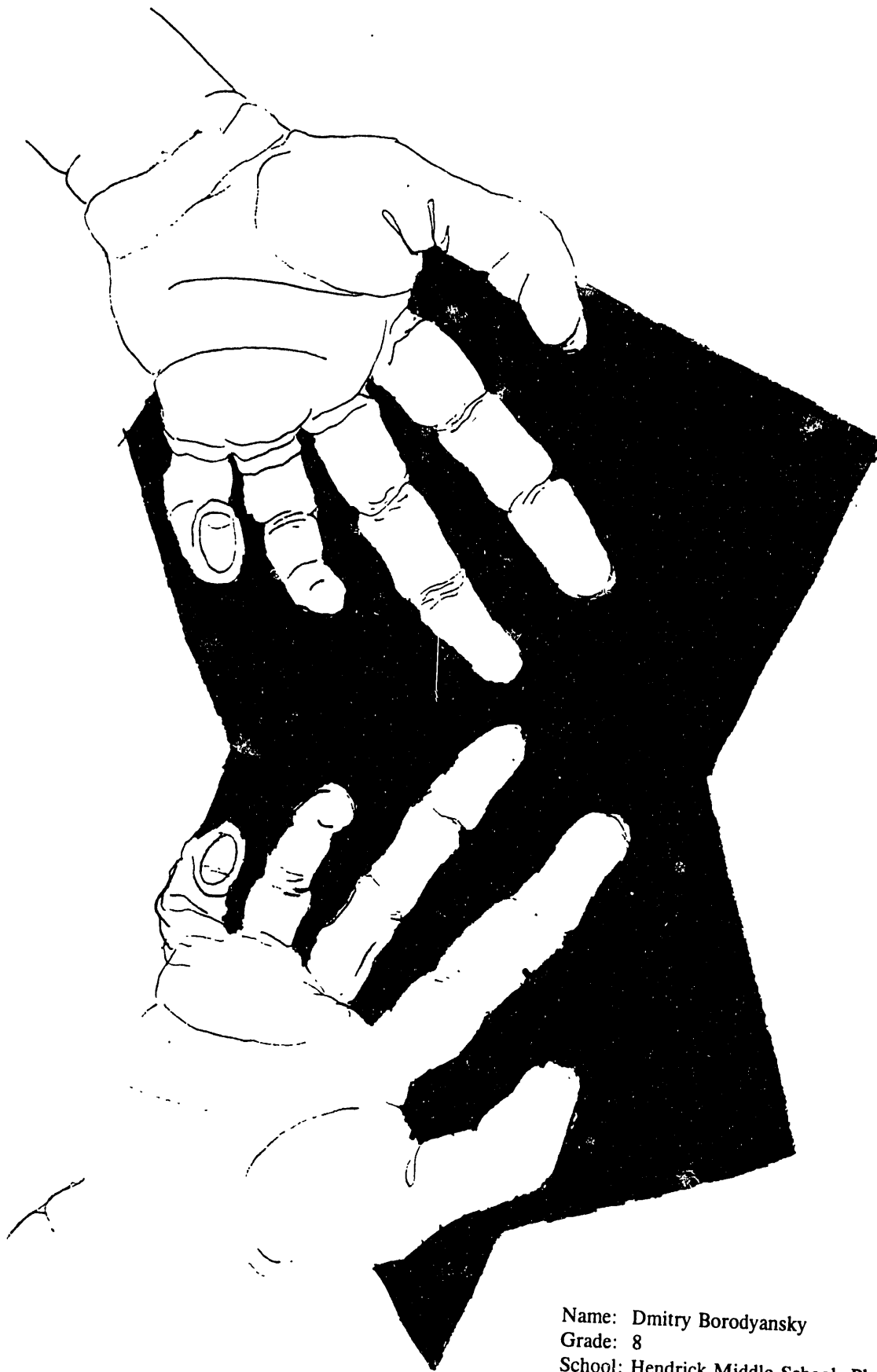
TRD-9449911

David W. Myers  
Executive Director  
Texas Commission for the  
Deaf and Hearing  
Impaired

Effective date: October 21, 1994

For further information, please call. (512)  
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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 1. ADMINISTRATION

### Part IV. Office of the Secretary of State

#### Chapter 81. Elections

##### Implementation of the National Voter Registration Act

###### • 1 TAC §81.401

The Office of Secretary of State adopts new §81.401, with changes to the proposed text as published in the September 9, 1994, issue of the *Texas Register* (19 TexReg 7045).

This new section will assist the Secretary of State in implementation of the National Voter Registration Act of 1993 (NVRA) which is effective on January 1, 1995.

The following comments were received regarding adoption of the new section.

**COMMENT:** Concerning §81.401(a)(10)(B), the Department of Public Safety recommended the language of this section be changed to require the department to prescribe and use a form "or procedure" containing the registration application. The Department of Public Safety also recommended that language requiring the combined application form to be on card stock quality paper be deleted and replaced with the requirement that the Secretary of State approve the weight of paper used for the combined application form.

**RESPONSE:** The Secretary of State agrees and the appropriate changes have been made.

**COMMENT:** Concerning §81.401(a)(10)(I), the Department of Public Safety suggested that the mail registration procedure be clarified as follows. "When the Department renews a license or card for renewal through the mail, the Department must send the applicant a voter registration application. When a licensee or card holder applies to change address by mail, the Department's application form shall allow the individual to choose as to whether the change of address shall be for voter registration purposes, also."

**RESPONSE:** The Secretary of State agrees and the appropriate changes have been made.

**COMMENT:** State Representative Talmadge Heflin questioned the Secretary of State's authority to adopt §81.401.

**RESPONSE:** The Secretary of State responds that authority for the adoption of §81.401 is derived from this office's duty to maintain uniformity in the application, operation, and interpretation of the Election Code and laws outside the Election Code as set out in §31.003 and §31.004 of the Texas Election Code. The National Voter Registration Act requires state implementation of its provisions by January 1, 1995, and failure to do so would leave Texas vulnerable to legal action by the Justice Department. Section 81.401 will be superseded by the NVRA enabling legislation enacted by the 74th Legislature in 1995. No changes were made as a result of the comment.

**COMMENT:** Concerning §81.401(a)(11)(D), Bee County Tax Assessor-Collector Andrea W. Gibbud commented that public libraries should not be used as voter registration sites because of the administrative and financial burden registration would place on the libraries.

**RESPONSE:** The Secretary of State disagrees that too great a burden will be placed on public libraries by registration. The NVRA requires voter registration at sites other than the Department of Public Safety and disability and public assistance agencies. The rules have been drafted, in consultation with the libraries, to limit the situations in which registration must be offered, relieve the libraries of the need to follow declination procedures, and places the financial burden of providing registration forms on the Secretary of State rather than the libraries themselves. No changes were made as a result of the comment.

**COMMENT:** Gary Bledsoe, President of the Texas NAACP, recommended that the Secretary of State amend the voter registration application to require information on race and ethnicity.

**RESPONSE:** The NVRA does not require states to include race or ethnicity information on their voter registration applications. Because the act does not require such information, the Secretary of State has no authority to implement such a requirement by administrative rule. No changes were made as a result of the comment.

**COMMENT:** Concerning §81.401(a)(11)(C), Kerr County Clerk Patricia Dye recom-

mended that marriage license bureaus give registration applications to couples while they are physically present in the marriage license bureau rather than mailing the applications along with the return of the original license to the applicants.

**RESPONSE:** The Secretary of State responds that the mail requirement as set out in the proposed rule reflects comments from a number of county clerks that the mail procedure would be preferable because the address of the couple usually changes after they are married. No changes were made as a result of this comment.

The following minor editorial and typographical changes were made for clarification purposes.

In §81.401(a)(11)(D), the first sentence in the proposed rules read: On receipt of a registration application, the appropriate library employee shall review the card for completeness in the applicant's presence. In the adopted rules, the word "appropriate" is deleted.

In §81.401(a)(11)(D)(viii), the cite reference to (9)(A)(vi) is changed to (9)(A)(vii)

The section is adopted under the Texas Election Code, §1.003 and §31.004, which give the Secretary of State the authority to maintain uniformity in the application, operation, and interpretation of the Election Code and of the election laws outside the Election Code. These rules take effect on January 1, 1995, the day the NVRA also becomes effective.

§81.401. Implementation of the National Voter Registration Act (NVRA).

(a) Agency-based registration.

(1) Designation of voter registration agencies. The following state agencies which provide public assistance shall serve as voter registration sites:

(A) Texas Department of Human Services (food stamp program, AFDC program, Medicaid program, and programs for the aged);

(B) Texas Department of Health (Special Supplemental Food Program for Women, Infants, and Children), and

(C) any other programs conducted within the agencies referenced in subparagraphs (A) and (B) of this paragraph which provide public assistance.

(2) The following state agencies which operate state-funded programs primarily engaged in providing services to persons with disabilities shall serve as voter registration sites:

(A) Texas Department of Mental Health and Mental Retardation;

(B) Texas Commission for the Deaf and Hearing Impaired;

(C) Texas Rehabilitation Commission;

(D) Texas School for the Blind and Visually Impaired;

(E) Texas School for the Deaf;

(F) Texas Commission for the Blind; and

(G) any other state agency which is determined to operate state-funded programs engaged in providing services to the disabled.

(3) The following offices are designated by the Secretary of State to serve as additional voter registration sites:

(A) each principal of public or private high schools;

(B) marriage license bureaus; and

(C) public libraries which operate more than 30 hours a week.

(4) Voter Registration Form Used in Agency-Based Registration. The voter registration agencies referenced in paragraphs (1)-(3) of this subsection shall use the official agency mail voter registration application prescribed by the Secretary of State or application form prescribed by the agency if approved by the Secretary of State. The official form will be available no later than September 30, 1994, and the Secretary of State will provide camera-ready copies of the official application form in order that each agency may print as many applications as may be necessary.

(5) Declination Form Used in Agency-Based Registration. The NVRA provides that the voter registration agencies

referenced in paragraphs (1)-(2) of this subsection must provide a voter registration application to all persons of voting age who apply for services in their agency UNLESS the applicant declines to register to vote, in writing. The Secretary of State shall prescribe the official declination form to be used by all voter registration agencies and provide camera-ready copies to all affected agencies. The declination must be retained by the agency for 22 months, and must be kept confidential. Each agency may decide whether to keep the declination with the agency applicant's file or in a separate declination file. The declination will contain the following statements along with the signature of the applicant and the date of signing:

(A) If you are not registered to vote where you live now, would you like to apply to register to vote here today?  
\_\_\_\_ YES \_\_\_\_ NO

(B) Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency. (This will appear only on the declinations for public assistance agencies.)

(C) IF YOU HAVE NOT CHECKED EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.

(D) If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.

(E) If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the Elections Division of the Office of the Secretary of State, P.O. Box 12060, Austin, Texas 78711, 1-800-252-8683.

(F) A statement that if the applicant declines to register to vote, that this decision will remain confidential and be used only for voter registration purposes.

(G) A statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential, again to be used only for voter registration purposes.

(6) Transmittal of voter registration applications. The NVRA provides two methods by which agency voter registration applications may be transmitted to the county voter registrar's office. The agency may transmit the applications to the county voter registrar's office OR the applicant may transmit the application directly.

(7) Transmittal by the agency. If the applicant submits the voter registration application to the agency, then the agency must mail or deliver in person the application to the voter registrar located in the same county as the agency office within five days of the receipt of the application. The county voter registrar must follow the procedures of the Texas Election Code, §13.072, and forward any applications of applicants residing in a different county to the appropriate county voter registrar. The Secretary of State recommends that agencies collect all the voter registration applications received Monday-Friday and then deliver them to the voter registrar on Friday. Any applications received on Friday not included in the Friday delivery to the voter registrar must be delivered to the voter registrar within five days.

(8) Transmittal by the voter. If the voter desires to keep the application and submit it to the voter registrar directly, the voter may do so. On these occasions, the agency must make a notation on the declination form, that the voter was given the opportunity to register to vote, and decided to take the application to complete and submit to the county registrar directly instead of submitting it to the agency.

(9) Administering agency voter registration. Each voter registration agency shall provide a voter registration application or declination form to each person of voting age who applies for initial services, and also with any recertification, renewal, or change of address form. An agency may determine a person's age by reviewing any readily available documents filed by the applicant. If an applicant's age cannot be determined, the agency must offer the applicant the opportunity to register to vote.

(A) In person.

(i) An appropriate agency employee shall routinely inform each applicant for agency services, who applies in person, of the opportunity to complete a voter registration application and on request shall provide nonpartisan voter registration assistance to the applicant. If an agency provides services at a person's home, then the person receiving the service at home must also be given an opportunity to register to vote.

(ii) On receipt of a registration application, the appropriate agency employee shall review it for completeness

in the applicant's presence. If the application does not contain all the required information and the required signature, the agency employee shall return the application to the applicant for completion and resubmission. However, under no circumstances may an agency employee make a determination about an applicant's eligibility to register to vote, other than a determination that the voter is not of voting age. If a question arises concerning voter registration that the agency employee cannot answer, the agency employee must give the applicant the toll-free number of the Elections Division of the Office of the Secretary of State (1-800-252-8683) and also the number of the local county voter registrar to whom completed applications are submitted.

(iii) The date of a completed registration application to the agency employee is considered to be the date of submission to the county voter registrar for the purpose of determining the effective date of the registration.

(iv) If the applicant does not wish to register to vote, the agency employee must have the applicant complete and sign the declination form. Each agency shall record on the declination form in the appropriate space if the applicant refused to sign the declination or took the voter registration application with them rather than leaving it with the agency.

(v) Agencies must offer the same degree of assistance, including bilingual assistance where necessary, to individuals in completing a voter registration form as they offer to individuals in completing the agency's own forms, unless the applicant refuses such assistance.

(vi) Each voter registration agency must designate a person or persons to coordinate the voter registration program within the agency and must notify the Secretary of State who has been designated. This person or persons will also be required to train agency personnel on voter registration procedures with the assistance of the Secretary of State. Each agency must submit its plan to implement these voter registration procedures to the Secretary of State.

(vii) An agency employee is prohibited from:

(I) seeking to influence an applicant's party preference;

(II) displaying any such political preference or party allegiance;

(III) making any statement or taking any action whose purpose or effect is to discourage the applicant from registering to vote; or

(IV) making any statement or taking any action whose purpose or effect is to lead the applicant to believe that a decision whether or not to register has any bearing on the availability of services or benefits.

(B) By mail or telephone. If a voter registration agency automatically notifies an applicant to renew or recertify a service by sending the applicant a form through the mail, or if an applicant may request services by telephone, then the agency must send the applicant a voter registration application by mail. If a voter registration agency offers initial services through the mail, then the agency must send the applicant a voter registration application when the applicant is approved for services. A voter registration application sent by mail must be accompanied by a notice informing the applicant that the application may be submitted in person or by mail to the voter registrar of the county in which the applicant resides or in person to a volunteer deputy registrar. It is not necessary to mail an applicant a declination form when providing voter registration services through the mail. The employee of the voter registration agency may keep a written record that voter registration applications were included in the mailing to the applicant.

(10) Motor voter registration. Most of the NVRA provisions concerning motor voter registration is current state law and is provided for in §13.051 of the Texas Election Code.

(A) The Texas Department of Public Safety ("the department") shall provide to each person who applies in person at the department's offices or by mail for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected license or card an opportunity to complete a voter registration application form. In addition, any change of address submitted in person or by mail relating to a person's driver's license or personal identification card will also serve as a change of address for voter registration unless the registrant states that the change of address is not for voter registration purposes.

(B) The department shall prescribe and use a form or procedure that combines the department's application form for a license or card with an officially prescribed voter registration application form. The department's voter registration form must be approved by the Secretary of State and must be on a weight of paper acceptable to the Secretary of State. The department's change of address form and procedure must be similarly prescribed as

the application form, and must be similarly approved by the Secretary of State.

(C) The department is not required to follow the declination procedures required in the other mandatory voter registration agencies.

(D) At the end of each day a department office is regularly open for business, the manager of the office shall deliver by mail or in person all completed voter registration applications to the voter registrar of the county in which the office is located.

(E) An appropriate department employee shall routinely inform each applicant for agency services of the opportunity to complete a voter registration application and on request shall provide nonpartisan voter registration assistance to the applicant.

(F) On receipt of a registration application, the appropriate agency employee shall review it for completeness in the applicant's presence. If the application does not contain all the required information and the required signature, the department employee shall return the application to the applicant for completion and resubmission. However, under no circumstances may a department employee make a determination about an applicant's eligibility to register to vote, other than an applicant's age. A department employee may make a determination of applicant's age, if the applicant's age is readily determinable from information filed in connection with the application for services. If a question arises concerning voter registration that the department employee cannot answer, the department employee must give the applicant the toll-free number of the Elections Division of the Office of the Secretary of State (1-800-252-VOTE(8683)) and also the number of the local county voter registrar to whom completed applications are submitted.

(G) The date of a completed registration application to the department employee is considered to be the date of submission to the county voter registrar for the purpose of determining the effective date of the registration.

(H) A department employee is required to follow the same procedures concerning assistance and bilingual assistance as the agency-based voter registration agencies stated in subparagraph (A)(v) of this paragraph and is also subject to the same prohibitions detailed in subparagraph (A)(vi) of this paragraph.

(I) When the department processes a license or card for renewal through the mail, the department must send the applicant a voter registration application. When a licensee or card holder applies to change address by mail, the department's application form shall allow the individual to choose whether the change of address shall be for voter registration purposes also.

(J) The department must designate a person or persons to coordinate the voter registration program within the department and must notify the Secretary of State who has been designated. This person or persons will also be required to train agency personnel on voter registration procedures with the assistance of the Secretary of State.

(K) The department must submit its plan to implement these voter registration procedures to the Secretary of State.

(11) Additionally designated voter registration agencies.

(A) The Secretary of State designates the principals of public and private high schools, the county marriage license bureaus, and the public libraries which operate more than 30 hours a week as additional voter registration agencies. These designated agencies are required to follow the same procedures outlined above for agency-based registration except as otherwise provided in subparagraph (B) of this paragraph.

(B) High school deputy registrars are currently authorized in state law. Texas Election Code, §13.046.

(i) Each principal of a public or private high school or his designee shall serve as a deputy registrar for the county in which the school is located.

(ii) A high school deputy registrar may distribute registration application forms supplied by the Secretary of State to and receive registration applications submitted to him in person from students and employees of the school only.

(iii) During the final month of each school semester, a high school deputy registrar shall distribute an officially prescribed registration application form supplied by the Secretary of State to each student who is or will be 18 years of age or older during that semester.

(iv) Each application form distributed under this section must be accompanied by a notice informing the student or employee that the application may be submitted in person or by mail to the

voter registrar of the county in which the applicant resides or in person to a high school deputy registrar or volunteer deputy registrar for delivery to the voter registrar of the county in which the school is located.

(v) A high school deputy registrar may review an application for completeness out of the applicant's presence. A deputy may deliver a group of applications to the registrar by mail in an envelope or package, and, for the purpose of determining compliance with the delivery deadline, an application delivered by mail is considered to be delivered at the time of its receipt by the registrar. As soon as possible after receipt of a completed application the high school principal or designated representative shall deliver the application and receipt to the voter registrar of the county in which the student or employee resides. Completed applications and corresponding receipts shall be delivered to the voter registrar of the county by the high school principal or designated representative in person, or by mail in an envelope or package. An application shall be delivered to the registrar not later than 5:00 p.m. of the fifth day after the date of the application is submitted to the deputy registrar, except that an application submitted after the 34th day and before the 29th day before the date of an election in which some or all qualified voters of the county are eligible to vote shall be delivered not later than 5:00 p.m. of the 29th day before election day. An application delivered by mail is considered to be delivered at the time of its receipt by the registrar.

(vi) High school deputy registrars are not required to follow the declination procedures.

(C) Marriage license bureaus.

(i) The county clerk must mail two voter registration applications supplied by the Secretary of State when the original marriage license is filed and recorded in the county and returned to the licensees. The applications must be accompanied by a notice informing the licensees that the application may be submitted in person or by mail to the voter registrar of the county in which they reside or in person to a volunteer deputy registrar.

(ii) It is not necessary to mail an applicant a declination form when providing voter registration services through the mail. The employee of the marriage license bureau may keep a written record that the voter registration applications were included in the information provided to the applicant through the mail.

(D) Public libraries open more than 30 hours a week

(i) Public libraries that are required to provide voter registration services include all public libraries that are open more than 30 hours a week, including their branches and any other service outlets. A library is a "public library" if it is operated by a single public agency or board, that is freely open to all persons under identical conditions, and receives its financial support in whole or part from public funds.

(ii) All public libraries that are open more than 30 hours a week shall provide to each person of voting age who applies in person for an original or renewal of a library card an opportunity to complete a voter registration application form supplied by the Secretary of State. A library employee may make a determination of an applicant's age, if the applicant's age is readily determinable from information filed in connection with the application for services. If an applicant's age cannot be determined, the library employee must offer the applicant the opportunity to register to vote.

(iii) If the applicant desires to register to vote, the library employee shall give the applicant a voter registration application and on request shall provide nonpartisan voter registration assistance to the applicant.

(iv) The public libraries are not required to follow the declination procedures.

(v) On receipt of a registration application, the library employee shall review the card for completeness in the applicant's presence. If the application does not contain all the required information and the required signature, the library employee shall return the application to the applicant for completion and resubmission. However, under no circumstances may a library employee make a determination about an applicant's eligibility to register to vote, other than an applicant's age as discussed above. If a question arises concerning voter registration that the library employee cannot answer, the library employee must give the applicant the toll-free number of the Elections Division of the Office of the Secretary of State (1-800-252-VOTE(8683)) and also the number of the local county voter registrar to whom completed applications are submitted.

(vi) The public libraries must transmit completed applications to the voter registrar in the county in which they are located within five days of receipt. An applicant may take an application to complete and submit to the voter registrar independently of the public library.

(vii) The date of a completed registration application to the library employee is considered to be the date of submission to the county voter registrar for

the purpose of determining the effective date of the registration.

(viii) A public library employee is required to follow the same procedures concerning assistance and bilingual assistance as the agency-based voter registration agencies stated in paragraph (9)(A)(v) of this subsection and is also subject to the same prohibitions detailed in paragraph (9)(A)(vii) of this subsection.

(ix) The public library must designate a person or persons to coordinate the voter registration program within the department and must notify the Secretary of State who has been designated. This person or persons will also be required to train agency personnel on voter registration procedures with the assistance of the Secretary of State.

(x) The public library must submit its plan to implement these voter registration procedures to the Secretary of State.

(b) List maintenance under the National Voter Registration Act.

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

(A) List of Registered Voters—list of the names of each person who has an effective registration in each election precinct in the county including voters with an "S" or "R" designation.

(B) Return List—voters who are designated with an "R" on the list of registered voters because the renewal certificate was returned after the mass mailing. The return list will exist only in even-numbered years between January 2nd and 30 days after a confirmation notice has been mailed to each voter on the return list. Voters will not be canceled from the return list unless the voter registrar receives notice from the voter that the voter has moved. Voters will move from an "R" status on the list to an "S" status if the voter fails to respond to the confirmation notice.

(C) Suspense List—voters who are designated with an "S" on the original list of registered voters indicating that they have possibly moved, have been mailed a confirmation notice and did not respond in the 30-day time frame.

(D) Confirmation Notice—the notice the voter registrar sends a registered voter any time the registrar has reason to believe that the voter has moved, either because the certificate was returned or for

other reasons, such as return of jury summons.

(E) Confirmation Return Response form—the pre-paid, pre-addressed form the voter registrar mails to the voter with the confirmation notice so that the voter can respond to the confirmation notice.

(2) Action on application by registrar (Texas Election Code, Chapter 13, Subchapter C). There are no additional state procedures required by the NVRA. The Act requires that the voter registrar notify the applicant of the status of the applicant's registration. Current state law requires that the voter registrar send the voter a voter registration certificate if the application is valid and accepted. The voter registrar must also notify the voter if the application was rejected, challenged, or if the application is a duplicate of a current registration.

(3) Application files (Texas Election Code, Chapter 13, Subchapter D). There are no additional state procedures required by the NVRA. State law requires three types of application files to be kept. One file contains the application of each person who has a current voter registration, one file that contains the applications of each person whose registration was canceled, and one file for all rejected applications. For voters whose names are designated with an "S" on the original list of registered voters, the application is maintained in the file with other voters who have current voter registrations.

(4) Initial registration (Texas Election Code, Chapter 13, Subchapter F). If the initial certificate is delivered to the applicant by mail and it is returned as undeliverable, the voter registrar shall mail a confirmation notice by forwardable mail to the last known address of the applicant. There are no other additional state procedures required by the NVRA for issuing the initial voter registration certificates to registered voters.

(5) Renewal of registration (Texas Election Code, Chapter 14, Subchapter A). Voter registrars shall continue to mail renewal certificates to all voters who have a current registration and are not on a suspense list. The renewal certificates will be mailed during the same time period as provided by state law, that is, on or after November 15 but before December 6 of each odd-numbered year.

(6) Return of renewal certificates (Texas Election Code, Chapter 14, Subchapter B).

(A) The registrar shall maintain a list of the renewal certificates mailed and returned as undeliverable. The registrar

shall retain the list for two years after the last day of the mailing of the certificates.

(B) The voter registrar shall send the Secretary of State not later than January 2 following the mailing of the renewal certificates a list of all voters whose certificates were returned. The list shall be in the form prescribed by the Secretary of State.

(C) The registrar shall place an "R" notation, or similar notation approved by the Secretary of State, next to each voter's name on the original list of registered voters whose certificates were returned. The "R" notation shall be designated next to each voter's name by January 1 following the mailing of the renewal certificates. Voters will continue to have an "R" designation next to their name until the voter's registration is corrected, canceled, or until the voter's status is changed from an "R" to an "S", which means the voter failed to respond to a confirmation notice.

(7) Procedure following the return of renewal certificates.

(A) When a voter's certificate is returned to the voter registrar, the voter registrar shall mail a confirmation notice to the voter requesting a verification of a change of address. The registrar shall send the notice to the voter at the last known address of the voter by forwardable mail.

(B) The confirmation notice to each voter whose certificate was returned shall be mailed no later than March 1 following the mailing of the renewal certificates. The registrar shall include with the confirmation notice to the voter, a pre-addressed, pre-paid confirmation return notice form so that the voter may respond to the inquiry. The Secretary of State suggests that the voter registrar in each county consult with the local postmaster concerning the feasibility of obtaining a business reply permit to be used for this purpose. The Secretary of State will prescribe the language of the confirmation return notice so that it will fit on a 4" by 6" postcard, but a county may print the notice in a different format.

(C) The voter has 30 days to respond to the confirmation notice. If the voter fails to reply within the 30 days, the voter registrar shall change the "R" notation to an "S" notation on the original list of registered voters and note the date that the voter was placed on the suspense list.

(D) The voter's name shall be removed from the suspense list on November 30 following the passage of two

federal general elections, if the voter failed to correct the voter's address either at the polling place or by notifying the voter registrar. The voter's registration is canceled and the voter's application shall be placed in the inactive file for two years following the cancellation. The voter's duplicate of the initial voter registration certificate is also filed with other canceled registrations.

(8) Voting on statement of residence (Texas Election Code, Chapter 14, Subchapter C). There are two categories of voters who are entitled to vote by returning to their old precinct after moving as long as the voters still reside in the county and in the political subdivision in which they are offering to vote. Each voter who has moved must first sign a statement of residence prior to being accepted to vote.

(A) The first category of voters who may vote at their old precinct are those who are suspected of moving and have an "R" or "S" notation next to their names on the original list of registered voters.

(B) The second category of voters who are entitled to vote in their old precinct after moving are those who do not have any notation next to their name but have in fact moved. Regardless of how long ago a voter has moved, the voter may go back and vote in the old precinct as long as the voter is on the list of registered voters and resides in the county of registration and the political subdivision in which the voter is offering to vote. The voter must sign a statement of residence before being allowed to vote.

(9) Voter registration certificate (Texas Election Code, Chapter 15, Subchapter A). The instructions on the back of the 1994-1995 voter certificate will need to be changed to reflect the NVRA changes. The Secretary of State will prescribe new language to replace language on the back of the voting certificate. The voter registrars will need to provide the new law to persons who will have an initial registration effective on January 1, 1995, or later, or to any voter who will receive a corrected or replacement certificate during the 1995 calendar year. The voter registrars may choose one of the following three methods to provide the new law:

(A) order new voter registration certificates with the new language printed on the back of the certificate;

(B) order stickers to be placed on the back of the certificates the voter registrar has in stock; or

(C) send a notice which contains the new instructions to the voter when

the new or corrected certificate is mailed. When the 1996-1997 voter registration certificates are mailed during November/December 1995, the new certificates will reflect the new laws regarding voting.

(10) Correction of registration information (Texas Election Code, Chapter 15, Subchapter B).

(A) State law provides for correcting voter registration records under certain circumstances (Texas Election Code §15.022). Under the NVRA, there will be a slight procedural change. There will no longer be a procedure for a 60-day challenge based on residence; however, the registrar may remove the voter from the list of registered voters or make the necessary corrections if the voter responds to a confirmation notice and indicates that the voter has moved to a different address. The new procedure to replace the 60-day challenge based on residence will be discussed in subparagraph (B) of this paragraph.

(B) If the voter's name appears on the list of registered voters with an "S" notation and the voter registrar receives a notice from the voter that the voter has moved to a different address within the county, the registrar shall delete the "S" next to the voter's name on the date that the new registration will be effective in the precinct. The voter registrar will correct the address and place the voter in the proper precinct and mail the voter a corrected certificate with an effective date of 30 days from the date of receipt of the change. If the change of address is in the same precinct, the effective date of the certificate remains the same as the current certificate.

(11) Certificate files (Texas Election Code, Chapter 15, Subchapter C). State law is not affected by NVRA. When voters have been designated with an "S", the voters' certificate remains in the active file until the voter has actually been canceled from the list.

(12) Cancellation of registration (Texas Election Code, Chapter 16, Subchapter A and B). There are two new procedures for canceling registered voters under the NVRA in addition to the procedures provided under current state law.

(A) The voter registrar may cancel the registration of a voter if the voter files a written request to have the voter's name removed from the list. The voter's name shall be removed from the list of registered voters on the date that the registrar receives the request. The Secretary of State will prescribe a sample form for this purpose; however, the voter is not required to use the prescribed form.

(B) If the registrar receives a response to the confirmation notice from the voter after the voter is placed on the suspense list and the confirmation notice response indicates a residence address outside the county, the registrar shall cancel the voter's registration. For example, if the voter fails to respond within 30 days after the confirmation mailing has been mailed, the voter registrar will place an "S" notation next to the voter's name on the list of registered voters. Any time that the voter responds to the confirmation mailing after that time, the voter registrar will proceed to either cancel or correct the registration depending on the response.

(13) Cancellation of registration following return of renewal certificate. All voters designated with an "S" because of failure to respond to a confirmation notice mailed because the voter's renewal certificate was returned to the voter registrar, shall be canceled on November 30 following the passage of two federal general elections from the date the voters were designated with an "S".

(14) Cancellation following investigation by registrar.

(A) The voter registrar may use the investigation procedure to determine whether a registered voter is a resident of the county or is currently eligible for registration. There are not any changes in current state law if the voter registrar sends a notice of investigation for any reason other than residence. For example, if the registrar sends a notice of investigation to determine whether a person has been convicted of a felony, the voter has 60 days to respond to the notice or the voter's registration will be canceled.

(B) If the registrar has reason to believe that a voter has moved, the registrar shall mail the voter a confirmation notice to confirm the voter's residence address. The registrar must include the pre-addressed, pre-paid confirmation return response form for the voter to use to reply to the voter registrar. The voter has 30 days to respond to the notice. If the registrar does not receive a response within 30 days, the voter registrar shall place an "S" next to the voter's name on the list of registered voters and record the date. The voter shall be canceled from the list of registered voters on November 30 after two federal general elections have passed since the date the voter was designated with an "S" if the voter has not responded to the confirmation notice or voted within this time period.

(C) All suspense voters will be canceled on November 30 following two federal elections after the date the voter is

designated as a suspense voter, if the voter fails to vote or respond to the confirmation notice during this time. Why the voter was designated with an "S" does not affect how the cancellation date is calculated. The voter registrar must note the date the voter was designated with an "S" in the voter's file (computer or paper) to determine the proper cancellation date. The cancellation dates for the next several years are as follows: Voters designated with an "S" between: January 1, 1995 through November 5, 1996 Cancellation Date: November 30, 1998 Voters designated with an "S" between: November 6, 1996 through November 3, 1998 Cancellation Date: November 30, 2000, Voters designated with an "S" between: November 4, 1998 through November 7, 2000 Cancellation Date: November 30, 2002

(15) Notice of cancellation to voter. State law requires a notification to the voter if the registration is canceled under certain circumstances (§16.036). It is not necessary to send the voter a notice of cancellation if the voter's registration is being canceled because the voter has been designated with an "S" on the list of registered voters and failed to vote or respond to the voter registrar.

(16) Challenge of cancellation (Texas Election Code, Chapter 16, Subchapter C). NVRA does not affect the challenge of cancellation procedures.

(17) Challenge of registration (Texas Election Code, Chapter 16, Subchapter D).

(A) If the registration of one voter is challenged by the sworn statement of another registered voter, the voter registrar shall follow the procedures in current state law except when a voter is challenged based on residence.

(B) If the voter registrar receives a sworn statement challenging the registration of another registered voter in the county due to residence, the voter registrar shall follow the procedure set forth in paragraph (14) of this subsection (relating to cancellation following an investigation by registrar).

(18) Registration lists (Texas Election Code, Chapter 18, Subchapter A).

(A) Voters designated with an "S" will remain on the original list of registered voters and will be printed on the original list for all elections.

(B) Each original and supplemental list of registered voters must contain the voter's name, residence address, date of birth, and registration number, and

be printed with an "R" or "S" notation if applicable to a particular voter.

(C) Persons requesting copies of the list of registered voters may request the list with or without the names of voters with the "R" or "S" notation.

(19) Registration statements (Texas Election Code, Chapter 18, Subchapter B).

(A) Each voting year the registrar shall prepare a written statement of the number of persons in each county election precinct whose registration will be effective on January 1. The statement shall contain three categories of voters by precinct:

(i) current voters in a precinct (those voters that do not have an "R" or "S" designation);

(ii) voters who have been designated with an "R" in a precinct; and

(iii) voters who have been designated with an "S" in a precinct.

(B) The voter registrar will include in the written statement a sum of the three categories for a total number of eligible voters in a particular precinct. The registrar will also include in the written statement a total number of registered voters in the county.

(C) The preelection statements required to be filed shall include the same information as the annual statement.

(20) Registration service program (Texas Election Code, Chapter 18, Subchapter C). The voter registrar shall provide the Secretary of State five updates during a calendar year. The updates will be made between the 1st and the 16th during the months of January, March, June, September, and December. The voter registrar shall include in the September update the voters that have had the voting status of "R" changed to "S". The Secretary of State will prescribe the format of this report.

(c) Other Texas Election Code sections affected by the NVRA list maintenance.

(1) Texas Election Code, §42.006. The number of registered voters contained in an election precinct as provided for by this section of the Election Code should be determined excluding the number of voters who have been designated with an "S" next to the voters name of the list of registered voters.

(2) Texas Election Code, §51.005. To determine the number of ballots to order for a particular election, the

number of voters who have been designated with an "R" or "S" on the list of registered voters shall not be included in the count of registered voters in the precinct.

(3) Texas Election Code, Chapter 277. If a law outside the Election Code requires a petition based on the number of registered voters in a particular territory, the number shall be determined by excluding the number of voters that have an "R" or "S" designation from the total number of registered voters in the particular territory. Registered voters that have an "R" or "S" designation on the list of registered voters may sign a petition if their actual residence address is covered by the territory conducting the election.

(d) Fail-safe voting.

(1) Voting in precinct of former residence.

(A) A registered voter who changes residence to another election precinct in the same county and same political subdivision for which the voter offers to vote may vote a full ballot in the election precinct of former residence, regardless of how long ago the voter moved.

(B) Before being accepted to vote, the voter must execute and submit to an election officer at the polling place a statement of residence which includes:

(i) a statement that the voter is a resident of the county,

(ii) the voter's residence address or, if the residence has no address, the address at which the voter receives mail and a concise description of the voter's residence;

(iii) the month, day, and year of the voter's birth; and

(iv) the date the statement is submitted to the election officer.

(C) The voter registrar shall provide to the general custodian of election records a suitable number of statements of residence for use in each applicable election.

(D) The voter registrar shall retain each statement of residence on file with the voter's registration application.

(2) Qualifying a voter. Before any voter may be accepted for voting, the election officer must ask the voter if the voter has moved within the county. If the voter has moved within the county, the voter must sign the statement of residence before being accepted to vote.

(3) Processing applications for ballot by mail.



(A) If a voter applies for a ballot by mail and the voter has an "R" or "S" designation next to the voter's name on the list of registered voters, the early voting clerk shall mail the voter the statement of residence and follow the procedures stated in subparagraph (B) of this paragraph.

(B) If the early voting clerk receives an application for ballot by mail from a registered voter whose residence address on the application for ballot by mail does not match the residence address on the voter registration list, the early voting clerk shall mail the voter a ballot together with a statement of residence and an explanation to the voter that if the statement is not returned in the carrier envelope or indicates that the voter no longer resides in the political subdivision, the ballot will be rejected by the early voting ballot board. The early voting clerk shall make an indication on the outside of the carrier envelope that a statement of residence is enclosed. Procedures for qualifying these types of ballots and processing the ballots shall be accomplished in accordance with the procedures set forth in the Secretary of State handbook for the early voting ballot board.

(C) If the early voting clerk cannot determine that the applicant is a registered voter in the political subdivision because the residence address does not match and other information on the application fails to identify the applicant as a registered voter, then the clerk shall reject the application and send the voter a notice of rejection. For example, if ten Mike Smiths were registered to vote and the early voting clerk could not determine which Mike Smith had applied for an early ballot because the residence address did not match and the application lacked any other specific identifying information, then the application must be rejected.

(e) Record keeping and reporting. The Secretary of State will be required to make the following report each odd-numbered year to the FEC, which means the following information must be maintained by the counties and filed with the Secretary of State:

(1) the total number of registered voters statewide, including voters designated with an "S", in the federal general election two years prior to the most recent federal general election as shown on the pre-election statement required to be filed not later than 20 days before each general election for state and county officers,

(2) the total number of registered voters statewide, including voters designated with an "S", in the most recent federal election as shown on the pre-election statement,

(3) the total number of new valid registrations accepted statewide between the past two federal general elections, including all registrations that are new to a county, but excluding all applications that are duplicates, rejected, or report only a change of name, or address within the county.

(4) the total number of registrants statewide that were designated with an "S", at the close of the most recent federal general election as shown on the pre-election statement;

(5) the total number of registrations statewide that were, for whatever reason, deleted from the registration list, including voters designated with an "R" or "S", between the past two federal general elections;

(6) the statewide number of registration applications received statewide (regardless of whether they were valid, rejected, duplicative, or address or name changes) that were received from or generated by each of the following categories, between the past two federal general elections:

(A) all motor vehicle offices statewide;

(B) mail;

(C) all public assistance agencies that are mandated as registration sites under the Act;

(D) all state-funded agencies primarily serving persons with disabilities;

(E) all Armed Forces recruitment offices;

(F) all other agencies designated by the state;

(G) all other means, including but not limited to, in person, deputy registrars, and organized voter registration drives delivering forms directly to registrars;

(7) the total number of duplicate registration applications statewide that, between the past two federal general elections were received in the appropriate election office and generated by each of the categories described in paragraph (6)(i)-(vii) of this subsection;

(8) the statewide number of confirmation notices mailed out between the past two federal general elections and the statewide number of responses received to these notices during the same period,

(9) answers to a series of questions with categorical responses for the state to indicate which options or procedures the state has selected in implementing the NVRA or any significant changes to the state's voter registration program; and

(10) any additional information that would be helpful to the Commission for meeting the reporting requirement under 42 United States Code 1973gg-7(a)(3).

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 September 2, 1994.

TRD-9449854

Machree Garrett Gibson  
Assistant Secretary of  
State  
Office of the Secretary of  
State

Effective date: January 1, 1995

Proposal publication date: September 9, 1994

For further information, please call: (512) 463-5650 or 1-800-252-8683

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 5. Quarantines

#### Sweet Potato Weevil Quarantine

##### • 4 TAC §5.62, §5.63

The Texas Department of Agriculture (the department) adopts amendments to §5.62 and §5.63, concerning the sweet potato weevil quarantine, without changes to the proposed text as published in the August 16, 1994, issue of the *Texas Register* (19 TexReg 6411)

Recent detections of the sweet potato weevil in Freestone County indicate that the department should regulate this county to protect the other weevil-free areas of Texas. Presently, the sweet potato weevil regulated areas within Texas are not included in §5.63. It is necessary to amend §5.63 to define and include sweet potato weevil regulated areas within Texas to allow the department to regulate the movement of restricted material in those areas

The amendment to §5.62 as adopted removes Freestone County from the list of weevil-free counties in Texas. The amendment to §5.63 as adopted adds sweet potato weevil regulated areas within the State of Texas.

Public comment was taken on the proposed amendments at a public hearing held by the department in Fairfield, Texas. One Texas Agricultural Extension Service entomologist appeared at the hearing and provided oral testimony in favor of the amendment to §5.62. The entomologist acknowledged that



the sweet potato weevil is present in Freestone County and that the department should regulate this county to protect the weevil-free areas of Texas. No comments were received regarding adoption of the amendment to §5.63.

The amendments are adopted under Texas Agriculture Code, §71.007, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the protection of agricultural and horticultural interests in the state.

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

Issued in Austin, Texas, on October 21, 1994.

TRD-9449966 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: November 11, 1994

Proposal publication date: August 16, 1994

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

## Chapter 9. Plant Quality

### Nursery and Floral Products

#### • 4 TAC §§9.1, 9.2, 9.4-9.6

The Texas Department of Agriculture (the department) adopts amendments to §§9.4-9.6 and new §9.1 and §9.2, concerning nursery and floral products, without changes to the proposed text as published in the August 12, 1994, issue of the *Texas Register* (19 TexReg 6326).

The amendments and new sections are adopted to update and clarify terminology and procedures found in this undesignated head and to make the regulation consistent with Texas Agriculture Code, Chapter 12, pertaining to late fees, and Texas Agriculture Code, Chapter 71, pertaining to nursery/floral registration and inspection.

The amendments and new sections as adopted add definitions concerning nursery and floral products; provide for violations and penalties; change the section title from "examination" to "inspection"; change the frequency of inspections from once a year to once every three years; change the language from "certificate of inspection" to "registration certificate"; change the expiration date for nursery/floral registration certificates; add a nursery/floral renewal late fee schedule; and eliminate Class 5 as an operational category.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted under the Texas Agriculture Code, §71.043 and §71.057, which provide the Texas Department of Agriculture with the authority to require a florist or nursery owner, nursery dealer or nursery agent to register or renew his or her registration by submitting an application and nonrefundable fee; and Texas

Agriculture Code, §12.024, which provides for the assessment and collection of late fees.

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 October 21, 1994.

TRD-9449967 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: November 11, 1994

Proposal publication date: August 12, 1994

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

## Chapter 19. Seed Division

### Texas Seed Law

#### • 4 TAC §§19.2-19.4

The Texas Department of Agriculture (the department) adopts amendments to §§19.2-19.4, concerning administration of the Texas Seed Law, without changes to the proposed text as published in the August 12, 1994, issue of the *Texas Register* (19 TexReg 6327).

The amendments are adopted to provide for including hybrid cotton seed in the variable percentage of hybrid seed labeling to promote the marketing of new kinds/varieties of hybrid seed, reclassifying the existing noxious weed seed listing of annual bluegrass as a prohibited noxious weed seed to a restricted noxious weed seed, and abolishing the service testing category for winter test readings.

The amendment regarding labeling of hybrid seed will allow for greater research endeavors which will benefit cotton growers and cotton seed producers. The amendment to the noxious weed seed listing allows for a more practical means of attaining the desired results at a reasonable price to the consumer. The amendment to the service testing category allows the state to transfer the cost of expensive travel for that program to the industry receiving those services.

The Texas Seed Trade Association commented generally in favor of the amendments.

The amendments are adopted under the Texas Agriculture Code, §61.002, which provides the Texas Department of Agriculture with the authority to establish rules necessary for the administration of the seed program.

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

Issued in Austin, Texas, on October 21, 1994.

TRD-9449968 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: November 11, 1994

Proposal publication date: August 12, 1994

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 365. Investment Rules

The Texas Water Development Board (the board) adopts new 31 TAC Chapter 365, Investment Rules, §§365.1, 365.2, 365.11, 365.12, 365.21-365.24, 365.31-365.35, and 365.51-365.54, without changes to the proposed text as published in the September 16, 1994, issue of the *Texas Register* (19 TexReg 7233).

Title 31, TAC Chapter 365 is created to establish rules regarding the investment of Texas Water Development Board and Texas Water Resources Finance Authority funds in accordance with the Texas Government Code, Chapter 2256. Chapter 365 will provide investment procedures which will preserve capital, establish prudent investment policies, and provide for reporting of investments.

No comments were received regarding adoption of the new sections.

#### General Provisions

##### • 31 TAC §§365.1, §365.2

The new sections are adopted under the authority of the Texas Water Code, §6.101, which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State; and the Texas Government Code, Chapter 2256, which requires each State agency to adopt rules necessary to invest funds.

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 October 21, 1994.

TRD-9449871 Craig D. Pedersen  
Executive Administrator  
Texas Water Development  
Board

Effective date: November 11, 1994

Proposal publication date: September 16, 1994

For further information, please call: (512) 463-7981

#### Selection of Authorized Dealers

##### • 31 TAC §§365.11, §365.12

The new sections are adopted under the authority of the Texas Water Code, §6.101,

which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State; and the Texas Government Code, Chapter 2256, which requires each State agency to adopt rules necessary to invest funds.

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 October 21, 1994.

TRD-9449872 Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Effective date: November 11, 1994

Proposal publication date: September 16, 1994

For further information, please call: (512) 463-7981

### Investment Procedures

#### • 31 TAC §§365.21-365.24

The new sections are adopted under the authority of the Texas Water Code, §6.101, which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State; and the Texas Government Code, Chapter 2256, which requires each State agency to adopt rules necessary to invest funds.

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 October 21, 1994.

TRD-9449873 Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Effective date: November 11, 1994

Proposal publication date: September 16, 1994

For further information, please call: (512) 463-7981

### Standards for Investments and Reporting of Investments

#### • 31 TAC §§365.31-365.35

The new sections are adopted under the authority of the Texas Water Code, §6.101, which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State; and the Texas Government Code, Chapter 2256, which requires each State agency to adopt rules necessary to invest funds.

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 October 21, 1994.

TRD-9449874 Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Effective date: November 11, 1994

Proposal publication date: September 16, 1994

For further information, please call: (512) 463-7981

### Payment, Delivery, and Deposit of Investments

#### • 31 TAC §§365.51-365.54

The new sections are adopted under the authority of the Texas Water Code, §6.101, which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State; and the Texas Government Code, Chapter 2256, which requires each State agency to adopt rules necessary to invest funds.

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 October 21, 1994.

TRD-9449875 Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Effective date: November 11, 1994

Proposal publication date: September 16, 1994

For further information, please call: (512) 463-7981

## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement System of Texas

#### Chapter 63. Board of Trustees

##### • 34 TAC §63.4

The Employees Retirement System of Texas (ERS) adopts an amendment to §63.4, concerning the Board of Trustees, without changes to the proposed text as published in the September 9, 1994, issue of the *Texas Register* (19 TexReg 7063).

The amendment will make changes necessary to implement and monitor the 1995 trustee election.

The 1995 trustee election will be administered in a more effective manner in regard to ballot distribution and the election process.

The following comments were received concerning the proposed revised rules.

COMMENT: One comment was received which stated that the amendments will further improve the election process by permitting additional information on candidates to be published and maintaining controls over ballot distribution.

RESPONSE: The ERS agrees with this comment.

COMMENT: Several comments were received which indicated the desire for the rule amendments to be extended to include mailing of election ballots to home addresses and allowing candidate access to state retiree names and addresses.

RESPONSE: Attorney General Opinion OR93-114 prohibits the ERS from furnishing the names and addresses of retirees. In addition, current home addresses are not systematically maintained by the ERS or any state agency the ERS has contacted. The current method of ballot distribution to state agencies is the most effective method of insuring that state employees receive ballots.

The following organizations provided comment: Texas Public Employees Association, CWATexas State Employees Union.

The amendment is adopted under the Government Code, §815.003 and §815.102, which provide authorization for the board of trustees of the ERS to adopt rules necessary to nominate and elect trustees and to carry out other business of the board.

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

Issued in Austin, Texas, on October 19, 1994.

TRD-9449783 William S. Nall  
Executive Director  
Employees Retirement System of Texas

Effective date: November 9, 1994

Proposal publication date: September 9, 1994

For further information, please call: (512) 867-3336

### Chapter 65. Executive Director

#### • 34 TAC §65.3

The Employees Retirement System of Texas (ERS) adopts an amendment to §65.3, concerning the Executive Director, without changes to the proposed text as published in the September 9, 1994, issue of the *Texas Register* (19 TexReg 7064).

The amendment will be in compliance with Acts of the 73rd Legislature which require state agencies to adopt rules that specify the charges the agency will make for providing public information.

The public will now have a better understanding of how costs for public information are calculated.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, §815.102, which provides authorization for the board of trustees of the ERS to adopt rules concerning the administration of the funds of the retirement system and the transaction of the business of the board.

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

Issued in Austin, Texas, on October 19, 1994.

TRD-9449782

William S. Nall  
Executive Director  
Employees Retirement  
System of Texas

Effective date: November 9, 1994

Proposal publication date: September 9, 1994

For further information, please call: (512) 867-3336

### Chapter 87. Deferred Compensation Plan

- 34 TAC §§87.7, 87.13, 87.15, 87.17, 87.19

The Employees Retirement System of Texas (ERS) adopts amendments to §§87.7, 87.13, 87.15, 87.17, and 87.19, concerning the Deferred Compensation Plan, without changes to the proposed text as published in the September 9, 1994, issue of the *Texas Register* (19 TexReg 7064).

The amendments clarify vendor reporting and disclosure and telephone transfer requirements and add procedures for transferring participant deferrals and investment income to other eligible deferred compensation plans. Clarification of the reporting and disclosure requirements will provide additional protection for employees participating in the plan.

Participating members will now be better informed with regard to procedures to transfer funds to another eligible deferred compensation plan.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Government Code, §609.508, which provides authorization for the board of trustees of the ERS to adopt rules, regulations, plans, and procedures to carry out the purposes of this Act.

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

Issued in Austin, Texas, on October 19, 1994.

TRD-9449781

Charles D. Travis  
Executive Director  
Employees Retirement  
System of Texas

Effective date: November 9, 1994

Proposal publication date: September 9, 1994

For further information, please call: (512) 867-3336

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 91. Discipline and Control

##### Control

- 37 TAC §91.73

The Texas Youth Commission (TYC) adopts an amendment to §91.73, concerning intensive resocialization program, without changes to the proposed text as published in the September 20, 1994, issue of the *Texas Register* (19 TexReg 7340).

The justification for amending the section is to allow staff to gain control and youth to receive intensive treatment.

The amendment will distinguish between the more intensive restrictive resocialization program at Giddings State School and other resocialization programs at TYC facilities.

The name of the policy has been changed to be consistent with these changes.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on October 21, 1994.

TRD-9449876

Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: November 11, 1994

Proposal publication date: September 20, 1994

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part VII. Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

#### Chapter 189. Purchases of Products and Services of Blind and Severely Disabled Persons

##### Organization of the Committee

- 40 TAC §189.3

The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons adopts an amendment to §189.3, concerning procedures of the committee. The amendment is being adopted with changes to the proposed text as published in the July 15, 1994, issue of the *Texas Register* (19 TexReg 5465).

The amendment is being adopted to encourage public comment at regularly scheduled meetings. A change in wording was made noting that public comment will increase access and input into the operation of the Committee. This change will reflect public comment as being one of the means of receiving information.

The effect of the adopted rule will be improved communication between the public and the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

One comment for the proposal was received requesting deletion of language in order to convey that public comment is only one avenue by which public Boards receive information.

The amendment is adopted under the Human Resources Code, Chapter 122, §122.010, which provides the committee with the authority to adopt rules for the implementation, extension, administration, or improvement of the program.

The Human Resources Code, Chapter 122, §122.019 is affected by this proposed amendment.

##### §189.3. Organization of the Committee.

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

(d) Public access to Committee meetings shall be encouraged. The Committee shall encourage public participation at its regularly scheduled meetings by including in the agenda a provision for "public comment." Such public comment will increase access and input into the operation of the Committee and the stated purpose for which it exists. Interested parties may speak for a maximum of five minutes if appropriate.

ate comment request cards have been completed. Individuals may supplement their comments through written communication. Individuals requiring more than five minutes may request to be included as an agenda item by responding to the published meeting notice in the *Texas Register*.

(e) Regular meetings of the committee shall be held in each calendar quarter at the call of the chairman or his committee member designee unless, in the opinion of the chairman or his committee member designee, the amount of business to be conducted is insufficient to call a regular meeting during a particular quarter.

(f) Special meetings may be set at the call of the chairman or his committee member designee for any purpose except for hearings on suspension of a workshop.

(See §189.10 of this title (relating to Notice and Hearing Required Prior to Suspension)).

(g) Committee members who have personal or private interest in any matter pending before the committee or any subcommittee of the committee must disclose that fact publicly in a meeting held under the Open Meetings Act, and they must not participate in the decision. The disclosure and non-participation shall both be a matter of record in the committee or subcommittee minutes.

(h) Committee members may not appoint or vote for any person related to that individual within the third degree of consanguinity (related by blood) or the second degree of affinity (related by marriage) to any paid state position.

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 October 21, 1994

TRD-9449951      Hollis Priyan  
Chairman  
Texas Committee on  
Purchases of Products  
and Services of Blind  
and Severely Disabled  
Persons

Effective date: November 11, 1994

Proposal publication date July 15, 1994

For further information, please call: (512) 459-2604

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### Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act)*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin)*

The Texas Department of Insurance at a public hearing under Docket Number 2117 held at 11:00 a.m., October 18, 1994, in room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted a form filing by the Texas Department of Transportation (Department) for revised surety bond forms entitled "Performance Bond" and "Payment Bond". Both bond forms are a requirement of the Texas Government Code Title 10, Chapter

2253. The forms were filed in the Chief Clerk's Office on October 3, 1994.

The Performance Bond has been revised to clarify that in the event of default the surety and principal shall fully indemnify and save harmless the State of Texas (Obligee) from all cost and damage and shall reimburse and pay the Obligee all outlay and expense which the Obligee may incur in making good any such default. This bond has further been revised to add wording that no change, extension of time, alteration or addition to the terms of the contract shall in any way affect the surety's obligation under the bond and that the surety waives notice of any such change, extension of time, alteration or addition to the terms to the contract. There have been other minor changes to this form.

The Payment Bond has been revised to make reference to the Texas Government Code Title 10, Chapter 2253 as the controlling statute for Payment Bonds for public projects. There have been other minor changes to this form.

The full text of the surety bond form filing (Reference Number O-1094-22), was published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8070).

The Texas Department of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15 and 5.97.

The full text of the surety bond forms entitled "Performance Bond" and "Payment Bond", as adopted by the Texas Department of Insurance is filed with the Chief Clerk under (Reference Number O-1094-22) and is incorporated by reference by Commissioner Order Number 94-1137

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act

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

Issued in Austin, Texas, on October 20, 1994

TRD-9449849      D J Powers  
General Counsel and Chief  
Clerk  
Texas Department of  
Insurance

Effective date November 12, 1994

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

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# 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.

Figure 1: 31 TAC §19.2(a) (21)

APPENDIX 1 - COASTAL FACILITY DESIGNATION LINE

All areas east and south of the following boundary are considered areas in which spills may pose an imminent threat to coastal waters: beginning at the International Toll Bridge in Brownsville, thence northward along U.S. Highway 77 to the junction of Paredes Lines Road (FM Road 1847) in Brownsville, thence northward along FM Road 1847 to the junction of FM Road 106 east of Rio Hondo, thence westward along FM Road 106 to the junction of FM Road 508 in Rio Hondo, thence northward along FM Road 508 to the junction of FM Road 1420, thence northward along FM Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. Highway 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of FM Road 774 in Refugio, thence eastward along FM Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northwestward along State Highway 185 to the junction of FM Road 616 in Bloomington, thence northeastward along FM Road 616 to the junction of State Highway 35 east of Blessing, thence southward along State Highway 35 to the junction of FM Road 521 north of Palacios, thence northeastward along FM Road 521 to the junction of State Highway 36 south of Brazoria, thence northward along State Highway 36 to the junction of State Highway 332 in Brazoria, thence eastward along State Highway 332 to the junction of FM Road 2004 in Lake Jackson, thence northeastward along FM Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Interstate Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the Louisiana State Line.

Please note that facilities north and west of the boundary are not subject to certification pursuant to OSPRA.

AREAS OF EXTENDED TIDAL INFLUENCE/IMPACT POTENTIAL

- (1) ARROYA COLORADO FROM SOUTH OF HWY 106 TO THE PORT OF HARLINGEN.
- (2) NUECES RIVER AT THE HWY 666 CROSSING OF THE NUECES RIVER.
- (3) GUADALUPE RIVER AND ASSOCIATED RIVERINE ENVIRONMENT INCLUDING THE VICTORIA BARGE CANAL TO THE HWY 175 RIVER CROSSING.
- (4) PALMETTO BEND DAM ON THE LAVACA RIVER.
- (5) TRES PALACIOS RIVER 4.0 MILES ABOVE THE HWY 521 CROSSING.

(6) COLORADO ABOVE THE PORT OF BAY CITY 1.3 MILES SOUTH OF THE MISSOURI PACIFIC RAILROAD.

(7) SAN BERNARD TO TIDAL 2 MILES UPSTREAM OF HWY 35 CROSSING.

(8) CHOCOLATE BAYOU TO TIDAL 2.6 MILES DOWNSTREAM OF HWY 35.

(9) BUFFALO BAYOU 6.5 MILES WEST OF THE TURNING BASIN.

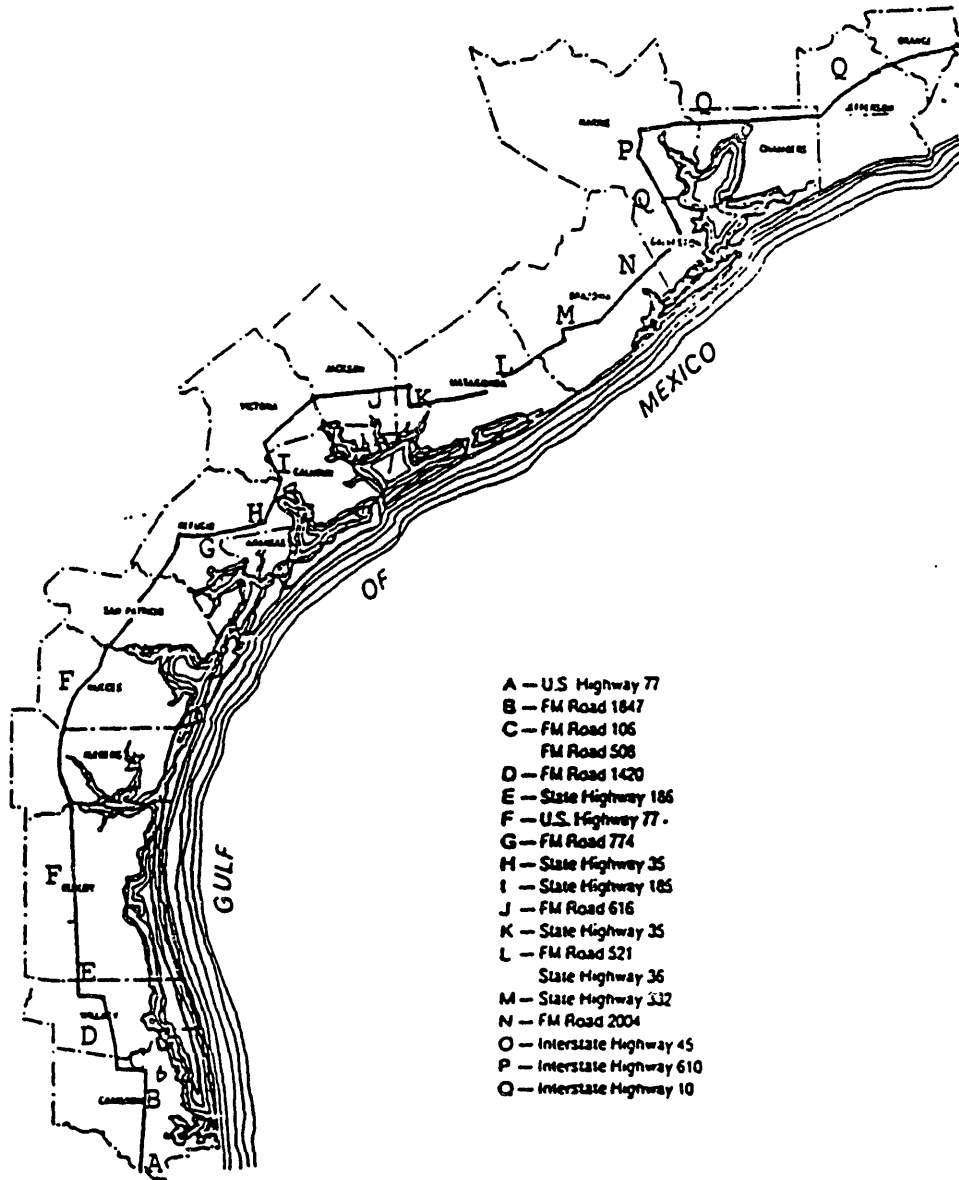
(10) SAN JACINTO RIVER TO THE LAKE HOUSTON DAM.

(11) TRINITY RIVER TO 1.9 MILES SOUTH OF HWY 90 IN LIBERTY COUNTY.

(12) NECHES RIVER 7 MILES UPSTREAM OF IH-10.

(13) SABINE RIVER TO MORGAN BLUFF.

NOTE: AREAS OF EXTENDED TIDAL INCLUDE WATERWAYS AND FACILITIES 100 YARDS LANDWARD FROM CUT BANK.



- A — U.S. Highway 77
- B — FM Road 1847
- C — FM Road 106  
FM Road 508
- D — FM Road 1420
- E — State Highway 186
- F — U.S. Highway 77
- G — FM Road 774
- H — State Highway 35
- I — State Highway 185
- J — FM Road 616
- K — State Highway 35
- L — FM Road 521  
State Highway 36
- M — State Highway 332
- N — FM Road 2004
- O — Interstate Highway 45
- P — Interstate Highway 610
- Q — Interstate Highway 10



# 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 Council on Alzheimer's Disease and Related Disorders

Saturday, November 5, 1994, 2:00 p.m.

Room 102/104, Wyndham Austin Hotel, 4140 Governor's Row

Austin

### AGENDA:

The council will recognize members and guests, and discuss and possibly act on: approval of minutes from the last meeting; update on national efforts related to Alzheimer's Disease research; Alzheimer's Association Coalition of Texas—legislative issues; council legislative issues; and other business not requiring council action.

Contact: Veronda Durden, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. 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: October 24, 1994, 4:51 p.m.

TRD-9450025

## Texas Certified Self-Insurer Guaranty Association

Tuesday, November 1, 1994, 3:30 p.m.

Sheraton Grand Hotel, 4440 West Highway

Irving

Board

### AGENDA:

1. Call to order
2. Approval of minutes for the public meeting of August 23, 1994
3. Discussion, consideration, and possible action on the initial applications for Hyatt Corporation and Occidental Chemical Corporation
4. Discussion, consideration, and possible action on the renewal applications for Southwestern Bell Telephone Company, Campbell Soup Company, Rohm and Hass Company, The Limited, Inc., Lockheed Corporation for its division, Lockheed Fort Worth Company, Dean Foods Company, Union Pacific Motor Freight Company, Overnite Transportation Company, VF Corporation, International Paper Company, AAA Cooper Transportation, Diamond Shamrock, Inc., Dillard Department Stores, Inc., Weyerhaeuser Company, Roadway Express, Inc., Rockwell International Corporation, and Browning-Ferris Industries, Inc.
5. Other business
6. Discussion of future public meetings
7. Adjournment

Contact: Judy Roach, 28 San Jacinto Boulevard, 1600 San Jacinto Center, Austin, Texas 78701, (512) 322-2514.

Filed: October 20, 1994, 5:01 p.m.

TRD-9449862

## Texas State Board of Examiners of Professional Counselors

Friday, November 4, 1994, 8:30 a.m.

Room S-400, the Exchange Building, 8407 Wall Street

Austin

Testing and Continuing Education Committee

### AGENDA:

The committee will discuss and possibly act on: recommendations to the Rules Committee regarding auditing continuing education reporting and amendments to 22 Texas Administrative Code, Chapter 681; and information on electronic testing.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449889

Friday, November 4, 1994, 9:30 a.m.

Room S-400, the Exchange Building, 8407 Wall Street

Austin

Rules Committee

### AGENDA:

The committee will discuss and possibly act on: letters from members of the National

Coalition of Art Therapies Association requesting amendments to 22 Texas Administrative Code (TAC), §681.26(14); proposed amendments to 22 TAC, Chapter 681; and legislative amendments proposed by the Texas Counseling Association.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449890

Friday, November 4, 1994, 12:30 p.m.  
Room S-400, the Exchange Building, 8407 Wall Street

Austin

Applications Committee

AGENDA:

The committee will discuss and possibly act on applications or requests of the following persons (Juanita Corona Alaniz; Jane E. Blaine; Sonya K. Moliq; and others).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449891

Friday, November 4, 1994, 2:00 p.m.  
Room S-400, the Exchange Building, 8407 Wall Street

Austin

Public and Professional Relations Committee

AGENDA:

The committee will discuss and possibly act on the final version of the November Examiner.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449892

Friday, November 4, 1994, 4:00 p.m.  
Room S-400, the Exchange Building, 8407 Wall Street

Austin

Administration and Finance Committee

AGENDA:

The committee will discuss and possibly act on: report on recent court decision (Rettberg

vs. Texas Department of Health) and possible impact on the board; 1994 Annual Report; financial report through the end of fiscal year 1994 (August 31, 1994); and financial report through October 31, 1994.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449893

Saturday, November 5, 1994, 8:00 a.m.  
Room S-400, the Exchange Building, 8407 Wall Street

Austin

Complaints Committee

AGENDA:

The committee will discuss and possibly act on: acceptance of the surrender of the license of R. D. C.; agreed order concerning license of J. W. C.; and order denying the application of K. D. W.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:58 a.m.

TRD-9449894

Saturday, November 5, 1994, 9:00 a.m.

Austin

AGENDA:

The board will hear announcements, and discuss and possibly act on: approval of the minutes from the August 13, 1994 meeting; persons who wish to appear before the board; executive session in accordance with Open Meetings Act, §551.071 regarding pending litigation (G. Caldwell and Texas Psychological Association); pending litigation (G. Caldwell and Texas Psychological Association); directors and officers liability insurance; election of Vice-Chairman; Application Committee report (applications or requests of: Juanita Corona Alaniz; Jane E. Blaine; Sonya K. Moliq; and others; and consideration and action concerning committee report); Complaints Committee report (surrender of the license of R. D. C.; agreed order concerning license of J. W. C.; order denying application of K. D. W.; and consideration and action concerning committee report); Testing and Continuing Education Committee report (information on electronic testing; and consideration and action concerning committee report); Rules Committee report (letters from members of the National Coalition of Art Therapies Association requesting amendments to 22 Texas Administrative Code (TAC),

§681.26(14); proposed amendments to 22 TAC, Chapter 681; legislative amendments proposed by Texas Counseling Association; and consideration and action concerning committee report); Administration and Finance Committee report (report on recent court decision (Rettberg vs. Texas Department of Health) and possible impact on the Board; Annual Report for fiscal year (FY) 1994; financial report through the end of FY 1994 (August 31, 1994); and consideration and action concerning committee report); Public and Professional Relations Committee report (final version of the November Examiner; recommendations of articles for the May 1995 Examiner; and consideration and action concerning committee report); and setting of future meeting date(s).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449887

Saturday, November 5, 1994, 1:00 p.m.  
Room S-400, the Exchange Building, 8407 Wall Street

Austin

Complaints Committee

AGENDA:

The committee will discuss and possible act on pending complaints.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. 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: October 21, 1994, 9:57 a.m.

TRD-9449888

Thursday, November 10, 1994, 8:30 a.m.  
Wyndham Warwick Hotel, 5701 Main Street  
Houston

Ad Hoc Examination Committee

AGENDA:

The committee will discuss and possible act on: status report of Ohio contract; review of October 22, 1994 exam statistics; pilot item performance; candidate comments; and setting of the next meeting date.

Contact: Dr. Jim Zukowski, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. 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: October 21, 1994, 9:57 a.m.

TRD-9449886

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**Texas Department of Criminal Justice**

Thursday, November 3, 1994, 1:00 p.m.

1530 South Southwest Loop 323, Room 125

Tyler

Judicial Advisory Council—Substance Abuse

**AGENDA:**

Discussion of SAFFP grads as counselors in training (CTS) and funding for SAFFP for fiscal year 1995.

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8485.

Filed: October 24, 1994, 3:09 p.m.

TRD-9450006

Tuesday, November 3, 1994, 3:00 p.m.

1530 South Southwest Loop 323, Room 125

Tyler

Judicial Advisory Council—Legislative Budget Committee

**AGENDA:**

Review of proposed legislative changes; and miscellaneous business.

Contact: Elizabeth Colvin, 209 West 14th Street, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: October 24, 1994, 3:09 p.m.

TRD-9450008

Friday, November 4, 1994, 9:00 a.m.

1530 South Southwest Loop 323, Room 104

Tyler

Judicial Advisory Council Meeting

**AGENDA:**

Greeting, introduction of guest/staff; approval of minutes; Probation Advisory Committee report; committee reports: Substance Abuse and Legislative and Budget Committee; division director's report; other business; next meeting; adjournment; public forum: Joint Committee on Community Justice Development.

Contact: Elizabeth Colvin, 209 West 14th, Suite 400, Austin, Texas 78701, (512) 305-8584.

Filed: October 24, 1994, 3:09 p.m.

TRD-9450007

**Texas Commission for the Deaf and Hearing Impaired**

Friday, November 4, 1994, 9:00 a.m.

Brown-Heatley Building, Room 1430, 4900 North Lamar Boulevard

Austin

Board

**AGENDA:**

Call to order; public comment; approval of minutes for August 28, 1994; executive director's report including discussion and decision on scheduling of meetings, discussion of financial information and risk management policy statement; Board for Evaluation of Interpreters' report including certifications and revocations, final adoption of rule changes §183.131 and §183.573, and proposed rule change §183.29, Criteria for Evaluators; Direct Services report including reallocation of funds for fiscal year 1994 and appointments to task forces/advisory committees; executive session pursuant to Chapter 551 of the Texas Government Code, §551.074, for deliberation on officers or employees; information items; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: October 21, 1994, 3:14 p.m.

TRD-9449960

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**Texas Education Agency**

Wednesday, November 9, 1994, 9:00 a.m.

Capital Room, LaQuinta at the Capitol, 300 East 11th Street

Austin

Public Committee on Public Education Information

**AGENDA:**

1. Call to order

2. Old business

Review of minutes from September meeting

Financial Accountability System: update

3. New business

Open forum

Information Task Force recommendations to the Policy Committee on the proposed changes to Public Education Information Management System (PEIMS) Collection

Changes to Bulletin 679 Account Code Structure

Expansion of collection from cooperative fiscal agents

Revision of FTE calculations

Elimination of staff reporting for Adult Basic Education personnel

Additional collection of full-time equivalent data for contracted services

Policy Committee discussion and recommendations on proposed changes

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

Filed: October 24, 1994, 9:49 a.m.

TRD-9449995

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**Fire Fighters' Pension Commission**

Tuesday, November 8, 1994, 9:00 a.m.

300 West 15th, One Capitol Square, Suite 502

Austin

Administrative Division

**AGENDA:**

Pursuant to Article 6252-13a, VACS, the Administrative Procedure and Texas Register Act (APTRA), an administrative hearing is to be held, Docket Number 325-94-1506, to consider the decision of Joseph A. Jones vs. the Corpus Christi Fire Fighter Retirement Board of Trustees in the matter of the amount of monthly benefit and the number of years of service, Article 6243.e, Vernon's Texas Civil Statutes, the Texas Local Fire Fighter's Retirement Act.

Contact: Helen L. Campbell, 3910 South IH-35, Suite 235, Austin, Texas 78704, (512) 462-0222.

Filed: October 24, 1994, 9:29 a.m.

TRD-9449986

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**General Land Office**

Friday, October 28, 1994, 2:00 p.m.

Lubbock County Courthouse, County Court at Law Number Two, Fourth Floor, 904 Broadway

Lubbock

School Land Board

**AGENDA:**

Approval of previous board meeting minutes; pooling applications, Flores-Vicksburg Lower Field, Starr County; Henderson Canyon Field, Crockett County; Giddings (Austin Chalk-3), Lee County; Ellie C. Wilcox, Duval County; applications to lease highway right of way for oil and gas, Panola County; Brazos County; Grimes

County; Sabine County; Jackson County; and Washington County; Coastal public lands, commercial lease applications, renewals and assignments, Port Bay, Aransas County; Clear Lake, Harris County and Laguna Madre, Cameron County; structure permit terminations and requests, Laguna Madre, Kenedy County; consideration of tracts, terms and conditions for a December 6, 1994 sealed bid land sale; presentation on incentive for marginal oil and gas wells; report on Three-Marine League Maritime Boundary with United States; report on current windpower progress; report on Hackberry Creek Ranch, Briscoe County; report on West Texas agriculture project; status report of ongoing real estate projects; annual report on leasing activities on Willowbrook Mall, Harris County.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** October 20, 1994, 3:51 p.m.

TRD-9449861

## Texas Department of Health

**Friday, October 28, 1994, 1:00 p.m.**

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health

### AGENDA:

The board will meet to discuss the approval of the minutes from the September 23, 1994 meeting, and discuss and possibly act on: commissioner's report; Department of Health video orientation presentation; proposed rules (issuance of certified copies of vital records by the state registrar and local registrars; Emergency Health Care Advisory Committee); Hospital Licensing Advisory Council; Hospital Data Advisory Committee bylaws; recommend to the 74th Legislature amendments to conform statutes by repealing provisions relating to these advisory committees; Home and Community Support Services Advisory Council and the Texas Department of Health/Board of Nurse Examiners Memorandum of Understanding Advisory Committee; Indigent Health Care Advisory Committee; Memorandum of Understanding with the Texas Natural Resources Conservation Commission relating to jurisdiction of radiation control responsibilities; adoption of rules (HIV Services Advisory Committee; HIV Education, Prevention, and Risk Reduction Advisory Committee); Texas HIV Medication Advisory Committee; and Kidney Health Care Advisory Committee; and trauma rules; recommendation to the State Medicaid Director approval to publish an amendment to

the rules on selective contracting); committee reports (strategic management; health financing; health and clinical services; human resources; and Regulatory Committee); executive session (job performance evaluation of the Commissioner of Health; announcements and comments not requiring board action; and meeting date for November, 1994.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

**Filed:** October 20, 1994, 5:01 p.m.

TRD-9449863

**Friday, November 4, 1994, 9:30 a.m.**

Room M-418, Texas Department of Health, 1100 West 49th Street

Austin

Kidney Health Care Advisory Committee

### AGENDA:

The committee will meet to discuss and possibly act on: Kidney Health Care budgetary issues (status of fiscal year (FY) 1994 budget; benefit changes implemented for FY 1994; and status of FY 1996-1997 budget request); division updates (statistical reports; calcium distribution project; CYA (Cyclosporine) distribution project; and prevention project); old business (Senate Bill 383); and new business (possibility of Medicaid administrative matching funds; lead content in calcium products; and legislative issues).

**Contact:** Manuel Zapata, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7796. 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:** October 21, 1994, 9:57 a.m.

TRD-9449885

## Health and Human Services Commission

**Monday, November 21, 1994, 8:00 a.m.**

701 West 51st Street, Room 125 E

Austin

### AGENDA:

On Monday, November 21, 1994 in Austin, the Health and Human Services Commission will receive public opinion on the Report to the Commissioner of Health and Human Services: Findings and Recommendations of the Office of Client Transportation Services. The hearing will be held at

8:00 a.m. at the Department of Human Services, 701 West 51st Street.

Written comments may be submitted to the Health and Human Services Commission at the time of the public hearing or must be received by the Commission no later than 5:00 p.m., November 30, 1994.

Copies of the report may be obtained from the Office of Client Transportation Services, Health and Human Services Commission, 4807 Spicewood Springs Road, Building #4, P.O. Box 13247, Austin, Texas 78711-3247, or phone (512) 502-3283.

Persons wishing to attend who have special needs should contact the Health and Human Services Commission at (512) 502-3200 (voice or TDD) at least two days before the meeting so that appropriate arrangements can be made.

The restraints may require that testimony be limited to five minutes per speaker.

**Contact:** Tina Janek or Donna Frederick, 4807 Spicewood Springs Road, Building #4, Austin, Texas 78759, (512) 502-3200.

**Filed:** October 24, 1994, 9:58 a.m.

TRD-9449999

## Texas Commission on Human Rights

**Thursday, November 3, 1994, 10:00 a.m.**

105 West 15th Street, Room 101

Austin

### AGENDA:

Discussion and vote on agenda item(s) covered in executive session as necessary or required; welcoming of guests; training on the complaint processing procedures under the Texas Fair Housing Act and the Texas Commission on Human Rights Act; minutes; administrative reports; administrative enforcement projects; cash flow statement for fiscal year 1995; NAHRW Conference legislative issues for the 74th Legislative Session; fiscal 1995 projected contracts with HUD and EEOC; EEO compliance training; meeting with the new chairman of EEOC, Gilbert F. Casellas; Affirmative Action Plan; response from Texas Department of Housing and Community Affairs; commissioner issues, and unfinished business.

**Contact:** William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

**Filed:** October 21, 1994, 2:26 p.m.

TRD-9449952

## Texas Department of Human Services

Friday, October 28, 1994, 11:30 a.m.

1100 West 49th Street, Room M-739

Austin

Texas Board of Human Services and Texas Board of Health

### AGENDA:

The Texas Board of Human Services and the Texas Board of Health will hold a luncheon meeting to discuss immunization efforts; and issues of mutual interest relating to Health and Human Services.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: October 20, 1994, 2:28 p.m.

TRD-9449838

Monday, November 7, 1994, 9:45 a.m.

Conference Room 5 E, Conference Room 6W, 701 West 51st

Austin

State Advisory Committee on Child Care Programs

### AGENDA:

According to the complete agenda, the State Advisory Committee on Child Care Programs will conduct an orientation of new members in Conference Room 5 E; welcome everyone, make introductions; hear overview of the DHS child care and development program, hear information on committee procedures and travel reimbursement. At 11:30 a.m., the full committee will meet in Conference Room 6W to introduce advisory committee participants; elect officers, select dates for future meetings; have informational updates on new CCMS and CCT contracts, child care legislative appropriations request, revised rule material, and other program initiatives; discuss child care parent fee policies; and adjourn.

Contact: Charlotte Brantley, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4179.

Filed: October 21, 1994, 11:21 a.m.

TRD-9449909

## Texas Department of Licensing and Regulation

Monday, October 31, 1994, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Manufactured Housing

### AGENDA

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Rebel Confederate Enterprises for violation of the Texas Revised Civil Statutes Annotated Article 5221f, §7(d), Article 9100, 16 TAC §69.125(e)(1), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: October 24, 1994, 8:55 a.m.

TRD-9449982

Monday, October 31, 1994, 10:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Manufactured Housing

### AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Gary Ross doing business as J & M Mobile Homes, Inc. for violation of the Texas Revised Civil Statutes Annotated Article 5221f, §7(d), Article 9100, 16 TAC, §69.125(c)(1), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: October 24, 1994, 8:54 a.m.

TRD-9449981

Monday, October 31, 1994, 11:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Manufactured Housing

### AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Mike J. Chavez, doing business as Homes of America, HOA Inc. for violation of the Texas Revised Civil Statutes Annotated Article 5221f, §4(b), Article 9100, 16 TAC, §69.121(a)(b)(c), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: October 24, 1994, 8:52 a.m.

TRD-9449979

Thursday, November 3, 1994, 9:00 a.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations, Career Counseling

### AGENDA:

According to the complete agenda, the Department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Warner Career Group for violation of the Texas Revised Civil Statutes, Annotated Article 5221a-8, §§5(a), 7(a), 9(c), and 10, and Article 9100, 16 TAC, §62.71(1) and §62.72, and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: October 24, 1994, 8:54 a.m.

TRD-9449980

## Physician Assistant Advisory Council to the Texas State Board of Medical Examiners

Friday, October 28, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Long Range Planning Committee

### AGENDA:

1. Call to order
2. Roll call
3. Discussion and possible action on suggested changes of the Physician Licensing Act and rules.
4. Discussion of budget with possible proposal for increased funding.
5. Discussion of Rural Physician Assistant Loan Reimbursement Program.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: October 20, 1994, 3:48 p.m.

TRD-9449858

Friday, October 28, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Licensure Committee

### AGENDA:

1. Call to order

2. Roll call
3. Discussion and possible action on committee deferred applications.
4. Review of physician assistant applications for permanent licensure. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, §2.07(b) and §2.09(o), Texas Revised Civil Statutes to review licensure applications.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext 402.

Filed: October 20, 1994, 3:49 p.m.

TRD-9449859

Friday, October 28, 1994, 1:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

AGENDA:

1. Call to order
2. Roll call
3. Recommendation from the Licensure Committee related to approval of physician assistant applications for permanent licensure.
4. Report and recommendations from the Long Range Planning Committee.
5. Discussion of malpractice data.
6. Discussion of renewal/registration process.
7. Approval of council minutes:
  - a. June 14, 1994 Council meeting
  - b. July 8, 1994 Council meeting
  - c. August 25, 1994 Licensure Committee meeting
  - d. August 26, 1994 Council meeting
  - e. September 22, 1994 Licensure Committee meeting
  - f. September 22, 1994 Council meeting

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: October 20, 1994, 3:49 p.m.

TRD-9449860

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### Texas Mental Health and Mental Retardation Board

Friday, October 31, 1994, 9:00 a.m.

909 West 45th Street, Auditorium

Austin

Equity of Access Task Force

AGENDA:

1. Recap form last meeting, minutes

2. Review key decisions
3. Discussion of implementation issues
4. Other policy considerations
5. Review process
5. Schedule next meeting

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: October 21, 1994, 2:23 p.m.

TRD-9449950

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### Texas Natural Resource Conservation Commission

Tuesday, November 1, 1994, 10:00 a.m.

Building A, Room 310-A, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on water rate increases effective September 1, 1994, by Clarence Reeves doing business as Pleasant Ridge, Clarence Reeves doing business as Aloha Gardens, and Clarence Reeves doing business as Timber Creek Water for their service areas located in Grayson County, Texas. The cases have been designated as Docket Numbers 30546-G, 30547-G, 30548-G, respectively.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:11 p.m.

TRD-9449942

Tuesday, November 1, 1994, 10:00 a.m.

State Capitol Building, Capitol Extension, Room E-1.012

Austin

Petroleum Storage Tank Advisory Committee

AGENDA:

- Call to order
- Approval of previous meeting minutes.
- Discussion of TNRC Subchapter M, PST Reimbursement Cost Guidelines.
- Discuss of items tabled from previous meetings.
- Schedule future meetings.

Contact: Dwight C Russell, 7801 North Lamar Boulevard, Suite D-77, Austin, Texas 78752, (512) 452-8834

Filed: October 24, 1994, 5:55 p.m.

TRD-9450029

Wednesday, November 2, 1994, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters on the contested agenda: On-site disposal systems; water quality enforcements; authorization to construct; executive session; in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8:30 a.m. until 9:00 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: October 21, 1994, 4:21 p.m.

TRD-9449963

Wednesday, November 2, 1994, 9:30 a.m.

12118 North Interstate 35, Building E

Austin

AGENDA:

The Commission will consider approving the following matters on the uncontested agenda: Water quality renewal; nunc pro tunc order; water district matters; settled hearings; in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: October 21, 1994, 4:22 p.m.

TRD-9449964

Thursday, November 3, 1994, 9:30 a.m.

Red Lion Hotel, 6121 North IH-35, Salon Room F and G

Austin

Water Well Drillers Advisory Council

AGENDA:

The Texas Water Well Drillers Advisory Council will meet to discuss and take action on the following: consider the approval of

minutes of the August 11, 1994 meeting; elect officers for fiscal year 1995, explain administrative costs to support the water well driller and pump installer program, presentation on general state of ground water in Texas; consider whether to set the following complaints for a formal hearing or take appropriate legal action: C. W. Lusby, Thomas Smith, L. A. Addison, John Barker, Don Donneley, James Fleck, John Gibson, Coy Golightly, Johnny Key, Ted Kneten, Kenneth Korenck, Joe Martinez, Joe McDearmon, Norman Moorehead, Mike Opry, Charles S'by, Michael Smith, Glenna Wells, Ron Wheeler, Jack Whittington, and Richard Young; consider certification of applicants for registration and driller-trainee registration; and consider staff reports.

Contact: Bonnie Rubey, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

Filed: October 21, 1994, 10:13 a.m.

TRD-9449904

Thursday, November 3, 1994, 10:00 a.m.

Building A, Room 310-A, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by East Texas Water and Sewer, Inc. to acquire the facilities of Kickapoo Utilities, Inc. and to transfer Certificate of Convenience and Necessity (CCN) Numbers 12129 and 20700 from Kickapoo Utilities, Inc. to authorize the provision of water and sewer utility service in Polk County, Texas. The area being transferred includes the Fountain Lakes Subdivision. Docket Number 30449-S.

Contact: Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100

Filed: October 21, 1994, 1:10 p.m.

TRD-9449941

Friday, November 4, 1994, 10:00 a.m.

Building A, Room 310-A, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on a water rate increase by Virdell Drilling, Inc. doing business as Parkview Acres Water System effective August 29, 1994, for its service area located in Llano County, Texas. Docket Number 30536-G

Contact: Sylvia McClellan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100

Filed: October 21, 1994, 1:10 p.m.

TRD-9449940

Friday, November 4, 1994, 10:00 a.m.

Building B, Room 201A, 12124 Interstate Highway 35

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on a petition filed by H2M Water Systems, Inc. appealing the City of Southlake's city council decision to deny a water rate increase for a portion of H2M Water Systems, Inc. (Certificate of Convenience and Necessity 11908) certificated water service area within the corporate limits of the City of Southlake in Tarrant County, Texas. TNRCC Docket Number 94-0574-UCR.

Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:07 p.m.

TRD-9449932

Friday, November 4, 1994, 10:00 a.m.

TNRCC Office Complex, 12015 Park 35 Circle, North IH-35, Building C, Room 107-W

Austin

Water Well Drillers Advisory Council

AGENDA:

The Texas Natural Resource Conservation Commission has filed complaints alleging violations against the following:

WWD-95-01 Larry Nance

WWD-95-02. Richard Keenan (License Number 1789W)

WWD-95-03. John W. Kraatz, Jr. (License Number 1986W)

WWD-95-04. Joe Vernor (License Number 1867W)

WWD-95-05. Claude Davis (License Number 2983W)

WWD-95-06. Glenn Snook (License Number 1490W)

WWD-95-09. Doyle Murphee

Contact: Bonnie Rubey, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0600.

Filed: October 21, 1994, 10:13 a.m.

TRD-9449903

Friday, November 4, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

AGENDA:

Notice of adjudicative hearing for administrative action to be taken against John W. Kraatz, Jr.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:00 p.m.

TRD-9449922

Friday, November 4, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

AGENDA:

Notice of adjudicative hearing for administrative action to be taken against Joe Vernor.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:01 p.m.

TRD-9449923

Friday, November 4, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

AGENDA:

Notice of adjudicative hearing for administrative action to be taken against Glenn Snook.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:02 p.m.

TRD-9449924

Friday, November 4, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

AGENDA:

Notice of adjudicative hearing for administrative action to be taken against Larry Nance.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: October 21, 1994, 1:02 p.m.

TRD-9449925

Friday, November 4, 1994, 10:00 a.m.

Building C, Room 107W, 12124 Park 35 Circle

Austin

AGENDA:

Notice of adjudication hearing for administrative action to be taken against Richard Keenan.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

**Filed: October 21, 1994, 1:03 p.m.**

**TRD-9449926**

**Friday, November 4, 1994, 10:00 a.m.**

Building C, Room 107W, 12124 Park 35 Circle

Austin

**AGENDA:**

Notice of adjudicative hearing for administrative action to be taken against Doyle Murphee.

**Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100**

**Filed: October 21, 1994, 1:03 p.m.**

**TRD-9449927**

**Friday, November 4, 1994, 10:00 a.m.**

Building C, Room 107W, 12124 Park 35 Circle

Austin

**AGENDA:**

Notice of adjudicative hearing for administrative action to be taken against Claude Davis.

**Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100**

**Filed: October 21, 1994, 1:03 p.m.**

**TRD-9449928**

**Tuesday, November 8, 1994, 1:00 p.m.**

12118 North Interstate Highway 35, Building E, Room 201 South

Austin

**AGENDA:**

The State Small Business Compliance Advisory Panel will meet with the TNRCC Small Business Advocate's Office and the TNRCC Small Business Technical Assistance Program to work with these programs to insure that small businesses have every opportunity to come into compliance with environmental regulations.

**Contact: Doug Kitts, 12100, Park 35 Circle, Austin, Texas 78753, (512) 239-3317.**

**Filed: October 20, 1994, 2:30 p.m.**

**TRD-9449841**

**Thursday, November 10, 1994, 10:00 a.m.**

The University of Texas at Austin, J. J. Pickle Research Campus, The Commons, Room 1.122, 10100 Burnet Road

Austin

For a hearing before a hearings examiner on a water rate increase by Hanco Utilities, Inc. effective August 22, 1994, for its service area located in Denton, Hood, Johnson, Parker and Tarrant counties, Texas. Docket Number 30522-R.

**Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.**

**Filed: October 21, 1994, 1:09 p.m.**

**TRD-9449338**

**Thursday, November 10, 1994, 10:00 a.m.**

City Government Center, City Commission Room, 200 North 12th Street

Corsicana

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on a water rate increase by Community Water Company effective June 27, 1994, for its service area located in Ellis, Hunt, Navarro and Smith counties, Texas. Docket Number 30465-R.

**Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.**

**Filed: October 21, 1994, 1:10 p.m.**

**TRD-9449939**

**Monday, November 14, 1994, 10:00 a.m.**

Building A, Room 310-A, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

**AGENDA**

For a hearing before a hearings examiner on a water rate increase by Holiday Estates Water System effective August 1, 1994, for its service area located in Hunt County, Texas. Docket Number 30533-G

**Contact: Pat Robards, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100**

**Filed: October 21, 1994, 1:09 p.m.**

**TRD-9449937**

**Tuesday, November 15, 1994, 1:00 p.m.**

Texas A & M Agricultural Research and Extension Center, US 281 North at Intersection of FM Road 8

Stephenville

Office of Hearings Examiners

**AGENDA.**

For a hearing before a hearings examiner on an application made by Jan Pieter de Vries for proposed Permit Number 03679 to authorize the disposal of wastes and wastewater from a dairy, which will consist of 800 milking head. The dairy is on the east side of an unnamed county road near the community of Purves, approximately three miles north of the intersection of the unnamed county road and FM Road 2823 in southern Erath County, Texas. TNRCC Docket Number 94-0460-AGR

**Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.**

**Filed: October 21, 1994, 1:08 p.m.**

**TRD-9449934**

**Wednesday, November 16, 1994, 10:00 a.m.**

Environmental Pollution Control, Auditorium, 7411 Park Place

Houston

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on an application by Sky Property Management, a Co-Partnership for proposed Permit Number 13709-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 10,000 gallons per day. The applicant is also requesting a variance to the buffer zone requirements. The plant site is at 3557 Frick Road, approximately 1.7 miles west of the intersection of Frick Road and Stuebner Airline Road in Harris County, Texas. TNRCC Docket Number 94-570-MWD.

**Contact: Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.**

**Filed: October 21, 1994, 1:12 p.m.**

**TRD-9449943**

**Thursday, November 17, 1994, 1:00 p.m.**

Environmental Pollution Control, Auditorium, 7411 Park Place

Houston

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on water and sewer rate increases by Britmore Utility, Inc. (Docket Number 30470-R), Creekside Utilities (Docket Number 30471-R), and Redwood Utilities, Inc. (Docket Number 30472-R) and on a water rate increase by Peek Road Utilities, Inc. (Docket Number 30473-R) in Harris County, Texas.

**Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.**

**Filed: October 21, 1994, 1:09 p.m.**

**TRD-9449936**

**Friday, November 18, 1994, 9:00 a.m.**

Environmental Pollution Control, Auditorium, 7411 Park Place

Houston

Office of Hearings Examiners

**AGENDA**

For a hearing before a hearings examiner on a water and sewer rate increase by Land Locators of Texas, Inc. doing business as Rankin Park Utilities in Harris County, Texas. Docket Number 30549-G.



**Contact:** Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

**Filed:** October 21, 1994, 1:08 p.m.

TRD-9449935

**Tuesday, November 29, 1994, 10:00 a.m.**

TNRCC, 12124 Park 35 Circle, Building C, Room 107W

Austin

**AGENDA:**

On an application by Jim Nicholson Cattle Company, Inc., Proposed Permit Numbers 23763 and 23820, to construct and operate a cattle feedlot and feedmill. The proposed facility is to be located at Route 4, Box 40, west of Hereford in Deaf Smith County, Texas.

**Contact:** David Lusk, P.O. Box 13087, Austin, Texas 78711, (512) 239-1298.

**Filed:** October 21, 1994, 1:04 p.m.

TRD-9449929

**Wednesday, November 30, 1994, 9:00 a.m.**

Service Center, Auditorium, 2105 Avenue M

Bay City

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on an application by SAROC Oil Company doing business as Redfish Unlimited for proposed Permit Number 03660 to authorize discharge of pond effluent at a combined volume not to exceed an average flow of 6,000,000 gallons per day via Outfalls 001-009. The applicant proposes to operate a mariculture facility for the production of redfish. The plant site is on the eastern side of FM Road 3280 where the road terminates at Matagorda Bay, approximately six miles south-southwest of the City of Palacios, Matagorda County, Texas. TNRCC Docket Number 94-572-IWD.

**Contact:** Pat Robards, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

**Filed:** October 21, 1994, 1:08 p.m.

TRD-9449933

**Thursday, December 1, 1994, 9:00 a.m.**

Wharton County Courthouse, Commissioners Courtroom, Room 101, 100 East Milam Street

Wharton

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on an application by TCI-El Campo Rice Mill, Limited Partnership for proposed Permit Number 03659 to authorize the disposal of

wastewater and plant area stormwater runoff by irrigation and/or evaporation on three tracts of land. The applicant operates a rice milling and rice parboiling facility located at 605 South Street in the City of Louise, Wharton County, Texas. The existing irrigation site is located 2.35 miles west of FM 1160 and 1.57 miles north of FM 647. TNRCC Docket Number 94-571-IWD.

**Contact:** Linda Sorrells, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

**Filed:** October 21, 1994, 1:07 p.m.

TRD-9449931

**Thursday, January 5, 1995, 10:00 a.m.**

TNRCC Park 35 Office Complex, Building C, Room 107, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on a petition filed by Mauriceville Water Supply Corporation (Mauriceville WSC) requesting authorization to: 1) convert Mauriceville WSC to Mauriceville Special Utility District of Orange, Jasper and Newton Counties (Mauriceville SUD), 2) transfer Certificate of Convenience and Necessity (CCN) Number 11722 from Mauriceville WSC to Mauriceville SUD, and 3) amend CCN 11722 to certificate additional areas and to decertify other areas authorized under CCN Number 11722, authorizing the provision of water utility service in Orange, Jasper and Newton counties. The proposed water utility service area is located primarily in Central Orange County West of downtown Orange, and extends into southern Jasper and Newton counties. The area is generally bounded on the south by IH-10, west by the City of Vidor, and east by the City of Orange. The total area being requested includes approximately 49,565 acres and 1,656 current customer connections. Mauriceville WSC is not presently serving any portion of the areas proposed to be excluded from the certificated area. The petition was filed and the hearing will be held under the authority of Chapter 65, Subchapter B and Chapter 13, Subchapter G and H of the Texas Water Code, 30 Texas Administrative Code §§293.11-293.14, and under the rules of procedure of the TNRCC.

**Contact:** Alexandre Bourgeois, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

**Filed:** October 21, 1994, 1:07 p.m.

TRD-9449930

## **Board of Nurse Examiners**

**Monday, November 7, 1994, 2:00 p.m.**

9101 Burnet Road, Suite 104

Austin

Regulatory Model Committee

**AGENDA:**

Call to order

Roll call

1. New business

1.1. Review charge and direction from Executive Committee

1.2. Discuss proposed position statement

Adjourn

**Contact:** Louise Waddill, Box 140466, Austin, Texas 78714, (512) 835-8665

**Filed:** October 21, 1994, 2:19 p.m.

TRD-9449947

**Monday, November 7, 1994, 3:00 p.m.**

9101 Burnet Road, Suite 104

Austin

Executive Committee

**AGENDA:**

Call to order

Roll call

Minutes of July 11, 1994 meeting

1. Old business

1.1. Review proposed succession plan

1.2. Review administration plan

2. New business

2.1. Role of Executive Committee in evaluation of executive director

2.2. Letter from Dr. Ashworth

**Contact:** Erlene Fisher, Box 140466, Austin, Texas 78714 (512) 835-8675

**Filed:** October 21, 1994, 2:19 p.m.

TRD-9449948

**Monday, November 7, 1994, 3:00 p.m.**

9101 Burnet Road, Suite 104

Austin

Strategic Planning Committee

**AGENDA:**

Call to order

Roll call

Minutes of September 12, 1994 meeting

1. Old business

1.1. Review Strategic Planning Committee charge

2. New business

2.1. Review fourth quarter and fiscal year 1994 statistics and update

2.2. Discuss report to full board on November 8, 1994

Contact: Mark Majek, Box 140466, Austin, Texas 78714, (512) 835-8670.

Filed: October 21, 1994, 2:19 p.m.

TRD-9449949

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**Texas State Occupational Information Coordinating Committee**

Thursday, November 3, 1994, 7:00 p.m.

Lopez Nursing Building, Laredo Community College #117, West End Washington Street

Laredo

South Texas Regional Follow-Up Data Users

AGENDA:

An informative meeting to explain the features and benefits of Automated Student Follow-Up

- 1) Record linkage techniques to be used
- 2) Databases to be tapped to identify successful education and training outcomes
3. How the follow-up data will be used in:
  - a) program planning and evaluation
  - b) economic development activities
  - c) career advising for potential students
  - 4) Public comment period to obtain parental and community leader opinions and recommendations for improving the delivery of follow-up services

Contact: Marc R. Anderberg, 3520 Executive Center Drive, Travis Building #205, Austin, Texas 78731, (512) 502-3754, Fax: (512) 502-3763.

Filed: October 24, 1994, 4:51 p.m.

TRD-9450027

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**Texas Parks and Wildlife Department**

Tuesday, November 1, 1994, 2:00 p.m.

4200 Smith School Road

Austin

Operation Game Thief Committee

AGENDA

(April 1, 1994-September 30, 1994); approval of committee minutes for the May

17, 1994 public hearing; financial report; consideration of payment of rewards; consideration of proclamation for Senate Bill 1132; consideration of checking account signature authority; date of next meeting; discussion-a. awareness and funding efforts; b. membership structure; c. possible legislative amendment to statutes; d. update on death benefit insurance; e. brochure revision; f. Respect Wildlife newsletter.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4433.

Filed: October 20, 1994, 1:55 p.m.

TRD-9449835

**Texas State Board of Podiatry Examiners**

Friday, October 21, 1994, 9:30 a.m.

John H. Reagan Building, Room 104

Austin

Emergency Revised Agenda

AGENDA:

Friday, October 21, 1994-Agreed Order for Robert Alvarez, D.P.M.

Reason for emergency: This Agreed Order just came back to us signed today and needs to be approved by the Board. The Board will not meet again until March, 1995.

Contact: Janie Alonzo, 3420 Executive Center Drive, Suite 305, Austin, Texas 78731, (512) 794-0145.

Filed: October 20, 1994, 6:54 p.m.

TRD-9449868

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**Polygraph Examiners Board**

Friday, November 4, 1994, 10:00 a.m.

DPS CLE Building, 6100 Guadalupe, Aircraft Conference Room, Second Floor

Austin

AGENDA:

10:00 a.m. Enforcement Policy Committee meeting; adoption of rule change 391.(13)(I) Coastal Institute of Forensic Science; proposed rule change 391. 3(13)(J) Texas DPS Basic Polygraph School; discussion of proposed rule 391 3(17); discussion of activities of appointed board committees; discussion of recommendations from House Committee on Public Safety Subcommittee on Oversight; discussion of APTRA, Open Meetings Act, Open Records Act and Senate Bill 884

Contact: Bryan M Perot, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: October 24, 1994, 3:15 p.m.

TRD-9450015

**Public Utility Commission of Texas**

Monday, April 10, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A hearing on the merits is scheduled for the above date and time in Docket Number 13282: Application of MFS Intelenet of Texas, Inc. for a Certificate of Convenience and Necessity to operate as a local exchange company in the areas served by Southwestern Bell Telephone Company and GTE Southwest Incorporated in Harris, Dallas, Collin, Tarrant, Bexar, Travis, and El Paso counties.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 20, 1994, 2:28 p.m.

TRD-9449837

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**Railroad Commission of Texas**

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Personnel Division director's report on division administrations, budget, procedures, and personnel matters. The commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6981.

Filed: October 21, 1994, 10:02 a.m.

TRD-9449895

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The Commission will consider and act on the Information Resource manager's report on information resource planning documents.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: October 21, 1994, 10:02 a.m.

TRD-9449896

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: October 21, 1994, 10:03 a.m.

TRD-9449897

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.E., P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: October 21, 1994, 10:03 a.m.

TRD-9449898

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

1. Division director's report on AFRED administration, procedures, budget, program contracts, grants, personnel and policy matters relating to propane research, marketing and public education programs.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: October 21, 1994, 10:04 a.m.

TRD-9449899

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the agency budget, fiscal and administrative

matters and the Administrative Services Division director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: October 21, 1994, 10:04 a.m.

TRD-9449900

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: October 21, 1994, 10:04 a.m.

TRD-9449901

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

Revised Agenda

AGENDA:

To consider proposed amendment to commission rules on open records charges.

Contact: Brenda Loudermilk, P.O. Box 12967, Austin, Texas 78711, (512) 463-7155.

Filed: October 21, 1994, 11:21 a.m.

TRD-9449908

◆ ◆ ◆  
**Texas Real Estate Commission**

Monday, October 31, 1994, 8:30 a.m.

Conference Room 236B, Second Floor, TREC Headquarters Office, 1101 Camino La Costa

Austin

MCE Participation Committee

AGENDA:

Discussion and possible action to recommend policy on participation of commission members in MCE courses.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: October 20, 1994, 2:30 p.m.

TRD-9449842

Thursday, November 3, 1994, 9:00 a.m.

1101 Camino La Costa, TREC Headquarters, Room 235A, Second Floor

Austin

Standard Report Form Subcommittee, Real Estate Inspector Committee

AGENDA:

The subcommittee will discuss and possibly act to recommend a standard report form for the full committee to review.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: October 24, 1994, 3:10 p.m.

TRD-9450010

Thursday, November 3, 1994, 4:00 a.m.

1101 Camino La Costa, TREC Headquarters, Room 235A, Second Floor

Austin

Inspection Standards Subcommittee, Real Estate Inspector Committee

AGENDA:

The subcommittee will discuss and possibly act to recommend changes in 22 TAC §535.222, concerning inspection standards of practice.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: October 24, 1994, 3:10 p.m.

TRD-9450009

Friday, November 4, 1994, 9:00 a.m.

Conference Room 235, Second Floor, TREC Headquarters Office, 1101 Camino La Costa

Austin

Texas Real Estate Inspector Committee

**AGENDA:**

1. Call to order
2. Election of officers for fiscal year 1995
3. Minutes of August 19, 1994 Committee meeting
4. Public comments
5. Review and response to correspondence or questions concerning inspection standards of practice
6. Subcommittee reports and possible action on subcommittee recommendations; reports from TREC staff
7. Discussion and possible action to recommend action by the Texas Real Estate Commission on proposed inspection report form
8. Discussion and possible action to recommend changes to 22 TAC §535.222 concerning inspection standards
9. Scheduling of future meetings

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: October 24, 1994, 3:10 p.m.

TRD-9450013

**Texas National Research Laboratory Commission**

Monday, October 31, 1994, 10:00 a.m.

InfoMart Exhibition Hall, Oak Lawn Avenue and Stemmons Freeway

Dallas

Emergency Meeting

Commission

**AGENDA:**

Call to order and administrative actions—Shelton Smith

- 1) approval of excused absences
- 2) approval of minutes

Welcome and introduction of special guests—Shelton Smith

Chairman's report—Shelton Smith

Action Items

Consideration, and action as may be appropriate, regarding . . .

- 1) final settlement agreement between State of Texas and Department of Energy
  - 2) Funds Management Agreement
  - 3) Trust Agreement
- Public comment

**Adjourn**

Reason for Emergency: Urgent necessity to meet publicly and act expeditiously upon matters relating to TX/DOE settlement following preparation and legal review of settlement documents and to comply with strict schedule requirements of asset transfer.

Contact: Karen L. Chrestay, 2275 North Highway 77, Waxahachie, Texas 75165, (214) 935-7800.

Filed: October 24, 1994, 4:51 p.m.

TRD-9450026

**The University of Texas at Austin**

Wednesday, October 26, 1994, 3:30 p.m.

21st and San Jacinto Streets, Ex-Students' Association

Austin

Council for Intercollegiate Athletics for Women

**AGENDA:**

- I. Call to order
- II. Introduction
- III. Approval of minutes of previous meeting
- IV. New business
- V. Announcements/information reports
- VI. Adjournment

Contact: Jody Conratt, Bellmont Hall 718, Austin, Texas 78712-1286, (512) 471-7693.

Filed: October 21, 1994, 2:31 p.m.

TRD-9449953

**The University of Texas Health Center at Tyler**

Thursday, November 3, 1994, 11:30 a.m.

Highway 271 and Highway 155, Room 116 Tyler

Animal Research Committee

**AGENDA:**

- Approval of minutes
- Chairman report
- Veterinarian report
- Old business
- New business
- Adjournment

Contact: Cindy Pessink, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7594.

Filed: October 21, 1994, 4:21 p.m.

TRD-9449962

**Texas Board of Veterinary Medical Examiners**

Wednesday, October 26, 1994, 10:00 a.m.

3878 Oak Lawn, Fourth Floor Conference Room B

Dallas

Emergency Meeting

State Office of Administrative Hearings

**AGENDA:**

In accordance with §14C, Article 8890, the Texas Board of Veterinary Medical Examiners will hold two hearings before an administrative law judge concerning two licensees. The first hearing will commence at 10:00 a.m., followed by the second hearing scheduled to begin at 11:00 a.m. The administrative law judge will determine whether the temporary suspension should be upheld, and whether disciplinary proceedings should be initiated.

Reason for emergency: Article 8890, §14C states that in cases of temporary suspension, a hearing on whether disciplinary proceedings should be initiated, must be held within 14 days after the date of suspension. Scheduling an administrative law judge and a hearing date could not be obtained from the State Office of Administrative Hearings until this time.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: October 20, 1994, 2:30 p.m.

TRD-9449840

**On-Site Wastewater Treatment Research Council**

Wednesday, November 2, 1994, 8:00 a.m.

12100 Park 35 Circle, Building A, Room 310A

Austin

Council Meeting

**AGENDA:**

The new Council members will be introduced at this meeting. The Council will act on the minutes of the previous meeting. The following reports will be presented: the chairman's report, the committee reports, and the executive secretary's report. Other items on the agenda will be action on the fiscal year 1995 budget; discussion and action on the Annual Symposia; discussion and action on the needs assess-

ment/prioritization process and survey discussed at the last workshop; discussion and action on the disposition of equipment purchased under contract with Community Environmental Services, Inc.; report and action on the proposed revisions to Council's Administrative Rules; discussion and action on the computerized bibliographic database, and action on the unsolicited proposal—Center for Maximum Potential Building System. Public comments and the scheduling of future meetings will follow.

Contact: Annette Maddern, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4736.

Filed: October 24, 1994, 9:49 a.m.

TRD-9449991

## Texas Council on Workforce and Economic Competitiveness

Monday, October 31, 1994, 9:30 a.m.

Higher Education Coordinating Board, Chevy Chase Complex, Building Five, Room 139, 7745 Chevy Chase Drive  
Austin

Perks Reauthorization Task Force

### AGENDA:

9:30 a.m.—I. Welcome and opening remarks; II. Public comment; III. Develop draft TCWEC policy statement on Perkins Act Reauthorization; IV. 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 Val Blaschke, (512) 707-8222 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 707-8222.

Filed: October 21, 1994, 10:14 a.m.

TRD-9449906

## Regional Meetings

Meetings Filed October 20, 1994

The Alamo Area Council of Governments Area Judges met at 118 Broadway, Suite 400, San Antonio, October 25, 1994, at 11:30 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9449853.

The Alamo Area of Governments Board of Directors met at 118 Broadway, Suite 400, San Antonio, October 25, 1994, at 1:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9449852.

The Andrews Center Board of Trustees met at 1411 South Bennett, Andrews Diversified Industries, Tyler, October 27, 1994, at 3:00 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9449846.

The Johnson County Rural Water Supply Corporation Public Relations Committee met at 2849 Highway 171 South, the Corporation Office, Highway 171 South, Cleburne, October 25, 1994, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9449847.

The Johnson County Rural Water Supply Corporation Tariff Committee met at the Corporation Office, Highway 171 South, Cleburne, October 25, 1994, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9449856.

The Johnson County Rural Water Supply Corporation Public Relations Committee met at the Corporation Office, Highway 171 South, Cleburne, October 25, 1994, at 5:45 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9449855.

The Johnson County Rural Water Supply Corporation (Special Meeting.) Board met at the Corporation Office, Highway 171 South, Cleburne, October 25, 1994, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9449857.

The Johnson County Rural Water Supply Corporation (Special Meeting.) Board met at 2849 Highway 171 South, the Corporation Office, Highway 171 South, Cleburne, October 25, 1994, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9449833.

The Local Government Investment Cooperative Board of Directors will meet at 600 Congress Avenue, Suite 1300, Austin, November 3, 1994, at 3:00 p.m. Information may be obtained from Richard E. Scott, 7001 Preston Road, Suite 300, Dallas, Texas 75205, (214) 522-3880, Fax: (214) 522-7667. TRD-9449831.

The Lubbock Regional MHMR Center Board of Trustees met at 1602 Tenth Street, Board Room, Lubbock, October 24, 1994,

at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9449843.

The Middle Rio Grande Development Council Board of Directors met at 920 East Main, Uvalde, October 26, 1994, at 1:00 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9449866.

The Panhandle Regional Planning Commission Board of Directors met at 415 West Eighth Avenue, PRPC Board Room, Amarillo, October 27, 1994, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9449839.

The Pecan Valley MHMR Region Board of Trustees met at 104 Pirate Drive, Granbury, October 26, 1994, at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9449834.

The San Jacinto River Authority Board of Directors met at 2301 North Millbend Drive, The Woodlands, October 26, 1994, at 12:30 p.m. Information may be obtained from J. R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9449850.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, October 24, 1994, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9449864.

## Meetings Filed October 21, 1994

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, October 27, 1994, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9449910.

The Austin-Travis County MHMR Center Finance and Control Committee met at 1430 Collier Street, Austin, October 25, 1994, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9449913.

The Austin-Travis County MHMR Center Board of Trustees met in the Travis County Commissioners Court Meeting Chambers, 314 West 11th Street, First Floor, Austin, October 27, 1994, at 5:00

p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9449965.

The Bosque County Central Appraisal District Board of Directors met at 202 South Highway 6, Meridian, October 27, 1994, at 7:00 p.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9449877.

The Capital Area Rural Transportation System (CARTS) CARTS Board of Directors met at 2010 East Sixth Street, Austin, October 27, 1994, at 9:00 a.m. Information may be obtained from Edna M. Burroughs, P.O. Box 6050, Austin, Texas 78702, (512) 389-1011. TRD-9449881.

The Dallas Area Rapid Transit Commuter Rail Advisory Committee met at the Press Club Room, Union Station, 400 South Houston, Dallas, October 24, 1994, at 12:30 p.m. Information may be obtained from Vanessa Knight, P.O. Box 660163, Dallas, Texas 75206-0163, (214) 749-3371. TRD-9449959.

The Dallas Area Rapid Transit Audit Committee met in Conference Room B, 1401 Pacific Avenue, Dallas, October 25, 1994, at 11:00 a.m. Information may be obtained from Vanessa Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9449957.

The Dallas Area Rapid Transit Dallas Delegation met in Conference Room B, 1401 Pacific Avenue, Dallas, October 25, 1994, at 12:30 p.m. Information may be obtained from Vanessa Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9449956.

The Dallas Area Rapid Transit Committee-of-the-Whole met in Conference Room C, 1401 Pacific Avenue, Dallas, October 25, 1994, at 1:00 p.m. Information may be obtained from Vanessa Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9449955.

The Dallas Area Rapid Transit Board of Directors met in the Board Room, 1401 Pacific Avenue, Dallas, October 25, 1994, at 6:30 p.m. Information may be obtained from Vanessa Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9449954.

The Education Service Center, Region XV Board of Directors met at 612 South Irene Street, San Angelo, October 27, 1994, at Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9449945

The Golden Crescent Private Industry Council met at 2401 Houston Highway, Victoria, October 26, 1994, at 6:30 p.m. Information may be obtained from Sandy

Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9449944.

The Gulf Bend Center Board of Trustees met at the Gulf Bend Center, 1502 East Airline, Suite 25, Victoria, October 27, 1994, at noon. Information may be obtained from Sharon Pratkan, 1502 East Airline, Suite 25, Victoria, Texas 77901, (512) 575-0611. TRD-9449905.

The Hansford Appraisal District Appraisal Review Board will meet at 709 West Seventh Street, Spearman, November 2, 1994, at 9:00 a.m. Information may be obtained from Lovida Giblin, P.O. Box 519, Spearman, Texas 79081-0519, (806) 659-5575. TRD-9449915.

The Laredo Urban Transportation Study Metropolitan Planning Organization will meet at 1110 Houston Street, Laredo, November 10, 1994, at 10:30 a.m. Information may be obtained from Audrey Alonso, P.O. Box 579, Laredo, Texas 78040-0579, (210) 791-7441. TRD-9449912.

The MHMR Authority of Brazos Valley Personnel Committee met at 804 Texas Avenue, Bryan, October 27, 1994, at 11:30 a.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9449880

The MHMR Authority of Brazos Valley Budget and Finance Committee met at 804 Texas Avenue, Bryan, October 27, 1994, at 12:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9449879.

The MHMR Authority of Brazos Valley Board of Trustee met at 804 Texas Avenue, Bryan, October 27, 1994, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9449878.

The MHMR Authority of Brazos Valley Board of Trustees met at 804 Texas Avenue, Bryan, October 27, 1994, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9449946.

The San Antonio-Bexar County Metropolitan Planning Organization Bicycle Mobility Plan Oversight Committee will meet at the Bexar County Public Works, Conference Room, #420, 233 North Pecos, San Antonio, October 31, 1994, at 9:00 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9449958.

## Meetings Filed October 24, 1994

The Central Texas Economic Development District Executive Committee will meet at the Parks Family Buffet, 4318 Bellmead Drive, Waco, November 10, 1994, at 11:00 a.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9449987.

The Deep East Texas Private Industry Council Inc. will meet at 300 Shepherd Avenue, Lufkin City Hall, Room 202, Lufkin, November 1, 1994, at 2:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9449992.

The Deep East Texas Private Industry Council Inc. will meet at 300 Shepherd Avenue, Lufkin City Hall, Room 202, Lufkin, November 1, 1994, at 2:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9450020.

The Education Service Center, Region XIV Board of Directors will meet at 1850 Highway 351, Abilene, November 1, 1994, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 251, Abilene, Texas 79601, (915) 675-8608.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis, Sherman, November 3, 1994, at 9:00 a.m. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9449978.

The Guadalupe-Blanco River Authority Legal Committee will meet at the Hilton Palacio on the River Walk, 200 South Alamo, San Antonio, October 28, 1994, at 7:00 a.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9450011.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, November 15, 1994, at 9:00 a.m. Information may be obtained from Mick Mikluleka or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9449996.

The Panhandle Regional Planning Commission Board of Directors met at 415 West Eighth Avenue, PRPC Board Room, Amarillo, October 27, 1994, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9449977.

The Shackelford Water Supply Corporation (Regular Monthly Director's Meeting) will meet at the Fort Griffin Restau-



rant, Albany, November 2, 1994, at Noon. Information may be obtained from E. O. Fincher, Box 1295, Albany, Texas (915) 62-2519. TRD-9450000.

The Texas Automobile Insurance Plan Association Governing Committee met at 700 San Jacinto, Austin, November 3, 1994, at 9:30 a.m. Information may be obtained from Marilyn Kinsey or Dianna Brooks, P.O. Box 18447, Austin, Texas 78760-8447, (512) 444-5999. TRD-9450028.

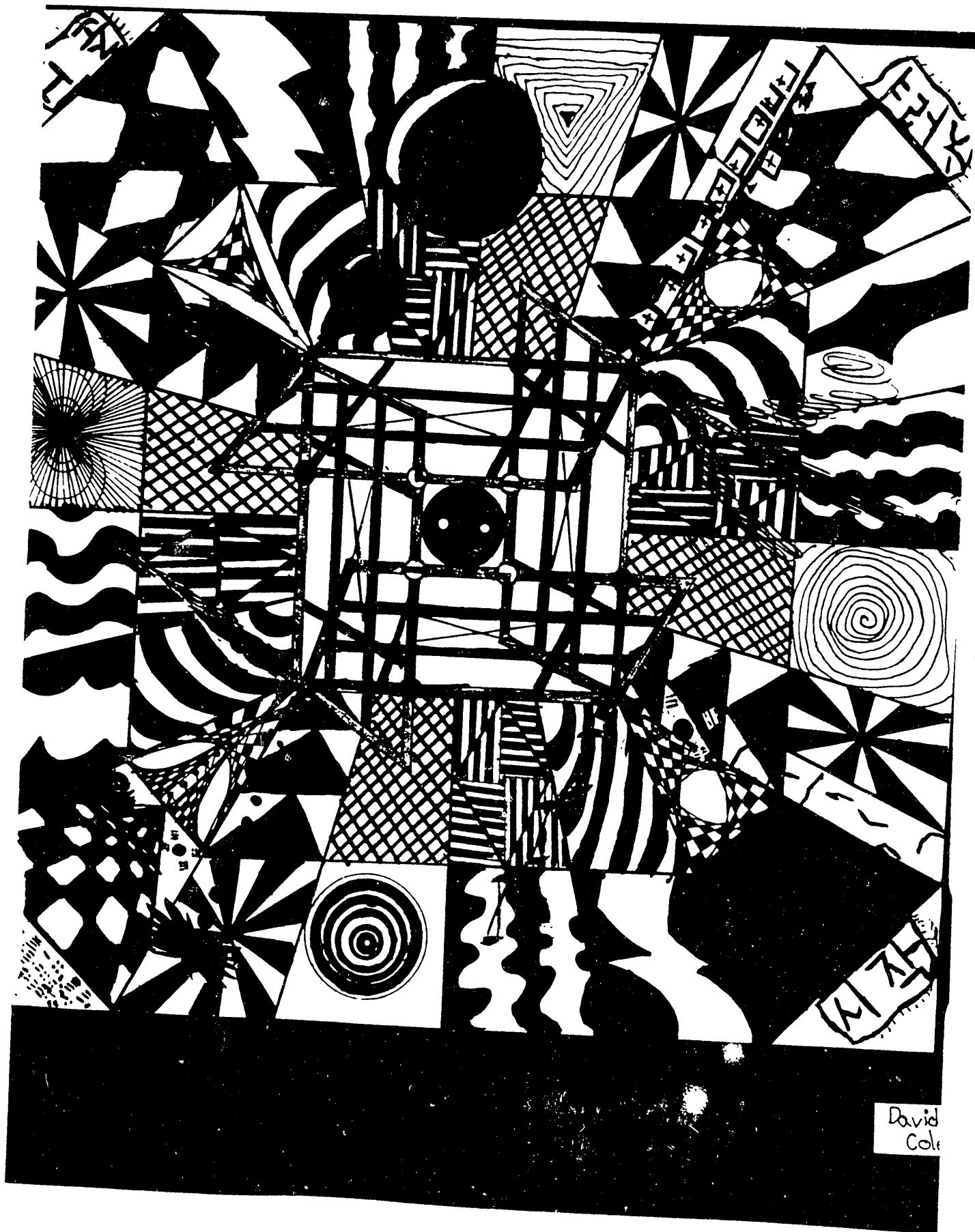
The Upper Leon River M.W.D. Board of Directors met at the General Office of Filter Plant, Comanche, October 27, 1994, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9450019.

The West Central Texas Council of Governments Big Country Quality Work Force Planning Cooperative will meet at 1025 East North Tenth, Abilene, November 17, 1994, at 1:00 p.m. Information may be ob-

tained from Roxann Hamilton, 1025 East North Tenth, Abilene, Texas 79601, (915) 672-8544. TRD-9450003.

The West Central Texas Council of Governments Area Agency on Aging Citizens Advisory Committee on Aging will meet at 1025 East North Tenth Street, WCTCOG Administrative Office, Abilene, November 5, 1994, at 10:00 a.m. Information may be obtained from Nell Baldwin, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9449994.





Name David Colby  
Grade 8  
School Hendrick Middle School - Plano ISD



# IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department of Criminal Justice Notice of Contract Award

The award of the contract for the performance of an audit of the Texas Department of Criminal Justice mainframe computer operating system is filed in accordance with Texas Government Code, §2254.030. The Texas Department of Criminal Justice published a request for proposals in the August 16, 1994, issue of the *Texas Register* (19 TexReg 6483), to obtain consulting services for the performance of a mainframe operating system audit. The services will consist of providing technical expertise and guidance in the performance of a mainframe operating system audit.

The proposal selected was that of Deloitte & Touche, LLP, 2200 Ross Avenue, Dallas, Texas 75201. The beginning date of the contract is October 31, 1994, the contract will end upon completion of the audit. The total value of the contract is not to exceed (NTE) \$40,000. For further information please call Edmond J. Peterson at (512) 467-9957.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449902 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Filed: October 21, 1994

## Texas Education Agency Request for Proposals Concerning the Excellence and Challenge: Expectations for Language Learners (ExCELL) Program, 1994-1995

Request for Proposals (RFP) #701-95-004 is filed under Public Law 100-297, the Elementary and Secondary Education Act (ESEA), Title IV, Part F

The Texas Education Agency (TEA) is requesting proposals from nonprofit organizations, colleges/universities, regional education service centers (ESCs), professional associations, private companies, and other entities for the management of a systemic statewide effort to develop foreign language content and performance standards and professional development models for grades K-12

The goal of the Excellence and Challenge: Expectations for Language Learners (ExCELL) Project is to advance learning for all students in Texas to high standards in foreign languages. This project will provide a framework for a challenging curriculum and innovative instruction by

enhancing the capacities of Texas teachers to teach foreign languages through collaboratively-designed professional education programs and strengthened professional development opportunities. The main emphasis of the first phase of the project is clarifying and defining what students should know and be able to do. The TEA, with the assistance of a contracted management team, will work in collaboration with public and private institutions of higher education, ESCs, professional organizations, and other national and state-based educational entities to achieve its objectives.

This is anticipated to be a three-year project. The ExCELL Project activities will begin during the 1994-1995 school year. Proposers should plan for a starting date of no earlier than January 2, 1995, and an ending date of no later than September 30, 1995.

Funding for the first phase of the project is with federal funds and will not exceed \$316,505. Funding for subsequent years of the project will be determined at a later date but is not expected to exceed \$400,000 for the second year and \$450,000 for the third year. Proposers are to focus their bid for the RFP on the activities described for the first phase of the project. Activities for phases two and three of the project should be briefly outlined. Continued funding for the second and third years of the project will be based on satisfactory progress of the first-year objectives and activities and general budget and on continued federal funding. This project is funded 100% from the federal Secretary's Fund for Innovation in Education Program and 0% from nonfederal sources.

Proposals will be selected based on the ability of each proposer to carry out all requirements contained in the RFP. The TEA will base its selection on, among other things, demonstrated competence and qualifications of the proposer. The TEA reserves the right to select from the highest ranking proposals those that address all requirements in the RFP.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate TEA to award a contract or to pay any costs incurred in preparing a response.

A complete copy of RFP #701-95-004 may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFP number in your request.

For clarifying information about the RFP, contact Inez Garcia, Division of Curriculum Development and Textbooks, Texas Education Agency, (512) 463-9556.

Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Friday, December 9, 1994, to be considered.

Issued in Austin, Texas, on October 24, 1994.

TRD-9449885  
Cris Clout  
Executive Associate Commissioner for  
Policy Planning and Information  
Management  
Texas Education Agency

Filed: October 24, 1994

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**Texas Employment Commission**  
**Request for Proposals**

This packet is designed to assist eligible applicant organizations in applying to the Texas Employment Commission (TEC) for Dependent Care Development Grant (DCDG) funds.

**A. Authorization of Funding.** The funds are authorized by Public Law 98-558, the Human Services Reauthorization Act of 1984, as amended by Public Law 101-105, the Augustus F. Hawkins Human Services Reauthorization Act of 1990. The funds are administered by the U.S. Department of Health and Human Services (U.S. Dept. HHS).

**B. Scope of Work.** Proposals to be considered for funding under this request will be those that relate to providing technical assistance to local contract recipients of DCDG funds for planning, development, establishment, operation, expansion, or improvement of: (1) Dependent Care Information/Resource and Referral OR (2) School-Age Child Care Services.

1. A proposal addressing the dependent care information/resource and referral component shall: include a needs assessment, identifying possible areas of technical assistance to local DCDG Information/Resource and Referral Contractors statewide; propose strategies for delivery of services to meet those needs; propose methods for delivery of information related to education, and/or expansion of the information/resource and referral market and program management.

2. A proposal addressing the school-age child care services component shall: include a needs assessment, identifying possible areas of technical assistance to local DCDG School-Age Child Care Contractors statewide; propose strategies for delivery of services to meet those needs; propose methods for delivery of information related to education, development, and/or expansion of the school-age child care market, and program management. A school-age child is a child ages five through thirteen.

3. The scope of work should encompass dependent care services, with "dependent" defined as: (a) an individual who has not attained the age of 17 years; (b) an individual who has attained the age of 55 years; or (c) a person with a developmental disability.

The Program Narrative must describe a method to obtain and document the following program information on a monthly basis: (1) The number of contractors; (2) The methods and frequency of contact; (3) The number of contractors served; (4) The types of questions asked, infor-

mation or services requested; (5) A description of the technical assistance provided, including but not limited to direct services, mailings, newsletters, workshops, etc.

Proposals must include: (1) A strategy for local contractors to network and collaborate; (2) Instructional grant writing training, board training, fund raising, business operations, and technical assistance for local contractors as part of their efforts to become financially stable; (3) Assistance for the Texas Work and Family Clearinghouse in sponsoring a workshop for all local contractors in December, 1994, with TA Contractor responsible for workshop facility costs (approximately \$3,000); (4) Plans for the TA Contractor to sponsor a workshop for local contractors in Spring, 1995, covering issues relating to dependent care. TA Contractor will cover per diem expenses for two representatives of each local School-Age Child Care or Information/Resource and Referral contractor, and facility costs. Expenses are based on per diem costs for two days and one night, (approximately \$2,400) and any other costs (i.e. speaker's fees, hotel facilities costs, equipment, etc.)

**C. Length of Contract.** The contract period is 11 months beginning November 1, 1994 or as soon thereafter as contracts can be executed. Applicants already receiving funding from the DCDG Program will be required to conclude their current contracts before beginning a new contract using these funds. All 1994-1995 DCDG contracts follow the federal fiscal year, and must end no later than September 30, 1995.

**D. Selection, Notification, and Negotiation Process.** The Texas Employment Commission anticipates completing the selection process by no later than ten working days after the due date. Any negotiations deemed necessary by TEC will be conducted prior to the first day of the contract period. TEC reserves the right to vary all provisions of this RFP prior to the execution of a contract and to execute amendments to contracts when TEC deems such variances and/or amendments are in the best interest of the State of Texas.

**E. Agency Contact.** Any questions or clarification requests pertaining to the contents of the RFP packet are to be directed to the Grants Staff of The Texas Work and Family Clearinghouse at (512) 502-3770.

## II. APPLICATION INFORMATION

**A. Due Date.** The deadline for receipt and consideration of a DCDG proposal is the close of business (5:00 p.m.) Tuesday, November 15, 1994. Applications postmarked on or before Monday, November 14, 1994, and mailed through the United States Postal Service will be considered timely. In order to be eligible, mailed proposals must include a legible U.S. Postal Service postmark showing a date and time on or before the deadline. Metered mail is not acceptable unless it also includes an acceptable U.S. Postal Service postmark.

Applications delivered by any other type of mail services or hand delivered must arrive at TEC's Work and Family Clearinghouse office by the specified date and time. Applications may be mailed or delivered in person or by special delivery to the following address: Texas Work and Family Clearinghouse, Texas Employment Commission, 3520 Executive Center Drive, Suite 209, Austin, Texas 78731-1637, ATTN: Grants Staff.

**B. Eligible Applicants.** Eligible applicant organizations submitting proposals for the DCDG Program include public agencies and private nonprofits with current 501(c)(3) status. Historically underutilized businesses (HUBs) are

encouraged to submit proposals. Applicants awarded DCDG local contracts for FFY 1994 will be eligible for technical assistance funding, but must provide the following additional information with their application: (1) A listing of current federal and state grants; (2) The percentage of staff time allocated to each grant; (3) An organizational chart for applying entity.

**C. Format for Submission.** Proposals must be typed-double spaced-on standard 8-1/2" x 11" paper, and have consecutively numbered pages. The Title Page should be attached to the front of the proposal, followed by the Table of Contents. All pages should be numbered.

Proposals shall be limited to ten pages excluding the required title page, table of contents, performance statement, budget forms, certification of eligibility documents and assurances. Proposals which exceed the page limitations will be disqualified. Proposals should not be elaborately bound but should be clipped at the top with binder clips or staples

An original and three complete copies of each application must be submitted. The proposal must be reproduced or printed on the front side of each sheet only. (See also Section TWO: Proposal Application Packet for additional information on program narrative and proposal format.)

**D. Budget Information.** Proposals for providing technical assistance for information/resource and referral OR school-age child care may request a maximum of \$75,000. Proposals are limited to a ten percent restriction on administrative costs. Each proposal must include from the applicant organization a minimum matching share of 25% of the combined total project costs. Matching funds may not come from federal grant money. See example below:

\$75,000--Federal Funds

25,000--minimum match (25% of total)

\$100,000--TOTAL.

TEC's prior written approval for purchase or lease of equipment with acquisition cost of \$5,000 or more per unit is required. Approval of a completed proposal or contract budget does not constitute prior approval Title to items with an acquisition cost of \$5,000 or more shall be retained by TEC. DCDG funds may not be used for partial purchases of equipment. The purchase must be made entirely with DCDG funds to allow TEC to obtain clear title to items.

Examples of allowable and non-allowable costs are outlined below.

#### **ALLOWABLE.**

Meeting/conference room expenses; staff travel directly associated with grant purposes, salary/fringe benefits costs for assigned project staff; pro-rated telephone costs, printing/reproduction costs; pro-rated rental/or purchase costs for visual aids or other office equipment; program advertising; auditing costs; indirect costs-if in accordance with currently approved indirect cost rate plan; and purchase of equipment, supplies or materials that facilitate the planning, development, establishment, expansion, or improvement of dependent care information/resource and referral services.

#### **NON-ALLOWABLE.**

Client/recipient payments; construction costs; renovation costs; matching for federal funds; lobbying costs; food/en-

tertainment costs, or consultant costs for proposal development.

Federal funds made available under the Act will be used to supplement and increase the level of State, Local and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs and activities for which funds are provided and will in no event supplant such State, Local, and other non-Federal funds

**E Assurances.** Any eligible organization applying for and accepting Dependent Care Development Grant (DCDG) funds shall. (1) Assure that funds allotted under Section 670B shall be used in accordance with the requirements of the Dependent Care Development Grant Act, Public Law 98-588, as amended by Public Law 101-501; (2) Assure that proper accounting procedure and fiscal control exists as may be necessary to assure the proper disbursement of and accounting for federal funds received under the Act; (3) Assure that audits of this program shall be conducted in accordance with federal provisions of the 45 Code of Federal Regulations, Part 74.62 and OMB Circular A-133. Audits shall be conducted annually by independent auditors based on generally accepted government auditing standards Results shall be submitted to the Texas Employment Commission; (4) Assure compliance with reporting requirements as required by the United States Department HHS and TEC, (5) Assure that pursuant to 45 Code of Federal Regulations, Part 76.50 no principals have been debarred

**F. Review and Rating of Proposals.** Information on planned performances will be significant in proposal grading and ranking. Proposals from organizations that have received any funding from the TEC will be reviewed separately to determine (1) previous contractual compliance, (2) demonstrated efforts towards financial self-sufficiency, (3) the presence of proper fiscal control, uniform accounting procedures and accurate expenditure of funds, and (4) the existence of written accounting policies and procedures and their implementation.

No review of a proposal will be initiated unless all applicant information and documentation specified in this RFP is submitted See Section TWO Application Packet for more information on proposal components. Proposals accepted for review will be rated on the following criteria. (1) Program Narrative with discussion of service delivery plan for DCDG local contractors, background, significance or level of need, and project aims This should include a plan for identifying contractor needs, how the needs will be met who will implement the services, and a method of evaluating the technical assistance; (2) The evaluation methodology, data collection and reporting procedures, the background and experience of the person responsible for the evaluation, a timeline for the evaluation process, and a description of how the data and analysis will be incorporated back into the program for continuous improvement; (3) Experience in collaboration and networking; (4) Budget planning and preparation, program accountability, financial reporting guidelines and capabilities, and demonstration of efforts towards or plans for financial self sufficiency; (5) Staffing responsibilities, including the identity, qualifications and experience of the principal contractor, subcontractor(s), collaborator(s), consultant(s) and staff, particularly in the area of proposed activities; (6) Organization, complete documentation, and content according to RFP packet instructions, (a Table of Contents is required) ; (7) Satisfactory 1992-1993 Independent Audit Report with no significant findings, (8) Background or

experience in instructional or facilitation training, and/or experience in providing technical assistance. Special consideration will be given for demonstrated training experience in the areas of dependent care or information/resource and referral

All eligible proposals will be reviewed by field readers who will evaluate proposals based on published criteria. All proposals will also be reviewed by the Grants Team, which will consider criteria including but not restricted to program relevance, need and objectives, agency policies, business evaluation, and past performance with TEC. Field reader's scores will comprise 60% of the total score; Grants Team evaluation will comprise 40% of the total score. The Grants Team may request interviews with the top rated proposers. Based on proposer's response, availability, experience, qualifications, demonstrated abilities, and total score, the Grants Team will select the proposer most qualified to provide services.

Issued in Austin, Texas, on October 19, 1994.

TRD-9449961 C. Ed Davis  
Deputy Administrator for Legal Affairs  
Texas Employment Commission

Filed: October 21, 1994

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**Texas Department of Human Services**  
**Consultant Proposal Request**

In accordance with Government Code, Chapter 2254, Subchapter A, the Texas Department of Human Services (DHS) is inviting proposals for consultant services.

**Description of Services:** Offeror will be expected to, at a minimum, provide an operational review and analysis of the agency's data security functions and provide guidance regarding: TDHS data security system(s); Security implications for future TDHS direction, TDHS data security organization.

**Terms of the Contract:** It is anticipated the contract period will begin on or about February 1, 1995.

**Contact Person:** Automatic release of this document will be done to vendors who previously indicated interest in the project under an IRT Catalogue inquiry process initiated by the Department. Release of this document will occur on or about November 1, 1994. Other potential offerors may request a proposal packet by contacting Gary A. Carlson, MIS Procurement and Contracts Management Section, Texas Department of Human Services, P.O. Box 149030, Mail Code C-747, Austin, Texas 78714-9030, or by phone at (512) 706-5545

**Offerors Conference:** No Offerors' Conference will be held in association with this procurement.

**Questions:** All Potential Offerors must submit any questions about this RFP in writing no later than 3:00 p.m. on November 15, 1994. All Oral TDHS responses are non-binding; however, the Department Contact Person will officially respond in writing to all written questions received by the deadline identified previously. Responses to written questions will be mailed to all potential offerors of record. Written responses to all questions will be binding and will be mailed as an addendum to the RFP to all potential offerors of record.

Any requests for clarification, exceptions or variance of the "Terms and Conditions" as they appear in Section C of

the RFP will be negotiated under the advisement of the TDHS Office of the General Counsel (OGC). Any such requests must be submitted in writing along with offeror questions by the deadline indicated previously. TDHS reserves the right to refuse any such requests for variance or exception. Once these written clarifications, variances, or exceptions have been reviewed and ruled upon by OGC, a written response will then be released as an addendum to the RFP and will be mailed to all potential offerors of record.

Offerors must submit any other questions concerning the Request for Proposal (RFP) in writing to the Department Contact Person, Gary A. Carlson, at the address detailed previously. All questions must be received no later than 3:00 p.m., November 15, 1994. Written inquiries received by courier, mail or FAX by the identified deadline will be answered, will be binding, and will be sent to all offerors of record.

Written inquiries may be submitted via FAX to the attention of the Department Contact Person at (512) 450-4267 prior to the 3:00 p.m. CST, November 15, 1994 deadline. Any questions received after the specific date and time indicated herein will NOT receive a response from the Department. Written responses to such questions will be sent to all offerors of record on or about November 23, 1994

**Closing Date:** Proposals must be received by 3:00 p.m. CST, December 7, 1994

**Evaluation and Selection:** TDHS has determined that it is in the best interest of the State to make use of a procurement method for this contract which involves a negotiated bid process.

Selection of the contractor will be based on expertise and experience of the offeror and key personnel; proposed approach, experience and expertise in the field of analysis of data security for mainframe down to the P.C. level including Wide Area Network (WAN), and Local Area Network (LAN) systems; and project cost. All responsive proposals will be subject to evaluation by a review committee of qualified DHS personnel. This committee will recommend a single proposal which most clearly meets the identified requirements. Final decision will be that of Department Management based on this recommendation and their separate review of evaluation scores and bidder performance summaries.

Issued in Austin, Texas, on October 24, 1994

TRD-9449993 Nancy Murphy  
Section Manager, Media and Policy  
Services  
Texas Department of Human Services

Filed: October 24, 1994

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**Texas Department of Insurance**  
**Company License Applications**

The following applications have been filed with the Texas Department of Insurance and are under consideration

1. Application for admission in Texas for Voyager Property and Casualty Insurance Company, a foreign fire and casualty insurance company. The home office is in Columbia, South Carolina

2. Application for admission in Texas for Property and Casualty Insurance Company of Hartford, a foreign fire and casualty insurance company. The home office is in Indianapolis, Indiana

3. Application for admission in Texas for Trumbull Insurance Company, a foreign fire and casualty insurance company. The home office is in Hartford, Connecticut.

4. Application for name change by Millers' Mutual Insurance Association of Illinois, a foreign fire and casualty company. The proposed new name is Millers Mutual Insurance Association. The home office is in Alton, Illinois.

5. Application for name change by Phoenix Reinsurance Company, a foreign fire and casualty company. The proposed new name is PXRE Reinsurance Company. The home office is in Greenwich, Connecticut.

6. Application for a name reservation in Texas for SHA, L.L.C., a domestic health maintenance organization. The home office is in Amarillo, Texas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on October 24, 1994

TRD-9449984      D J Powers  
General Counsel and Chief Clerk  
State Board of Insurance

Filed. Texas Department of Insurance

For further information, please call (512) 475-6327

## Texas Department of Mental Health and Mental Retardation

### Notice of Public Hearing

The Texas Department of Mental Health and Mental Retardation (TDMHMR) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the following programs: case management services for persons with a mental illness or with mental retardation and rehabilitation services. The public hearing is held in compliance with 25 TAC §409.002(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs.

The public hearing will be held on Wednesday, November 9, 1994, at 9:00 a.m. in the TDMHMR Central Office Auditorium, 909 West 45th Street, Austin, Texas. A briefing package will be mailed to known interested parties after October 31, 1994. Requests for a briefing package should be directed to Ernest McKenney in the Office of Medicaid Administration, P.O. Box 12668, Austin, Texas 78711-2668, (512) 323-3855.

Individuals wishing to attend who require an interpreter for the hearing impaired should contact Linda Logan, Director, Office of Policy Development, by calling (512) 206-4516 at least 72 hours prior to the hearing.

Issued in Austin, Texas, on October 19, 1994

TRD-9449766      Ann K Utley  
Chair, Texas MHMR Board  
Texas Department of Mental Health and  
Mental Retardation

Filed: October 19, 1994

## Texas Natural Resource Conservation Commission

### Declaration of Administrative Completeness and Application to Renew Weather Modification License

Application by Atmospherics Incorporated; Application Number 9444713, license initially issued in 1970, renewed 1971 through 1979 and each subsequent year since 1989, application is for renewal for State Fiscal Year 1995; applicant has conducted rainfall-augmentation operations in areas of western Texas from the Caprock to the Concho Valley.

Application by Colorado River Municipal Water District, Application Number 9443645; license initially issued in 1971 and renewed each subsequent year since 1971; application is for renewal for State Fiscal Year 1995; applicant has conducted rainfall-augmentation operations in a 3,500 square mile area of west Texas centered on Big Spring.

Application by North American Weather Consultants; Application Number 9446201; license initially issued in 1985 and renewed each subsequent year since 1985; application is for renewal for State Fiscal Year 1995; applicant has conducted rainfall-augmentation operations in various areas of Texas such as the Texas Hill Country, the Coastal Bend Area, and in the Concho Valley.

Application by Strategic Weather Services; Application Number 9445687; license initially issued in 1971 under the name of I.P. Krick Incorporated of Texas and renewed each subsequent year since 1971, application is for renewal for State Fiscal Year 1995; applicant has conducted rainfall-augmentation operations in various areas of Texas such as the northern Texas Panhandle (Project OC-4), the region west of the Pecos (T-18), and along the upper Red River (OC-9 and OC-16) during the 1970's and 1980's.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the weather modification licenses unless one or more persons file written protests and/or requests for hearing within ten days of the date of Texas Register publication.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number, the application number, TNRCC docket number or other recognizable reference to the application, the statement "I/we request an evidentiary public hearing", a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application, and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the license and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the applications. If you wish to appeal a license issued by the Executive Director, you may do so by filing

a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449920 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 21, 1994

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**Enforcement Orders**

An agreed enforcement order was entered regarding Bartsch, Larry, Docket Number 94-0395-PST-E, Enforce ID E10709 (TNRCC Facility ID 25409) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465

An agreed enforcement order was entered regarding Blackwell, Joyce, Docket Number 94-0396-PST-E, Enforce ID E10761 (TNRCC Facility ID 28865) on October 17, 1994 assessing \$600 in administrative penalties

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Brogan 66 Service Center, Docket Number 94-0399-PST-E, Enforce ID E10615 (TNRCC Facility ID 11629) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465

An agreed enforcement order was entered regarding Crane, Leonidas, Docket Number 94-0400-PST-E, Enforce ID E10616 (TNRCC Facility ID 50141) on October 17, 1994 assessing \$600 in administrative penalties

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Doan, Nu Van, Docket Number 94-0401-PST-E, Enforce ID E10609 (TNRCC Facility ID 50242) on October 17, 1994 assessing \$600 in administrative penalties

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Everheart Oil Company, Docket Number 94-0402-PST-E, Enforce ID EF10551 (TNRCC Facility ID 24112) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding FFP Operating Partners LP, Docket Number 94-0403-PST-E, Enforce ID E10621 (TNRCC Facility ID 38840) October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Georgetown Independent School District, Docket Number 94-0404-PST-E, Enforce ID E10755 (TNRCC Facility ID 46484) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465

An agreed enforcement order was entered regarding High Plains Concrete Company Inc, Docket Number 94-0405-PST-E, Enforce ID E10760 (TNRCC Facility ID 01797) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Himont USA Incorporated, Docket Number 94-0406-PST-E, Enforce ID E10617 (TNRCC Facility ID 19832) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Hogland, George, Docket Number 94-0407-PST-E, Enforce ID E10759 (TNRCC Facility ID 12256) on October

17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465

An agreed enforcement order was entered regarding Jaggi, R.K. Docket Number 94-0408-PST-E, Enforce ID E10672 (TNRCC Facility ID 64670) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding B. P. Newman Oil Company, Docket Number 94-0409-PST-E, Enforce ID E10723 (TNRCC Facility ID 34891) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding B. P. Newman Oil Company, Docket Number 94-0410-PST-E, Enforce ID E10724 (TNRCC Facility ID 34895) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding B. P. Newman Oil Company, Docket Number 94-0411-PST-E, Enforce ID E10725 (TNRCC Facility ID 34894) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Olivas, Alfredo doing business as Olivas Aviation, Docket Number 94-0412-PST-E, Enforce ID E10614 (TNRCC Facility ID 16388) October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Patco Gas Station, Docket Number 94-0413-PST-E, Enforce ID E10545 (TNRCC Facility ID 31997) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465

An agreed enforcement order was entered regarding Rice, William C. Docket Number 94-0414-PST-E, Enforce ID E10720 (TNRCC Facility ID 43188) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Safety-Kleen Corporation, Docket Number 94-0415-PST-E, Enforce ID E10762 (TNRCC Facility ID 33643) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Sasser, Dominick Docket Number 94-0416-PST-E, Enforce ID E10625 (TNRCC Facility ID 57759) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Swift Oil Company, Docket Number 94-0417-PST-E, Enforce ID E10719 (TNRCC Facility ID 08586) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Texas Department of Public Safety, Docket Number 94-0418-PST-E, Enforce ID E10758 (TNRCC Facility ID 04763) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Western Recycling Inc, Docket Number 94-0419-PST-E, Enforce ID E10677 (TNRCC Facility ID 14973) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Williams, Tom E, Docket Number 94-0420-PST-E, Enforce ID E10604 (TNRCC Facility ID 13050) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Wylie Inc, Docket Number 94-0421-PST-E, Enforce ID E10669 (TNRCC Facility ID 27076) on October 17, 1994 assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An enforcement order was entered regarding LUNA, RAMON, Docket Number 94-0450-WWD-E (Order Number WWD 94-10) on October 17, 1994, assessing \$2,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bonnie Rubey, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0676.

An agreed enforcement order was entered regarding Pine Trails Utility Company Inc Docket Number 94-0452-MWD-E (Permit Number 11701-01) on October 17, 1994 assessing \$50,960 in administrative penalties with \$14,960 deferred

Information concerning any aspect of this order may be obtained by contacting Vic Ramirez, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0478

An agreed enforcement order was entered regarding Susser Environmental Services, Docket Number 94-0453-PST-E, Enforce ID E10160 (TNRCC Facility ID 81012) on October 17, 1994 assessing \$7,200 in administrative penalties

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

An agreed enforcement order was entered regarding Murchinson John S., Docket Number 94-0454-WWD-E (No Water Well Driller License Number) on October 17, 1994 assessing \$500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bonnie Rubey, Staff Attorney,

Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0676.

An agreed enforcement order was entered regarding Salazar, Joe I., Docket Number 94-0455-WWD-E (Water Well Driller License Number 3201-W) on October 17, 1994, assessing \$250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bonnie Rubey, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0676.

An agreed enforcement order was entered regarding Wheelabrator Clean Water Systems Inc, Docket Number 94-0456-SLG-F (Registration Number 710607) on October 17, 1994, assessing \$3,380 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bonnie Rubey, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0676

An agreed enforcement order was entered regarding Riesel, City of, Docket Number 94-0457-MWD-E (Permit Number 11015-01) on October 17, 1994 assessing \$6,640 in administrative penalties with \$1,660 deferred.

Information concerning any aspect of this order may be obtained by contacting Vic Ramirez, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0478

Issued in Austin, Texas, on October 21, 1994

TRD-9449921 Gloria A Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed October 21, 1994

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**Notice of Application for Waste Disposal Permits**

Notices of Applications for waste disposal permits issued during the period of October 17th to October 21, 1994

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number, the permit number or other recognizable reference to this application, the statement "I/we request a public hearing," a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations, and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one



or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

Action Municipal Utility District; the Pecan Plantation Wastewater Treatment Facilities; the facilities are on the north bank of the Brazos River approximately 13.5 miles downstream of the De Cordova Bend Reservoir Dam and approximately 1/2 mile due east of the Pecan Plantation Airport in Hood County, Texas; renewal; 11415-01.

City of Azle; the Ash Creek Wastewater Treatment Facility; is located between State Highway 199 (Jacksboro Highway) and Old Ten Mile-Azle Road, west of Eagle Mountain Lake on Ash Creek in Tarrant County, Texas. The Walnut Creek Wastewater Treatment Facility is approximately 3,200 feet northeast of the intersection of Farm-to-Market Road 730 and Stribling Drive in Tarrant County, Texas; new; 11183-03.

City of Bremond; the wastewater treatment plant; is approximately 0.7 mile south of the intersection of State Highway 14 and Farm-to-Market Road 46 in Robertson County, Texas; renewal; 10917-01.

Calabrian Chemical Corporation; an inorganic chemical plant; the plant site is at 5500 State Highway 366 in the City of Port Neches, Jefferson County, Texas; renewal; 01857.

City of Chandler; the wastewater treatment plant; is on Old Noonday Road approximately 6,000 feet southeast of the intersection of State Highway 31 and Farm-to-Market Road 315 in Henderson County, Texas; renewal; 11012-01.

City of College Station; the Lick Creek Wastewater Treatment Facilities; the facilities are immediately south of Rock Prairie Road, approximately 16,000 feet east-northeast of the intersection of State Highway 6 and Greens Prairie Road, and approximately 9,000 feet north of the Texas International Speedway in Brazos County, Texas; renewal; 10024-003.

EDR, Inc.; the Oak Hills Water Treatment Facilities; the facilities are approximately three miles northwest (via Farm-to-Market Road 2580) of the Town of Thorp Spring in Hood County, Texas; renewal; 02678.

City of Gunter; the wastewater treatment plant; is adjacent to the St. Louis and San Francisco Railway, approximately 2,300 feet west of State Highway 289 and approximately

1,400 feet north of Farm-to-Market Road 121, in the City of Gunter in Grayson County, Texas; renewal; 10569-01.

City of Honey Grove; the wastewater treatment plant is approximately 7,600 feet north of U.S. Highway 82 and approximately 4,000 feet west of Farm-to-Market Road 100 in Fannin County, Texas; renewal; 10710-01.

Rayford Road Municipal Utility District; the wastewater treatment plant; is north of Rayford Road, approximately 2.1 miles east of the intersection of Rayford Road and Interstate Highway 45 in Montgomery County, Texas; renewal; 12030-01.

San Miguel Electric Cooperative, Inc.; a lignite mining area associated with the San Miguel Steam Electric Station; the plant site is six miles east of Highway 16 on FM 3387 and south of the City of Christine, in Atascosa and McMullen Counties, Texas; renewal; 02043.

Texas Department of Criminal Justice-Institutional Division; the wastewater treatment facility will serve the Pack I Prison Farm Unit; the plant site is approximately 3.8 miles west-northwest of the intersection of State Highway 6 and Farm-to-Market Road 1227 within the boundaries of the Pack I Prison Farm in Grimes County, Texas; new; 13743-01.

Three Lakes Municipal Utility District Number One; the wastewater treatment plant; is approximately one mile east of State Highway 249 and approximately 1,200 feet south of Boudreaux Road in Harris County, Texas; renewal; 12044-01.

Tower Oak Water Supply Corporation; the Tower Oak Bend Wastewater Treatment Plant; the plant is approximately one mile east of Jones Road and 1,000 feet north of Cypress-North Houston Road in Harris County, Texas; renewal; 11986-01.

U.S. Army Corps of Engineers; the East Fork Park Wastewater Treatment Facilities; the facilities are in East Fork Park, on the south side of Lavon Lake, at a point approximately two miles northeast of intersection of State Highway 78 and Farm-to-Market Road 544 in Collin County, Texas; renewal; 12052-01.

Wallace L. Van Wyk; the Fig Tree Recreational Vehicles Resort Wastewater Treatment Facilities; the facilities are approximately six miles west of the City of Harlingen, 2,300 feet east of the intersection of U.S. Highway 83 and Bass Boulevard, north of the right-of-way of Traxler Way in Cameron County, Texas; renewal; 12817-01.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449918  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 21, 1994

### Notice of Award

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for a characterization of the current status and historical trends of living resources within the Corpus Christi Bay National Estuary Program (CCBNEP) study area.

The notice for request for proposals was published in the June 17, 1994, issue of the *Texas Register* (19 TexReg 4779).

**Description of Services.** The contractor will provide information characterizing the current status and spatial and temporal variability in abundance and distribution of populations of economically and ecologically important estuarine species; endangered, threatened, protected, and exotic estuarine species; and resident marine mammals. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1995.

**Effective Date and Value of Contract.** The contract will be effective from October 20, 1994, until August 31, 1995. The total cost of the contract is \$100,000.

**Name of the Contractor.** The contract has been awarded to the Center for Coastal Studies, Texas A&M University-Corpus Christi, 6300 Ocean Drive, Corpus Christi, Texas 78412.

Persons who have questions concerning this award may contact Richard Volk, Corpus Christi Bay National Estuary Program, TAMU-CC, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767.

Issued in Austin, Texas, on October 24, 1994.

TRD-9449998  
Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: October 24, 1994

### Notice of Receipt of Applications and Declaration for Administrative Completeness for Sludge Registrations

Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of October 17, 1994 through October 21, 1994.

Jeff A. Wieland; McKinney; approximately 0.75 mile south of the intersection of Highway 546 and Evans Road on the west side of Evans Road, approximately four miles southeast of McKinney, Collin County, Texas; new; 710704.

This application has been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that this application is subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding this application should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711. The request should contain the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning this application may be obtained by contacting the Texas Natural Resource Conservation

Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449917  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 21, 1994

### Notice of Receipt of Application for Municipal Solid Waste Management Facility for the Week Ending October 21, 1994

Application by Chambers County Resource Recovery and Recycling Center; Proposed Permit Number MSW2239, authorizing a Type 5RR (recovery and recycling) municipal solid waste facility. The site covers approximately ten acres of land and is located at 7505 Highway 65, approximately ten miles east of Anahuac, in Chambers County, Texas.

This application is subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within ten days of the date of *Texas Register* publication.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449919  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 21, 1994

**Provisionally-Issued Temporary Permit to  
Appropriate State Water during the  
period of October 17-21, 1994**

Application Number 7359 by Midcon Texas Pipeline Corporation for diversion of four acre-feet of water in a one-year period for industrial use (hydrostatic test). Water may be diverted from the point where the 30" MTPC pipeline crosses Step Bank Creek, approximately 10.79 miles east-southeast of Richmond in Fort Bend County, Texas, Brazos River Basin.

Provisionally-Issued Temporary permits to appropriate state water are issued for a period of not more than one year and authorize the use of not more than ten acre-feet of water. The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be mailed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449916 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 21, 1994

**Revised Notice of Public Meeting**

In the October 14, 1994, issue of the *Texas Register* (19 TexReg 8096), the Texas Natural Resource Conservation Commission published for public comment proposed amendments to 30 TAC §330.4 and §330.65, concerning municipal solid waste management and design requirements for Type V facilities that are exempt from permit or registration requirements. The public hearing to receive comments on the proposed amendments has been moved to a different room at the published location. The date and time of the meeting remain unchanged. The meeting will take place on November 4, 1994, at 9:30 a.m. in Building D, Room 264N, 12118 North Interstate 35, Austin.

Issued in Austin, Texas, on October 20, 1994.

TRD-9449997 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: October 24, 1994

**Public Utility Commission of Texas  
Notice of Application to Amend  
Certificate of Convenience and  
Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on, September 30, 1994, to amend a Certificate of Convenience and Necessity pursuant to §§16(a), 17(e), 50, 52 and 54 of the Public Utility Regulatory Act. A summary of the application follows.

Docket Title and Number: Joint Application of Public Utilities Board of the City of Brownsville and Magic Valley Electric Cooperative, Inc. to Amend Certificated Service Area Boundaries within Hidalgo County, Docket Number 13493 before the Public Utility Commission of Texas.

The Application: In Docket Number 13493, Public Utilities Board of Brownsville requests approval of its application to revise current certificated service area boundaries with Magic Valley Electric Cooperative, Inc. in Hidalgo County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on October 21, 1994.

TRD-9449914 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 21, 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 the City of Weatherford, Weatherford, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New PLEXAR-Custom Service for the City of Weatherford pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13535.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom service for the City of Weatherford. The geographic service market for this specific service is the Weatherford, 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 October 19, 1994.

TRD-9449777      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 19, 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 Smith County, Tyler, Texas.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a New PLEXAR-Custom Service for Smith County pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13536.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom service for Smith County. 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 October 19, 1994.

TRD-9449778      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 19, 1994



## Notice of Petition for Reimbursement of Expenses for Legal Services Incurred by the Cities for Fair Utility Rates in Connection with Docket Numbers 8425 and 6668

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application for reimbursement of expenses for legal services incurred by the Cities for Fair Utility Rates (CFUR) pursuant to §24a of the Public Utility Regulatory Act (PURA), Texas Civil Statutes, Article 1446c (Vernon Supp. 1994).

**Docket Title and Number.** Petition of the City of Beach City for Reimbursement of Expenses in Connection with Docket Numbers 8425 and 6668, Docket Number 13377 before the Public Utility Commission of Texas.

**The Application.** The application was filed by the City of Beach City on behalf of CFUR. The City of Beach City seeks reimbursement from Houston Lighting and Power Company for expenses incurred in connection with the appeals of Docket Numbers 8425 and 6668.

Persons who wish to intervene in the proceeding or comment upon the action sought, should contact the Public Utility Commission of Texas, and 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 on or before November 30, 1994.

Issued in Austin, Texas, on October 19, 1994.

TRD-9449809      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 19, 1994

