

TEXAS REGISTER

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How to Use the Texas Register

Information Available: The 11 sections of the Texas Register represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

Open Meetings - notices of open meetings.

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

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

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

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

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

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

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

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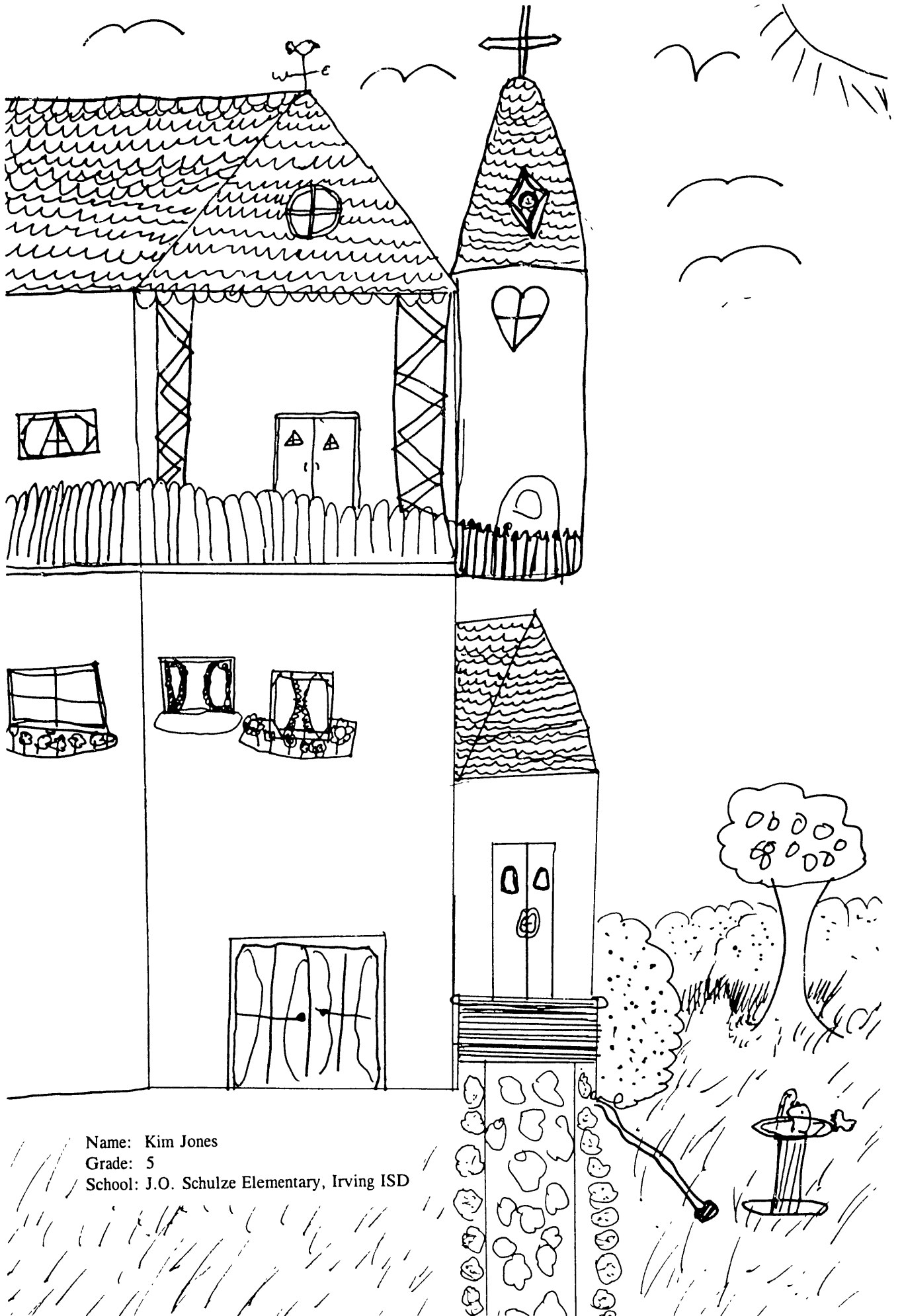
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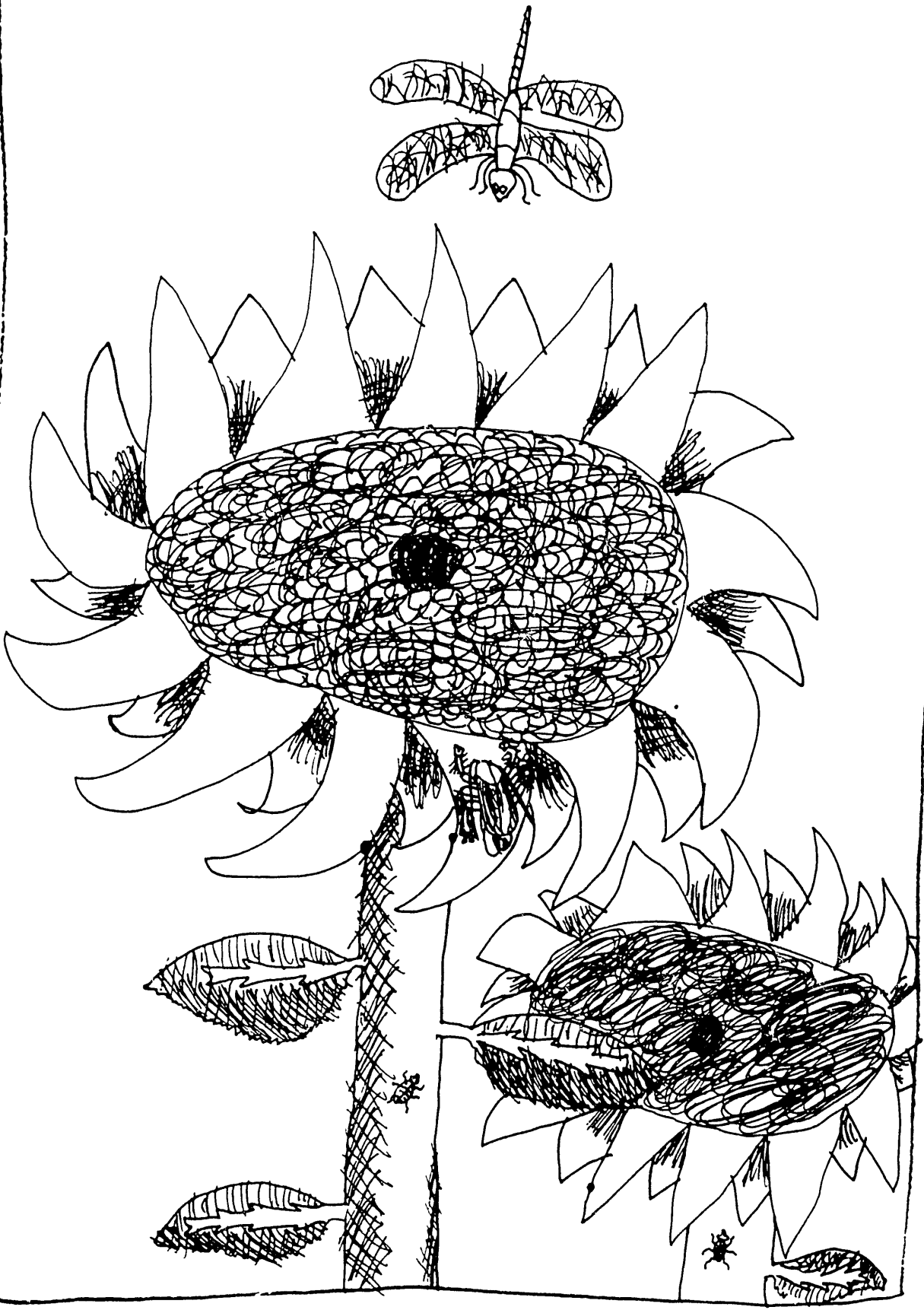


Name: Daniel Adame
Grade: 5
School: J.O. Schulze Elementary, Irving ISD



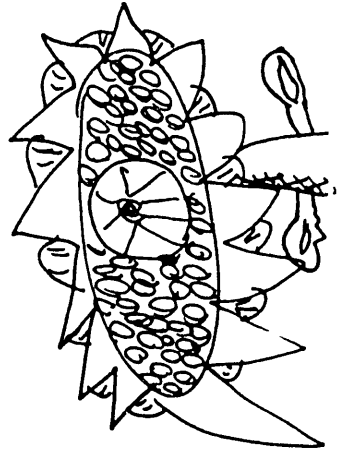
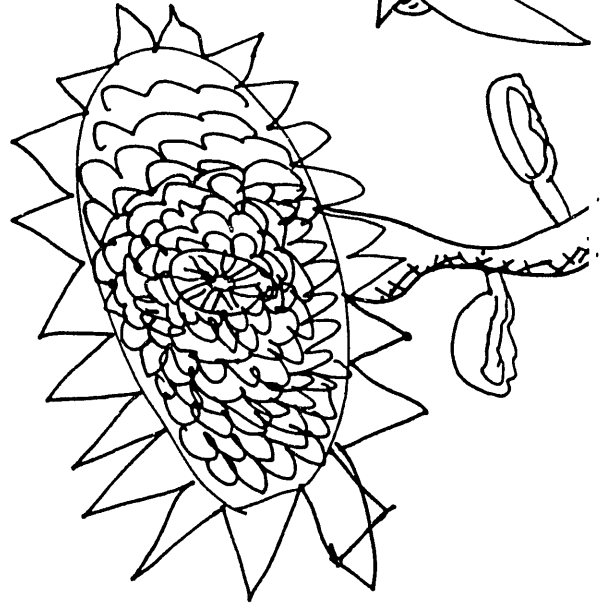
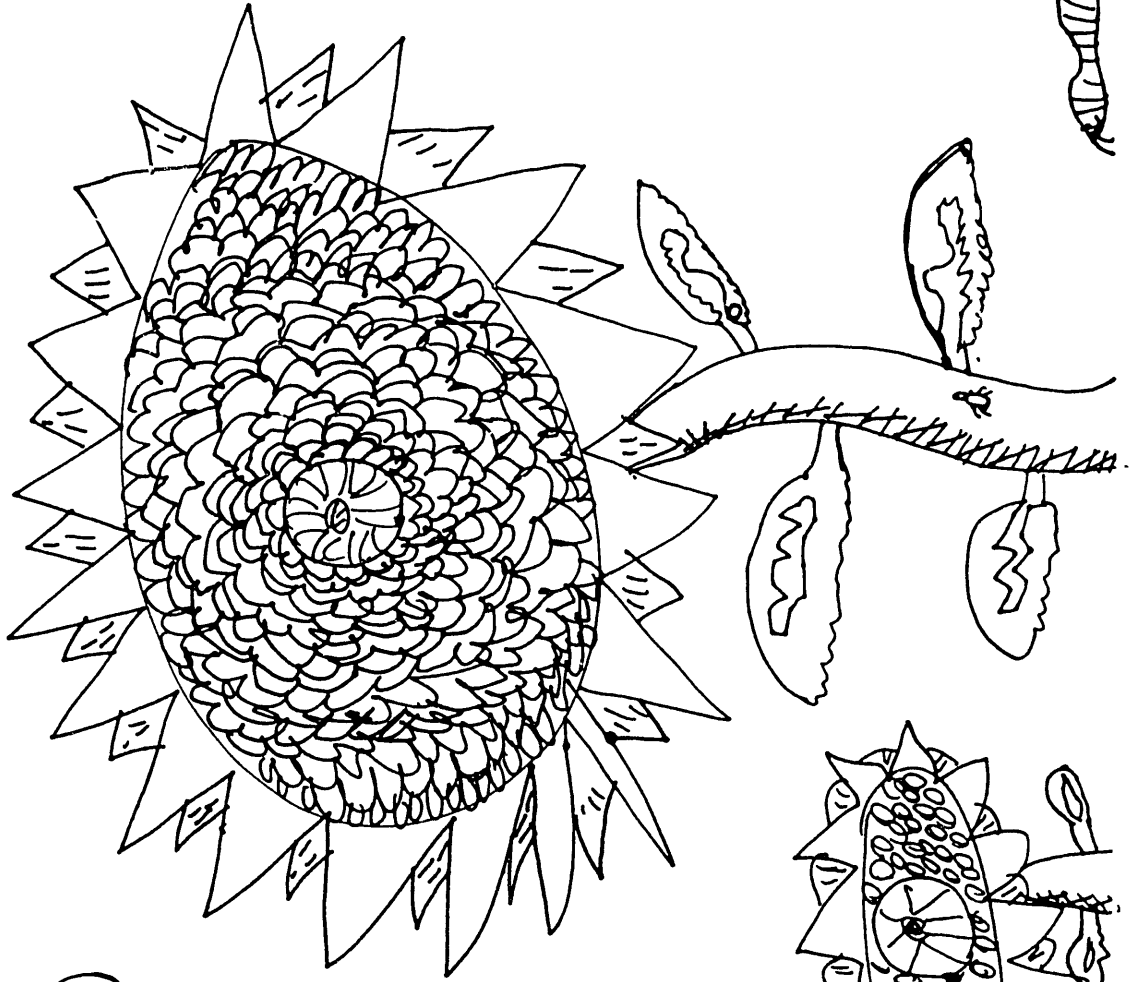
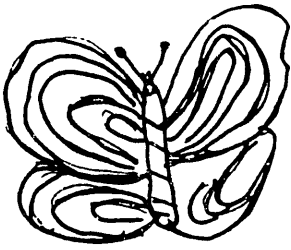
Name: Kim Jones
Grade: 5
School: J.O. Schulze Elementary, Irving ISD

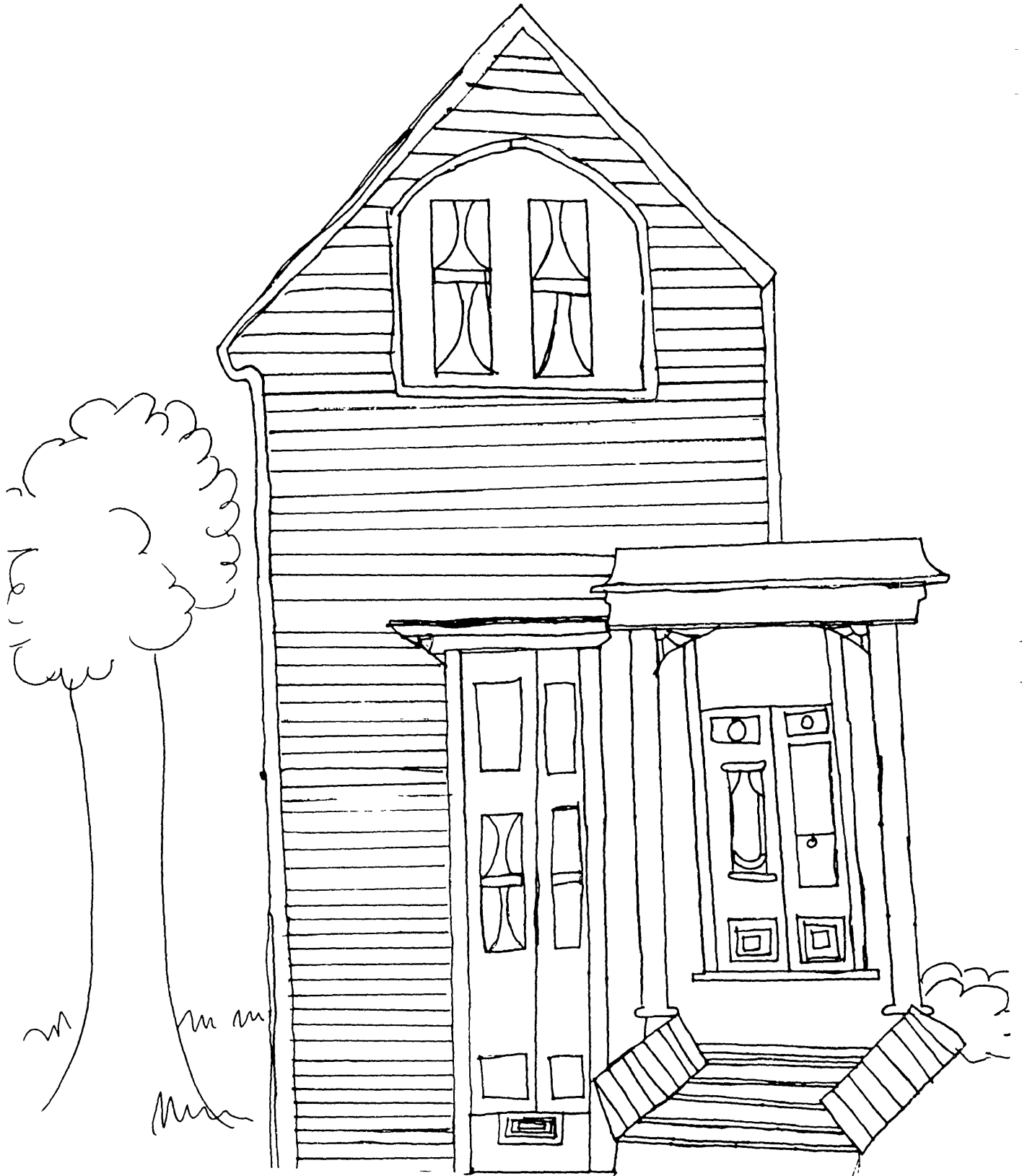
Name: Colt West
Grade: 5
School: Elliott Elementary, Irving ISD



Colt West
Grade 5

Name: Larry Medina
Grade: 5
School: Elliott Elementary, Irving ISD





Name: Maricela Jimenez
Grade: 5
School: Schulze Elementary, Irving ISD

THE GOVERNOR

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

Appointments Made October 19, 1994

To be a member of the **Texas Water Development Board** for a term to expire December 31, 1999: Charles L. Green, 3667, Monticello, Fort Worth, Texas 76107. Mr. Geren will be replacing Wesley Pittman of Midland whose term expired.

Appointments Made October 24, 1994

To be a member of the **General Services Commission** for a term to expire January 31, 1997: Paul Hobby, 2131 San Felipe, Houston, Texas 77019-5620. Mr. Hobby will be filling the unexpired term of Parker C. Folse, III of Houston who resigned.

To be a member of the **General Services Commission** for a term at the pleasure of the Governor: Paul Hobby, 2131, San Felipe, Houston, Texas 77019-5620. Mr. Hobby will be replacing Parker C. Folse, III of Houston as chairman. Mr. Folse is no longer a member of the commission.

To be a member of the **Texas State Board of Medical Examiners District Review Committee for District III** for a term to expire January 15, 2000: Thomas L. Marvelli, M.D., 1201 West Lancaster Avenue, Suite A, Fort Worth, Texas 76102. Dr. Marvelli is being reappointed.

To be a member of the **Texas State Board of Medical Examiners District Review Committee for District IV** for a term to expire January 15, 2000: Ann L. Nolen, D.O., 350 North Madison, La Grange, Texas 78945. Dr. Nolen will be replacing Dr. Royce K. Keilors of La Grange whose term expired.

To be a member of the **Texas Council on Offenders with Mental Impairments** for a term to expire February 1, 1999: Michael R. Arambula, M.D., 14800 U.S. 281 North, Suite 110, San Antonio, Texas 78232. Dr. Arambula will be replacing Dr. John D. Nottingham, Jr. of Houston whose term expired.

To be a member of the **Gulf Coast Waste Disposal Authority Board of Directors** for a term to expire August 31, 1994: Roy E. Byerly, P.O. Box 711, Alvin, Texas 77512. Mr. Byerly is being reappointed.

To be a member of the **Governing Board of the Texas School for the Blind and Visually Impaired** for a term to expire January 31, 1997: Edward F. Guerra, 4810 Rustown Drive, Austin, Texas 78727. Mr. Guerra will be filling the unexpired term of Russell L. Smith of Waco who resigned.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1999: James M. (Mike) Robinson, P.O. Box 839999, San Antonio, Texas

78283-3999. Mr. Robinson will be replacing Rick Benner of San Antonio whose term expired.

To be a member of the **State Seed and Plant Board** for a term to expire October 6, 1996: G. F. (Buz) Poage, P.O. Box 1057, Levelland, Texas 79336. Mr. Poage is being reappointed.

To be a member of the **State Seed and Plant Board** for a term to expire October 6, 1996: Alfred L. Martin, Route 1, Box 130, Hubbard, Texas. Mr. Martin is being reappointed.

To be a member of the **State Seed and Plant Board** for a term to expire October 6, 1996: Charles A. Leamons, Texas Department of Agriculture, P. O. Box 629, Giddings, Texas 78942. Mr. Leamons is being reappointed.

To be a member of the **Branch Pilot for Galveston Bar and the Houston Ship Channel** for a term to expire May 31, 1997: Captain Arthur F. Tuttle, 6006 Charrington, Spring, Texas 77389. Captain Tuttle was examined by the Pilot Board for the Port of Houston and found to be qualified for an original commission as Branch Pilot.

Issued in Austin, Texas, on October 26, 1994

TRD-9450093

Ann W. Richards
Governor of Texas



Name: David Williams
Grade: 8
School: Buffalo ISD



ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record¹

Opinions

DM-304 (RQ-646). Request from Honorable John Vance, Dallas County District Attorney, Frank Crowley Courts Building, Dallas, Texas 75207-4313, concerning whether effect of amendments to Education Code, §4.25(a) and (b) by the 73rd Legislature's, House Bills 681 and 1372 and Senate Bill 7.

Summary of Opinion. Senate Bill 7 of the 73rd Legislature was enacted after House Bill 681 of the same session, so its amendment to the punishment provision of Education Code, §4.25, prevails over the conflicting amendment in House Bill 681. Therefore, "[a]n offense under §(4.25) is punishable by a fine of not less than \$10 nor more than \$50 for the first offense, not less than \$20 nor more than \$100 for the second offense, and not less than \$50 nor more than \$200 for a subsequent offense." Education Code, §4.25(a) and (b), amended by Acts 1993, 73rd Legislature, Chapter 347, §6. 01.

TRD-9450099

Requests for Opinions

(RQ-734). Request from Carol S Vance, Chair, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711, concerning whether deadly force may be used to prevent the escape of a person from a state jail facility.

(RQ-735). Request from Honorable Fred Hill, Chair, Committee on Urban Affairs, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning validity of a consultation agreement between a school district and a local professional educational association

(RQ-736). Request from Leonard W Peck, Jr., Assistant General Counsel, Texas Department of Criminal Justice, P O Box 99, Huntsville, Texas 77342-0099, concerning

whether an inmate may obtain under the Open Records Act a document confiscated from him/her by the Texas Department of Criminal Justice

(RQ-737). Request from Honorable Judith Zaffirini, Chair, Committee on Health and Human Services, Texas State Senate, P.O. Box 12068, Austin, Texas 78711, concerning whether group hospital and medical service fees charged by a state university may be waived for active duty military personnel

(RQ-738). Request from David R. Smith, M.D., Commissioner, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, concerning whether Attorney General Opinion DM-283 (1994) correctly determined that a county clerk may collect a security fee, as authorized by the Local Government Code, §291.007, at the time of filing a birth, death, or fetal death record and related questions.

(RQ-739). Request from William G Burnett, P.E., Executive Director, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483, concerning reconsideration of Open Records Decision 592 (1991) whether financial information submitted to the Texas Department of Transportation by a company in connection with its application for Disadvantaged Business Enterprise status is protected from required public disclosure under the Open Records Act

(RQ-740). Request from Honorable Mike Driscoll, Harris County Attorney, 1001 Preston, Suite 634, Houston, Texas 77002-1891, concerning legal representation of county employees by the Harris County Attorney

(RQ-741). Request from Honorable Rick Pery, Commissioner, Texas Department of Agriculture, P O Box 12847, Austin, Texas 78711, concerning Constitutionality of the Agriculture Resources Protection Authority, and related questions

(RQ-742). Request from Honorable Kim Brimer, Chair, Committee on Business and Industry, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether the legislature may require a political subdivision to join, and pay assessments to, a guaranty association for workers' compensation liabilities

(RQ-743). Request from Carol S Vance, Chair, Texas Board of Criminal Justice, P O Box 13084, Austin, Texas 78711, concerning whether deadly force may be used to prevent the escape of a person from a state jail facility

(RQ-744). Honorable John W Segrest, McLennan County Criminal District Attorney, 219 North Sixth Street, Suite 200, Waco, Texas 76701, concerning whether competitive bidding is required for certain purchases by a county under Texas Civil Statutes, Article 601b, §3 081, which establishes a catalogue purchase procedure

(RQ-745). Request from William Grossenbacher, Administrator, Texas Employment Commission, 101 East 15th Street, Austin, Texas 78778, concerning whether the Texas Employment Commission may transfer to a wage claimant the lien for unpaid wages that attaches to property of an employer, pursuant to Labor Code, §61.019

(RQ-746). Request from Steve Robinson, Executive Director, Texas Youth Commission, P O Box 4260, Austin, Texas 78765, concerning accrual of longevity pay by an employee who becomes eligible to receive hazardous duty pay

(RQ-747). Request from Doyne Bailey, Administrator, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127, concerning validity of a one-year residency requirement for obtaining a liquor license

(RQ-748). Request from Bruce A. Levy, M.D., J.D., Executive Director, Texas State Board of Medical Examiners, P.O. Box

149134, Austin, Texas 78714-9134, concerning whether a licensed acupuncturist may hold himself out to the public as a "doctor," "an oriental medical doctor," or an "O.M.D."

(RQ-749). Request from Nora A. Linares, Executive Director, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630, concerning whether information relating to complaints filed with the Texas Lottery Commission, and investigations conducted pursuant thereto, is exempted from disclosure under the Open Records Act, Government Code, Chapter 552.

(RQ-750). Request from Honorable Mike Driscoll, Harris County Attorney, 1001 Preston, Suite 634, Houston, Texas 77002-1891, Attn: Sandra D. Hachem, Assistant County Attorney, concerning status of a reserve deputy called into service by a sheriff under Local Government Code, §85.004.

(RQ-751). Request from Karen Hendershot Bailey, Assistant City Attorney, Legal Department, City of Victoria, P.O. Box 1758, Victoria, Texas 77902-1758, concerning availability to the suspect's parent of an offense report involving a juvenile suspect.

TRD-9450098



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 27, 1994.

TRD-8450163

Dolores Alavardo Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: October 27, 1994

Expiration date: November 26, 1994

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



TITLE 22. EXAMINING BOARDS

Part XIV. Texas Board of Veterinary Medical Examiners

Chapter 577. General Administrative Duties

Staff and Miscellaneous

• 22 TAC §577.15

The Texas Board of Veterinary Medical Examiners adopts on an emergency basis an amendment to §577.15, concerning Fee Schedule. This emergency adoption is necessary because the license renewal period commences January 1, 1995 and runs until March 1, 1995. The Board does not meet again until well into the license renewal cycle and the fee must be correct. This section is being simultaneously proposed for public comment in this issue of the *Texas Register*. The rule will set out the fees charged by the Board for Examinations, license renewals, open records and mailing lists and labels. It will reduce the license renewal fee by \$16.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

The amendment affects the Veterinary Licensing Act, §19(a), Article 8890, which mandates that the Board, by rule, establish reasonable and necessary fees to produce sufficient revenue to cover the costs of administering the Act.

§577.15. *Fee Schedule.* The Board shall establish fee amounts in accordance with of the Veterinary Licensing Act, §19(a)-(c), Article 8890. The following fees are in effect September 1, 1993 with the exception of the Renewal Fee which will become effective January 1, 1995 [1994]:
Figure 1: 22 TAC §577.15

Issued in Austin, Texas, on October 24, 1994.

TRD-8450091

Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Effective date: October 26, 1994

Expiration date: February 23, 1995

For further information, please call: (512)
447-1183



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 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 1. General Procedures Subchapter E. Advisory Com- mittees

• 4 TAC §§1.200-1.203

The Texas Department of Agriculture (the department) proposes new §§1.200-1.203, concerning the continuation of the Egg Marketing Advisory Board, Pest Management Zone Administrative Committees and Texas-Israel Exchange Fund Board, in accordance with the provisions of Texas Civil Statutes, Article 6252-33 (Vernon Supplement 1994). The new sections prescribe the purposes and duties of committees created by statute to advise the department, the expiration date of each committee and the manner in which each committee will report to the agency.

Dolores Alvarado Hibbs, chief administrative law judge, legal affairs, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Hibbs also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be a reduction of expenditures by eliminating ineffective and unnecessary advisory committees. There will be no effect on small or large 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 submitted to Dolores Alvarado Hibbs, Chief Administrative Law Judge, Legal Affairs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 6252-33 (Vernon Supplement 1994), which require the Texas Department of Agriculture to adopt rules regarding its advisory committees.

The Texas Agriculture Code, Chapter 132, Subchapter A, Chapter 74, Subchapter A, and Chapter 45 are affected by the proposal.

§1.200. Scope and Purpose. This subchapter identifies advisory committees created by statute to advise the Texas Department of Agriculture and, in accordance with the provisions of Texas Civil Statutes, Article 6252-33 (Vernon Supplement 1994), prescribes the purposes and duties of such committees, the expiration date of each committee, and the manner in which each continuing committee will report to the agency.

§1.201. Egg Marketing Advisory Board.

(a) Purpose. The Egg Marketing Advisory Board is created pursuant to Texas Agriculture Code Annotated, §132.007.

(b) Duties. The board is composed of the commissioner, an Extension Service representative appointed by the head of the Poultry Science Department at Texas A & M University, and nine persons appointed by the governor, including three persons who are producers, three persons who are retailers, and three persons who are dealers, wholesalers, brokers or processors. The commissioner and the appointed Extension Service representative serve as ex-officio members of the board. The commissioner shall serve as chairman of the board. The board shall meet at the call of the chairman. A member of the board must be a Texas resident. Members serve for staggered terms of six years and the governor shall fill any vacancy by appointment for the unexpired term. Members shall serve without pay, but are entitled to reimbursement for actual expenses incurred in attending to the work of the board, subject to the approval of the chairman. The board advises the department in matters relating to egg quality, inspection, and carton labeling to ensure that the eggs sold to Texas consumers meet or exceed standards of quality developed by the department.

(c) Duration. The Egg Marketing Advisory Board is abolished on September 1, 1995, unless continued under the Texas

Sunset Act, Texas Government Code, Chapter 325.

§1.202. Pest Management Zone Administrative Committees.

(a) Purpose. Pest Management Zone Administrative Committees for the following areas are created pursuant to Texas Agriculture Code, §74.003 (Vernon Supplement 1994) to advise the department in matters relating to boll weevil control.

(1) The Lower Rio Grande Valley boll weevil pest management zone includes all lands in Cameron, Hidalgo, Starr, Willacy, Jim Hogg, Brooks, and Zapata counties and the southern part of Kenedy county encompassing that area below an east-west line through Katherine and Armstrong, Texas.

(2) The Lower Coastal Bend and South Texas boll weevil pest management zone, Area 1, includes all lands in Aransas, Duval, Jim Wells, Kleberg, Nueces, San Patricio, and Webb counties, and South and East of Highway 59 in Bee and Live Oak counties. Area 2 of this zone includes all lands in Calhoun, Dimmit, Goliad, LaSalle, McMullen, Refugio, and Victoria counties and north and west of Highway 59 in Bee and Live Oak counties. One committee consisting of cotton producers from each county in Area 1 and Area 2 will advise the department in matters relating to boll weevil control.

(3) The Upper Coastal Bend boll weevil pest management zone, Area 1, includes all lands in Jackson and Matagorda counties and that portion of Wharton county west of the Colorado River. Area 2 of this zone includes all lands in Austin, Brazoria, and Fort Bend counties and that portion of Wharton county east of the Colorado River. One committee consisting of cotton producers from each county in Area 1 and Area 2 will advise the department in matters relating to boll weevil control.

(b) Duties. The Pest Management Zone Administrative Committees are composed of cotton producers representing each county in the zone in which cotton is pro-

duced, based on the amount of actual cotton acreage planted. The members are appointed by the commissioner after solicitation of names from recognized grower organizations in the zone. The committees meet at least twice a year, once prior to cotton stalk destruction and once mid-year before planting. The committees provide integral information on local weather and growing patterns and conditions, which ultimately aid in setting stalk destruction dates for the zone to aid in controlling boll weevil populations. The committee also encourages farmers in the counties within the pest management zones to comply with pest management laws.

(c) Duration. The Pest Management Zone Administrative Committees are abolished on September 1, 1996, unless continued under the Texas Sunset Act, Texas Government Code, Chapter 325.

§1.103. Texas-Israel Exchange Fund (TIE) Board.

(a) Purpose. The Texas-Israel Exchange Fund (TIE) Board is created by Texas Agriculture Code Annotated, §45.006.

(b) Duties. The TIE Board serves as a liaison to the corresponding Israeli board to encourage and support a program of mutual cooperation for solving problems shared by both regions relating to food and fiber production. In fulfilling its purposes, the TIE Board performs the following functions:

(1) advises or ratifies the selection of grants to be administered by the department and advises the department on matters involving mutual assistance, trade, and business development between Texas and Israel;

(2) advises or ratifies department grants, in cooperation with the corresponding Israeli board, to provide funding for projects to mutually benefit both regions;

(3) consults with the corresponding Israeli board to efficiently address matters of mutual importance while avoiding duplication of effort; and

(4) directly communicates with both the department and the corresponding Israeli body as follows:

(A) cooperating closely with the corresponding Israeli body, reports to the department at regularly scheduled meetings, at least twice annually, on recommended priorities; and

(B) makes an annual accounting of all money received, awarded, and expended during the year to the legisla-

tive committees responsible for agricultural issues;

(C) Duration. Pursuant to Texas Agriculture Code, §45.006(i), the TIE Board is abolished on September 1, 2001, unless continued under the Texas Sunset Act, Texas Government Code, Chapter 325.

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 27, 1994.

TRD-9450165 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: December 5, 1994

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

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Chapter 24. Texas Agricultural Finance Authority: Farm and Ranch Finance Program

• 4 TAC §§24.1-24.16

The Board of Directors of the Texas Agricultural Finance Authority (TAFE), a public authority within the Texas Department of Agriculture, proposes new §§24.1-24.16, concerning the Farm and Ranch Finance Program. The new sections are proposed for the implementation and administration of the Farm and Ranch Finance Program pursuant to Texas Agriculture Code, Chapter 59. New §§24.1-24.5 state the authority and purpose of the program, provide definitions, describe the procedure for open records requests, and provide an address for communications with TAFE. New §§24.6-24.7 describe the Farm and Ranch Finance Program Fund and list eligible uses for loan proceeds. New §§24.8-24.10 list applicant requirements and provide procedures for filing and consideration of applications, including the contents of the application. New §24.11 states the loan criteria that will be considered by TAFE. New §24.12 states the general terms and conditions of the TAFE's financial commitment, including fees, down payment, and interest rate. New §§24.13-24.15 provide conditions for the partial release of a portion of property purchased by a borrower under the program, describe conditions constituting default of a loan, and provide for default proceedings. New §24.16 provides authority to the TAFE staff to act as necessary for the collection, settlement and enforcement of financing approved under the program.

Robert Kennedy, deputy assistant commissioner for finance and agribusiness development, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state government as a result of enforcing or administering the sections, as any costs of administering

the program will be paid out of the income generated by the program.

Mr. Kennedy also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be the provision of financial assistance to borrowers to purchase farm or ranch land, and the efficient operation of the program. There will be no effect on small or large businesses. The anticipated economic cost to individuals who are required to comply with the rules is \$50, which represents the non-refundable application fee. There may be some additional costs to individuals who are required to comply with the rules, to the extent that expenses are incurred in preparing an application to the program. However, these costs are expected to be minimal.

Comments on the proposal may be submitted to Robert Kennedy, Deputy Assistant Commissioner for Finance and Agribusiness Development, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposed amendment in the *Texas Register*.

The new sections are proposed under the authority of the Texas Agriculture Code (the Code), §59.022, which provides that TAFE may adopt rules governing various aspects of the program, the Code, §59.023, which states that TAFE has the power to adopt rules and procedures as necessary to carry out Chapter 59; and, Texas Government Code, §2001.004, which requires that state agencies adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

Texas Agriculture Code, Chapter 59, is affected by the proposed new rules.

§24.1. Authority. Through action of the Texas Legislature and the approval of the Texas voters in the passage of a Constitutional Amendment on November 5, 1985, the Texas Agricultural Finance Authority is authorized to issue general obligation bonds or other indebtedness backed by the State of Texas to provide financial assistance to eligible applicants through direct loans, loans to lenders, or purchasing participation's in loans.

§24.2. Purpose. The purpose of the Farm and Ranch Finance Program is to provide financing to eligible and creditworthy applicants for the purchase of land for agricultural use. It is not intended to compete with available credit sources nor to be a lender of last resort, but to complement and extend those available sources by sharing risk or reducing their exposure through sound and constructive credit practices.

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

Act—Farm and Ranch Finance Program, Texas Agriculture Code, Chapter 59.

Applicant—Any person who is applying for assistance under the Act and this chapter

Application—An application, including supporting documentation and schedules as required by the Authority for participation in this program.

Authority—The Texas Agricultural Finance Authority acting through its Board of Directors.

Board—The Veterans Land Board.

Borrower—An Applicant approved for a loan by the Authority Board of Directors.

Department—The Texas Department of Agriculture.

Financial statements—Financial Statements submitted by the Applicant shall include a balance sheet, income statement, cash flow statement and owners equity reconciliation, if applicable.

Fund—The Farm and Ranch Finance Program Fund.

Gross income—The total income as identified and accumulated from the income tax returns filed by the applicant for the preceding three years prior to the application with such accumulation to include income generated from wages off farm or ranch labor, the sale of farm or ranch production or accumulated inventories, or any other income generated by the Applicant and identified on the tax return filed with the Internal Revenue Service.

Interest rate—The interest rate on a Loan as determined and approved by the Authority and the lender on a case-by-case basis.

Lender—A lender shall be a state or nationally chartered commercial lending institution, savings and loan association, credit union, any member of the Farm Credit System in the state, or any institution that the Authority determines is an experienced and sophisticated lender.

Loan—A loan approved by the Authority in accordance with the requirements and criteria set forth in the Act and in this chapter.

Program—The Farm and Ranch Finance Program.

Staff—The staff of the Department performing work for the Authority.

State—The State of Texas.

§24.4. Examination of Records. Any party requesting the examination of records of the Program pursuant to the Open Records Act, Chapter 552, Texas Government Code shall indicate in writing the specific nature of the document to be viewed, and if photocopying is desired, the appropriate fee must accompany the request.

§24.5. Written Communication with the Texas Agricultural Finance Authority.

Applications and other written communications to the Authority should be addressed to the attention of the Texas Agricultural Finance Authority, in care of the Texas Department of Agriculture, P. O. Box 12847, Austin, Texas 78711.

§24.6. Farm and Ranch Finance Program Fund. The Fund shall be established in the state treasury and may consist of bond proceeds, appropriations or transfers made to the Fund, moneys received from the operation of the Program, interest paid on money in the Fund and any other moneys received from other sources for the Fund. The Board or the Authority may provide for the establishment and maintenance of separate accounts within the Fund including the Farm and Ranch Administrative Expense Fund.

§24.7. Eligible Uses of Loan Proceeds.

(a) Eligible costs. Financing received under this Program may be used to finance costs incurred in connection with the purchase of farmland or ranchland, including refinancing of an outstanding obligation, mortgage, or advance used for those purposes. The land to be purchased may have existing improvements including a home, but the cost of the construction of new improvements on the property is not an eligible cost.

(b) Ineligible costs. Use of financing received under this program for any costs other than those described in subsection (a) of this section shall be considered ineligible costs. A loan may be declared in default by the Authority if the borrower uses loan proceeds for ineligible costs.

§24.8. Applicant Requirements. An applicant may submit an application to the Authority if the applicant meets the following requirements:

(1) applicant is a United States citizen and a resident of the State of Texas;

(2) applicant provides evidence of the fact that the applicant's proposed farm or ranch operation will be located within the State;

(3) applicant provides evidence that he/she is a member of a household that has derived at least 25% of its gross income from a farm or ranch operation for the preceding three years;

(4) applicant provides evidence that his/her net worth (computed in accordance with generally accepted accounting practices) together with the applicant's spouse and their dependents is less than \$250,000;

(5) applicant intends to purchase the farmland or ranchland for use by the Applicant and family for agricultural pro-

duction as the applicant's primary occupation;

(6) applicant is worthy of credit after giving due regard to the security value of the farmland or ranchland being acquired;

(7) applicant can demonstrate the existence of or provision for financing for necessary equipment, operating costs and normal improvements, together with the ability to repay to repay all indebtedness of the Applicant and provide for a reasonable standard of living for the Applicant and family;

(8) applicant is not related to any member of the Authority, the Board or the commissioner, the Deputy Commissioner, or any assistant commissioner of the Texas Department of Agriculture; and

(9) applicant will agree to provide the lender and Authority annual reports of actual income and expense for the duration of the Loan.

§24.9. Filing Requirements and Consideration of Application.

(a) Application forms. An applicant seeking a loan from the Authority may use the application forms provided by either the Authority or the local participating lender. Applications must include the information necessary to identify eligibility for the program.

(b) Submission of application. Applicants may be required to work with a lender to complete application documents before submission to the Authority. Staff will be available prior to submission of the application to assist applicants and lenders in determining program eligibility.

(c) Staff review. Staff will review the application for completeness and will notify the applicant and/or the lender of any additional information required. When all required information has been received, staff will conduct a credit review, evaluate the technical and market feasibility of the operation and examine its benefits for Texas agriculture and economic growth in the State.

(d) Authority board review. Staff will submit a credit memorandum to the Authority Board of Directors for each application received by the program. The Authority Board of Directors will approve or deny each application by a majority vote of a quorum of members. The Authority Board of Directors may conditionally approve the application by imposing additional requirements.

(e) Notification of approval. Upon approval or conditional approval of the application the Authority will instruct staff to notify the applicant and the lender in writ-

ing identifying the terms and conditions of the loan. The Authority may set certain time limits regarding both the acceptance of a loan commitment and the closing of a loan by the applicant but in no event shall the time periods following notification exceed 30 days for acceptance and 90 days for closing unless approved in writing by the staff. The lender and/or the staff will prepare the written agreements and documents necessary to close the loan in accordance with the terms and conditions set forth in the notice of conditional approval. The Authority will send the lender and the applicant final notice of approval after review of the closing documents. The lender will disburse the loan according to the terms and conditions of the note and loan agreement.

(f) Denial of application. If the application is denied by the Authority, the Authority will instruct staff to notify the applicant and lender in writing identifying the reasons for denial. Any applicant denied may reapply to the program without payment of an additional application fee.

(g) Providing false information. An applicant who knowingly provides false information in an application shall be disqualified from obtaining a loan under the program and shall be liable to the Authority and the department for any expense incurred by the Authority or the department as a result of the falsity. If the falsity is discovered after approval of a loan, the falsity may constitute grounds for declaration of default of the loan, and the Authority shall be entitled to exercise all its rights under the loan documents.

(h) Reporting to the Authority board. Staff shall report to the Authority Board of Directors at each board meeting the status of loans and current financial commitments of the Authority under the program.

§24.10. Contents of the Application.

(a) Required information. Applicants must complete an application as required by the lender assisting in origination of the loan. The application must contain adequate information to determine eligibility and creditworthiness. Such information must include but is not limited to:

- (1) the applicant's name and address;
- (2) a copy of the applicant's birth certificate or current valid driver's license;
- (3) the applicant's resume which identifies the agricultural experience of the applicant;
- (4) a completed personal history questionnaire;
- (5) two credit references and two unrelated personal references;

(6) information and/or letters of commitment regarding other funding sources, if applicable;

(7) disclosure of any and all business affiliations or family relationships of the applicant with members of the Board or Authority Board of Directors, employees of the department and the staff which could present a conflict of interest; and

(8) any other information which the applicant or the Authority decides may be useful in the determination of the applicant's eligibility and/or creditworthiness.

(b) Financial statement. Financial statements must be provided on the form and/or in the same format included in the application package. They should be typed or written in ink, dated (no more than three months old), and signed by the applicant and spouse, if applicable. Printed forms of other lending institutions will be accepted. A financial statement will be required from each person/entity who will become personally liable on the loan.

(c) Business plan. A business plan for the applicant's proposed operation including the land acquisition, must be provided. It must provide a comprehensive overview of the proposed operation including pro forma operating statements, balance sheets and sources and uses of funds for the first three years of operation and must provide sufficient cash flow for the requested financing and all other indebtedness of the applicant. The assumptions on which the plan is based must be provided, including the interest rate used.

(d) Tax returns. The applicant's most recent complete tax return including W-2 forms.

(e) Farmland or ranchland appraisal.

(1) An appraisal of the market value and income potential of the farmland or ranchland to be acquired with proceeds of the loan must be performed by a person who meets one of the following criteria:

(A) membership in the American Society of Farm Managers and Rural Appraisers and designation as an Accredited Rural Appraiser (ARA);

(B) membership in the American Society of Real Estate Appraisers and designation as Master of the Appraisal Institute (MAI);

(C) membership in the Texas Society of Farm Managers and Rural Appraisers and active involvement in performing farmland or ranchland appraisal for at least three years preceding the date of the appraisal; or

(D) staff appraiser for a Federal Land Bank Association.

(2) A letter stating the appraiser's qualifications and experience must be submitted with the appraisal.

(3) The Authority may require the applicant to obtain an additional appraisal from another appraiser when comparable sales do not reasonably reflect the value of the farmland or ranchland stated in the original appraisal.

(f) Earnest money contract or option. The seller of the farmland or ranchland to be acquired and the applicant must enter either a binding earnest money contract or a purchase option contract. The earnest money contract or purchase option contract must contain all terms and conditions agreed to by the parties thereto. The purchase option contract shall include a statement that if the option is exercised, any amounts paid for the purchase of the option will be applied to the purchase price of the farmland or ranchland.

§24.11. Criteria for Approval of a Loan.

(a) Reasonable risks. There must be reasonable assurance, in the judgment of the Authority, that the applicant has the willingness and ability to repay the loan according to its terms. In making this judgment the Authority may consider the following:

- (1) the applicant's business plan and how sound and comprehensive it is;
- (2) projected cash flow of the applicant;
- (3) commitments from other sources for funds necessary for the operation such as seasonal working capital;
- (4) collateral, guaranties and/or insurance securing the loan;
- (5) the applicant's management ability, credit history and financial condition.

(b) Eligibility and/or certification of lenders. Institutions desiring to originate and service loans as lenders and/or participate in loans as lenders must demonstrate the continuing ability to evaluate, perform and service the loan; make the necessary reports as identified in the rules of the program; and to collect the loan, if requested by the Authority, upon default. The lender must agree to exercise due diligence in the servicing, maintenance, review and evaluation of performance without regard to the existence of participation by the Authority or any other limitation of risk.

§24.12. General Terms and Conditions of Authority's Financial Commitment.

(a) The program will work in partnership with lenders who are familiar with making farmland or ranchland loans. Such partnership may include a joint funding of financing to eligible applicants in Texas. Such joint funding will be determined on a case-by-case basis but the Authority's portion will be no less than 25% of the total financing not to exceed the limitations defined in subsection (b) of this section.

(b) The total loan amount must not exceed 95% of the appraised value of the farmland or ranchland, or cost, whichever is less. Appraised value is defined as either the market data approach or the income approach, whichever is applicable.

(c) The maximum loan shall not exceed 95% of the appraised value, the purchase price of the farmland or ranchland or \$150,000, whichever is lower and may include closing costs to be paid by applicant but cannot exceed the limitations of the program.

(d) The terms of the loan will be negotiated by the applicant, lender and the authority on a case-by-case basis.

(e) Fees. A non-refundable application fee of \$50 will be required with each application presented to the Authority for consideration. In addition, an origination fee based on the term of the approved loan commitment, with respect to maturity and pricing of the loan commitment, will be charged. All fees will be the responsibility of the applicant and shall be remitted to the Authority.

(f) Down payment and maximum loan amount. A loan under this chapter may not exceed \$150,000, less the down payment required under this subsection. If the purchase price of land purchased with financial assistance under this chapter is \$150,000 or less, the minimum down payment is equal to 5.0% of the purchase price. If the purchase price exceeds \$150,000, the minimum down payment is an amount equal to the sum of 5.0% of the purchase price plus the amount equal to the difference between the purchase price and \$150,000.

(g) Interest rates on loans are subject to approval of the applicant, lender and the Authority. Interest rates approved by the Authority will be based upon rates established by the Authority from the funding sources available to the program.

(h) Security. Loans must be secured by collateral of a type, amount and value which affords reasonable assurance of repayment when considered with other criteria and must include a first lien deed of trust on the property being financed. The total outstanding amount of the loan, plus all accrued and unpaid interest, will be due and payable upon the sale of any financed property.

(i) Closing costs. All closing costs associated with the closing of an approved loan including the Authority's review of the closing documents by independent legal counsel shall be the liability of the borrower and may be paid from the total financing subject to the limitations defined in these rules.

(j) Closing of the loan. The staff may attend the verification and signing of such closing documents at the time, date and location determined by the Authority and lender. The closing documents must include all those documents which are necessary for the protection of the Authority and the lender as determined by the legal counsel.

(k) The loan will not be subject to any prepayment penalties by the lender or the Authority.

(l) Reporting requirements. The borrower shall provide annual financial statements to the lender, with comparison to the expected progress in the business plan. The lender shall submit a copy of the financial statements to the Authority. The Authority may request other reports or documentation as necessary. The lender shall report in writing any non-compliance with or default of loan covenants to the Authority within 15 days of each noted occurrence.

§24.13. Partial Release. The Authority may approve the release of a portion of the property purchased under the program from a lien (or may delegate the approval authority to the lender/servicer) under the following conditions:

(1) the Authority (and/or lender/servicer) determines that the release will not adversely affect either the borrower's operational ability or ability to continue in the program;

(2) the borrower agrees to comply with the conditions for release imposed by the Authority which may include conditions as to the amount and location of acreage to be released, and the application of any and or all of the proceeds of the sale to the loan.

(3) the remaining loan amount does not exceed 95% of the lesser of the appraisal value or the current market value of the acreage remaining after the release.

§24.14. Default by Borrower. A borrower is in default if one or more of the following conditions exists as determined by the lender and any other reasons that may be identified in the closing documents of the loan:

(1) the borrower does not pay a principal and/or interest payment within 30 days of the date due;

(2) the borrower breaches a material obligation in the note, loan agreement, or any instrument securing the loan;

(3) the borrower fails personally to maintain the farmland or ranchland in active agricultural production for longer than one year;

(4) the borrower leases any interest in the farmland or ranchland without prior written consent of the lender and the Authority;

(5) the borrower sells or conveys outright any minerals or mineral interest associated with the farmland or ranchland without prior written consent of the lender or the authority; or

(6) the borrower fails to provide the lender annual financial statements as required by these rules.

§24.15. Default Proceedings.

(a) Lender shall notify the Authority in writing within 15 days of default by borrower. Default by the borrower will be deemed to have occurred on the date of the lender's knowledge of default. Lender shall be deemed to have knowledge of a default in payment of money by a borrower on the 31st day after such payment is due. Lender shall be deemed to have knowledge of a default, other than a default in payment, on the date of the lender's actual knowledge of such default.

(b) Lender and Authority may take reasonable steps to ensure fulfillment of the loan obligation. Lender and Authority may agree to an extension of time or any amount of payment of money, or agree to extend the period during which any other default may be cured. Such extension of time must be agreed upon by lender, borrower and Authority in writing.

(c) Should lender and Authority determine that an extension of time will not cure the default, then lender must notify borrower in writing stating reasons for default and begin the foreclosure process as allowed by law.

(d) Lender shall publish all notices required for the foreclosure sale and foreclose on the property at the appropriate time.

§24.16. Administration of Financing.

(a) Except as otherwise provided by state law, by these rules or by resolution of the Veterans Land Board or Board of the Authority, the staff, with the approval of the commissioner of agriculture, the deputy assistant commissioner of agriculture or the official of the department designated by the commissioner of agriculture as being responsible for the department's agricultural finance programs, shall have the authority

to act on behalf of the Authority, without specific Authority Board approval, in regard to collection, settlement and enforcement of each and every financing approved by the Authority under this program. Such authority shall include, without limitation, the actions required to be taken by the Authority under any loan agreement, any participation agreement and any other agreement entered into by the Authority concerning a loan approved by the Authority under this program.

(b) Nothing in this section shall prevent the staff or the commissioner of agriculture, deputy commissioner, or official of the department designated by the commissioner of agriculture from submitting any matter to the Authority Board for its consideration and approval.

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 26, 1994.

TRD-9450105

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: December 5, 1994

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

• 16 TAC §3.36

The Railroad Commission of Texas proposes an amendment to §3.36, which concerns oil, gas, or geothermal resource operation in hydrogen sulfide areas. The proposed amendments are identical to those adopted on an emergency basis on October 10, 1994. The emergency rule became effective October 10, 1994 for a period of 120 days. The commission finds that there exists a peril to public safety or welfare as a result of intentional releases of hydrogen sulfide during production, transportation, and handling of hydrocarbon fluids. Intentional releases of hydrogen sulfide are not within the purview of the current rule; therefore, the safety benefits provided by contingency plans are not enjoyed by the public. The commission finds that unless the rule is amended to expressly bring intentional releases of hydrogen sulfide under the provisions of §3.36, the public will be subject to unreasonable risk of harm from

exposure to hydrogen sulfide. The proposed amendments will require that operators notify the commission and execute a contingency plan prior to an intentional release of a potentially hazardous volume of hydrogen sulfide.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the proposed rule revision will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering it.

Jamie Nielson, assistant director, Oil and Gas Section, Legal Division, has determined that for each year of the first five years the rule is in effect, the public will benefit from decreased chances of exposure to the harmful effects of hydrogen sulphide. There will be no cost of compliance to the public. The cost of compliance with the proposed rule revision for small businesses will be no more than what is required under the current rule. The cost of compliance for individuals required to comply with the proposed rule revision will be no more than what is required under the current rule.

Comments on the proposed amendment may be submitted to Jamie Nielson, Legal Division—Oil and Gas Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted by the commission 30 days after publication in the *Texas Register* and should reference Docket Number 20-0206789.

The commission proposes the amendment pursuant to Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, and 86.042, which authorize the commission to adopt rules to govern and regulate persons and their operations to prevent injury to persons and property.

The following are the codes that are affected by this rule: §3.36—Texas Natural Resources Code, §§81,051, 81.052, 85.042, 85.202, 86.041, and 86.042.

§3.36. Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas.

(a) Applicability. Each operator who conducts operations as described in paragraph (1) of this subsection shall be subject to this section and shall provide safeguards to protect the general public from the harmful effects of hydrogen sulfide. This section applies to both intentional and accidental releases of hydrogen sulfide.

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

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

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

(10) Contingency plan—A written document that shall provide an organized plan of action for alerting and protecting the public within an area of exposure prior to an intentional release, or following the accidental release of a poten-

tially hazardous volume of hydrogen sulfide.

(11)-(12) (No change.)

(c) General provisions.

(1)-(7) (No change.)

(8) Control and equipment safety provision: Operators subject to this provision shall install safety devices and maintain them in an operable condition or shall establish safety procedures designed to prevent the undetected continuing escape of hydrogen sulfide. For intentional releases the gas must be flared unless permission to vent is obtained from the commission or its delegate.

(9) Contingency plan provision.

(A) (No change.)

(B) The purpose of the contingency plan shall be to provide an organized plan of action for alerting and protecting the public prior to an intentional release, or following the accidental release of a potentially hazardous volume of hydrogen sulfide.

(C) The contingency plan shall be activated prior to an intentional release, or immediately upon the detection of an accidental release of a potentially hazardous volume of hydrogen sulfide as such volume is defined by paragraphs (7)(A)-(C) of this subsection.

(D)-(M) (No change.)

(N) The Railroad Commission District Office shall be notified if the contingency plan is activated as follows:

(i) 48 hours in advance of an intentional release;

(ii) immediately in the case of an accidental release.

(O)-(Q) (No change.)

(10)-(13) (No change.)

(14) Accident notification. Operators shall immediately notify the appropriate Railroad Commission District Office [railroad commission district office] of any accidental release of hydrogen sulfide gas of sufficient volume to present a hazard and of any hydrogen sulfide related accident. [Such notification shall be followed by a written report which shall be sent to such district office within ten days of the incident.]

(d) Reports required.

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

(3) Releases of, and accidents related to, hydrogen sulfide. The operator shall furnish a written report to the district office within ten days of any accidental release of hydrogen sulfide gas of sufficient volume to present a hazard and of any hydrogen sulfide related accident. The district office may require the operator to submit a written report within ten days of any intentional release of hydrogen sulfide.

(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 27, 1994.

TRD-9450162.

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

Earliest possible date of adoption: December 5, 1994

For further information, please call: (512) 463-6924

TITLE 22. EXAMINING BOARDS

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 329. Licensing Procedure

• 22 TAC §329.5, §329.6

The Texas State Board of Physical Therapy Examiners proposes amendments to §329.5, concerning Licensing Procedures for Foreign-Trained Applicants, and §329.6, Licensure of Persons Currently Licensed in Other States, the District of Columbia, or Territories of the United States. These amended sections will establish a process that requires credentialing agencies to formally agree to follow the board's guidelines, and defines the term equivalent program for applicants seeking licensure in Texas who already hold a valid license in another state or territory.

Nina Hurter, Acting Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect there will be no effect on state or local government as a result of enforcing the rules.

Ms. Hurter also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be consistent review and evaluation of an applicant's education credentials. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposed rule may be submitted to Gerard Swain, PT Coordinator, Texas State Board of Physical Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendments are proposed under the Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e, which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 4512e is affected by these amendments.

§329.5. Licensing Procedures for Foreign-Trained Applicants.

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

(g) Guidelines for board-approved education credentialing agencies.

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

(10) The credentialing agency must submit to the board a board-approved form, properly signed and notarized, in which it agrees to use the board's guidelines to evaluate transcripts of applicants seeking licensure in Texas.

§329.6. Licensure of Persons Currently Licensed in Other States, the District of Columbia, or Territories of the United States.

(a) Qualifications for provisional licensure.

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

(4) Determination of substantially equivalent. Determination by the board as to whether a state, the District of Columbia or a territory of the United States maintains professional standards substantially equivalent to those set forth by the Act, will be based on whether at the time the applicant was licensed in the state

(A) (No change.)

(B) An applicant for a license as a physical therapist must present evidence satisfactory to the board that the applicant has completed an accredited program of equivalent program in physical therapy education. "Equivalent program" means that the applicant shall provide official documentation from a board-approved educational credentials review agency, certifying completion of a program equivalent to a Commission on Accreditation of Physical Therapy Education accredited program and completion of a minimum of 60 academic semester credits or the equivalent from an accredited institution of higher learning. [the applicant's education credentials have been reviewed by a board-approved credentialing entity and meet Texas standards]

(C) (No change.)

(5)-(9) (No change.)

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

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

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

TRD-9450103

Nina Hurter
Acting Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: December 5, 1994

For further information, please call: (512) 443-8202

Part XIV. Texas Board of Veterinary Medical Examiners

Chapter 577. General Administrative Duties

Staff and Miscellaneous

• 22 TAC §577.15

(Editor's Note The Texas Board of Veterinary Medical Examiners proposes for permanent adoption the amended sections it adopts on an emergency basis in this issue. The text of the amended sections is in the Emergency Rules section of this issue.)

The Texas Board of Veterinary Medical Examiners proposes §577.15, concerning Fee Schedule. This amendment is necessitated by a reduction in the license renewal fee.

This section is being simultaneously adopted on an emergency basis since the renewal period commences January 1, 1995, and the Board does not meet until February 8, 1995. The rule will set out the fees charged by the Board for examinations, license renewals, open records and mailing lists and labels. It will reduce the license renewal fee by \$16.

Ron Allen, Executive Director of the Board, states this will not have an adverse effect on large or small veterinary practices in that each licensee's renewal fees will be reduced by \$16.

Mr. Allen also has determined that the amendment will have no adverse effect on state or local government in the first five-year period.

The public benefit will be reduced fees for veterinary license renewals in the State of Texas.

Comments concerning this amendment must be received by December 1, 1994, and may be addressed to Ron Allen, Executive Director, Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183, FAX: (512) 442-3443.

The amendment is proposed under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

The amendment affects the Veterinary Licensing Act, §19(a), Article 8890, which mandates that the Board, by rule, establish reasonable and necessary fees to produce sufficient revenue to cover the costs of administering the Act.

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-9450092 Ron Allen
Executive Director
Texas Board of Veterinary
Medical Examiners

Proposed date of adoption: February 8, 1995

For further information, please call: (512) 447-1183

◆ ◆ ◆
TITLE 28. INSURANCE
**Part I. Texas Department
of Insurance**
**Chapter 1. General
Administration**
**Subchapter A. Rules of Prac-
tice and Procedure**
General Procedural Provisions
• 28 TAC §1.59

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

The Texas Department of Insurance proposes the repeal of §1.59, concerning the prerequisites to adoption, repealing, or amending rules. The proposed repeal is necessary because the provisions set forth in §1.59 have been superseded and replaced with newer, more specific provisions for rulemaking in §§1.201-1.208. Provisions of §§1.201-1.208 concerning rule making procedures are designed to provide an orderly and efficient process for consideration and adoption of rules under the Government Code, Chapter 2001, Subchapter B, and under the Insurance Code, Articles 5.96 and 5.97.

D. J. Powers, general counsel and chief clerk for the department, has determined that for each year of the first five years the repeal is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the repeal. Mr. Powers also has determined that there will be no effect on local employment or the local economy.

Mr. Powers also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of administration and enforcement of the repeal is the full implementation of regulatory revisions of the Administrative Code relating to departmental rulemaking provisions. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposal in the *Texas Register* to the Office of the Chief Clerk, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. A request for public hearing on the proposed repeal should be submitted separately to the Office of the Chief Clerk

The repeal is proposed pursuant to the Insurance Code, Article 1.03A and Article 1.04C. Article 1.03A authorizes the commissioner of insurance to promulgate and adopt rules and regulations for the conduct and execution of the duties and functions of the department. Article 1.04C requires the commissioner to develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner and to speak on any issue under the jurisdiction of the commissioner.

The proposed repeal affects regulation pursuant to the following statutes: Government Code, Chapter 2001; Insurance Code, Articles 5.96 and 5.97

§1.59. Prerequisites to Adopting, Repealing, or Amending Rules.

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 31, 1994.

TRD-9450237 D. J. Powers
Chief Clerk and General
Counsel
Texas Department of
Insurance

Earliest possible date of adoption: December 5, 1994

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

◆ ◆ ◆
**TITLE 34. PUBLIC FI-
NANCE**
**Part I. Comptroller of
Public Accounts**
**Chapter 5. Funds Management
(Fiscal Affairs)**
Claims Processing-Payroll
• 34 TAC §5.47

The Comptroller of Public Accounts proposes new §5.47, concerning deductions for payments to credit unions. The new section is necessary to implement and operate the pay-

roll deduction for state employees to make payments to their share or deposit accounts at participating credit unions.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding state employee deductions for payments to credit unions. There will be no significant fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Stephanie Muller, Director, Systems Development, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Texas Civil Statutes, Article 6813g, which authorizes the comptroller to adopt rules relating to the implementation and operation of the credit union payroll deduction.

The new section implements Texas Civil Statutes, Article 6813g.

§5.47. Deductions for Payments to Credit Unions.

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

(1) Comptroller—The comptroller of public accounts for the State of Texas.

(2) Credit union—A state credit union, an out-of-state credit union, or a federal credit union.

(3) Electronic funds transfer—A payment made electronically instead of by warrant or check. The term includes a payment made through an automated clearinghouse, by bank wire, or by federal wire.

(4) Employer—A state agency that employs one or more state employees.

(5) Federal credit union—A credit union organized under the Federal Credit Union Act.

(6) Holiday—A state or national holiday as specified by the General Appropriations Act or Texas Government Code, §§662.001-662.010.

(7) Include—A term of enlargement and not of limitation or exclusive enumeration. The use of the term does not create a presumption that components not expressed are excluded.

(8) Institution of higher education—Has the meaning assigned by the Education Code, §61.003.

(9) May not—A prohibition. The term does not mean "might not" or its equivalents.

(10) Out-of-state credit union—A credit union organized under the laws of a state other than Texas if the credit union is authorized under the Texas Credit Union Act to do business in this state.

(11) Participating credit union—A credit union that the comptroller has certified according to this section.

(12) Payee identification number—The 14-digit number that the comptroller assigns to each direct recipient of a payment made by the comptroller for the State of Texas.

(13) Salary or wages—Base salary or wages, longevity pay, or hazardous duty pay.

(14) State agency—A department, commission, council, board, office, agency, or other entity of Texas state government, including an institution of higher education.

(15) State credit union—A voluntary, cooperative, nonprofit financial institution that is authorized under the Texas Credit Union Act to do business in this state for the purposes of:

(A) encouraging thrift among its members;

(B) creating a source of credit at fair and reasonable rates of interest;

(C) providing an opportunity for its members to use and control their own money to improve their economic and social condition; and

(D) conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members subject to the Texas Credit Union Act and rules adopted under that law.

(16) State employee—An employee of a Texas state agency. The term includes an elected or appointed official, a part-time employee, an hourly employee, a temporary employee, an employee who is not covered by the Position Classification Act, and a combination of the preceding. The term excludes an independent contractor and an employee of an independent contractor.

(17) USPS—The uniform state-wide payroll/personnel system.

(18) Workday—A calendar day other than Saturday, Sunday, or a holiday.

(b) Deductions.

(1) References in this section. A reference in this section to a deduction without further qualification or explanation is a reference only to a deduction from a state employee's salary or wages to make a payment to a participating credit union.

(2) Authorization of deductions.

(A) A state employee may authorize not more than three monthly deductions from the employee's salary or wages. However, a state employee may not authorize more than one monthly deduction to any particular participating credit union.

(B) A state employee may authorize a deduction only if the employee:

(i) properly completes an authorization form; and

(ii) submits the form to the participating credit union to which the deducted amounts will be paid.

(C) Neither the comptroller nor a state agency is liable or responsible for any damages or other consequences resulting from a state employee authorizing an incorrect amount of a deduction.

(D) An authorization form is not properly completed for purposes of subparagraph (B)(i) of this paragraph unless the form states the amount of administrative fees the employee completing the form must pay under this section. The amount must be stated on the form before the employee signs it.

(3) Change in the amount of a deduction.

(A) At any time, a state employee may authorize a change in the amount to be deducted from the employee's salary or wages.

(B) A state employee may authorize a change in the amount of a deduction only if the employee:

(i) properly completes an authorization form; and

(ii) submits the form to the effected participating credit union.

(C) Neither the comptroller nor a state agency is liable or responsible for any damages or other consequences resulting from a state employee changing the amount of a deduction.

(D) An authorization form is not properly completed for purposes of

subparagraph (B)(i) of this paragraph unless the form states the amount of administrative fees the employee completing the form must pay under this section. The amount must be stated on the form before the employee signs it.

(4) Sufficiency of salary or wages to support a deduction.

(A) A state employee is solely responsible for ensuring that the employee's salary or wages are sufficient to support a deduction.

(B) If a state employee's salary or wages are sufficient to support only part of a deduction, then no part of the deduction may be made. If a state employee has authorized more than one deduction and the employee's salary or wages are insufficient to support all the deductions, then none of the deductions may be made.

(C) The amount that could not be deducted from a state employee's salary or wages because of subparagraph (B) of this paragraph may not be made up by deducting the amount from subsequent payments of salary or wages to the employee.

(5) Timing of deductions.

(A) Except as provided in subparagraph (B) of this paragraph, a deduction must be made from the salary or wages that are paid on the first working day of a month.

(B) If a state employee does not receive a payment of salary or wages on the first working day of a month, then the employer of the employee may designate the payment of salary or wages from which a deduction will be made. A deduction may be made only once each month.

(6) Cancellation of deductions.

(A) A state employee may cancel a deduction at any time. A cancellation is effective only if the employee properly completes an authorization form and submits the form to the effected participating credit union or the employee's employer.

(B) This subparagraph applies only if a state employee cancels a deduction by submitting an authorization form to the employee's employer and if the employer submits monthly detail reports directly to participating credit unions.

(i) Except as provided in clause (ii) of this subparagraph, the employer shall include a copy of the form with

the next monthly detail report that the employer sends to the effected participating credit union.

(ii) If the next monthly detail report will not be sent before the tenth workday after the day on which the form becomes effective, then the employer shall mail or hand deliver the copy of the form to the credit union not later than that workday.

(C) This subparagraph applies only if a state employee cancels a deduction by submitting an authorization form to the employee's employer and if the comptroller submits monthly detail reports to participating credit unions on the employer's behalf. The employer shall mail or hand deliver a copy of the form to the credit union not later than the tenth workday after the day on which the form becomes effective.

(D) Neither the comptroller nor a state agency is liable or responsible for any damages or other consequences resulting from a state employee canceling a deduction.

(7) Interagency transfers of state employees. A state employee who transfers from one state agency to a second state agency may be treated by the second state agency as if the employee has not yet authorized any deductions.

(c) Effective dates of authorization forms.

(1) Effective date of authorization forms that request new deductions. This paragraph applies only to a state employee's authorization form that requests a new deduction. The employer of the employee may decide when the first deduction from the employee's salary or wages will occur. However, the deduction must begin not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form.

(2) Effective date of authorization forms that request changes in deductions. This paragraph applies only to a state employee's authorization form that requests a change to a deduction. The employer of the employee may decide when the change will take effect. However, the change must take effect not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form.

(3) Effective date of authorization forms that request cancellations of deductions. This paragraph applies only to a state employee's authorization form that requests the cancellation of a deduction. The employer of the employee may decide when

the cancellation will take effect. However, the cancellation must take effect not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form.

(4) Copies of authorization forms.

(A) A participating credit union is solely responsible for making a copy of an authorization form before the credit union submits the form to a state agency.

(B) A state employee is solely responsible for making a copy of an authorization form before the employee submits the form to a participating credit union or state agency.

(d) Return of authorization forms.

(1) Mandatory return. A state agency shall return an authorization form to the participating credit union or state employee that submitted the form if it:

(A) is incomplete, contains erroneous data, or is otherwise insufficient and the insufficiency makes it impossible for the agency to cancel, establish, or change the deduction according to the form; or

(B) is for an individual who is not employed by the agency.

(2) Discretionary return. A state agency may return an authorization form to the participating credit union or state employee that submitted the form if the form is a copy or facsimile.

(e) Requirements for the content and format of authorization forms.

(1) Prohibition against distributing or providing authorization forms. A participating credit union may not distribute or provide an authorization form to a state employee until the credit union has received the comptroller's written approval of the form.

(2) Requirement to produce authorization forms. As a condition for retaining its certification, a participating credit union must produce an authorization form that complies with the comptroller's requirements and this section. The credit union must produce the form within a reasonable time after receiving its certification from the comptroller.

(3) Restrictions on approval of authorization forms by the comptroller. The comptroller may not approve the authorization form of a participating credit union unless:

(A) the form is at least 8 1/2 inches wide;

(B) the form is at least 11 inches long;

(C) the form has a blank space for insertion of the amount of administrative fees the employee completing the form must pay under this section; and

(D) the form complies with the comptroller's other requirements for format and substance.

(4) Revisions of authorization forms. A participating credit union shall revise an authorization form upon request from the comptroller. The credit union may not distribute or otherwise make available a revised form to a state employee until the credit union has received the comptroller's written approval of the form.

(f) Requirements for certifying and decertifying credit unions.

(1) Request for certification. The comptroller may not certify a credit union unless the comptroller receives a written request for certification from an individual who is authorized by the credit union to make the request.

(2) Requirements for requests for certification. The comptroller may not certify a credit union unless its request for certification includes:

(A) the credit union's complete name;

(B) the street address of the credit union's main branch;

(C) the mailing address of the credit union's main branch, if different from the street address;

(D) the full name, title, telephone number, facsimile telephone number, and mailing address of the credit union's primary contact;

(E) the credit union's payee identification number; and

(F) the other information that the comptroller deems necessary.

(3) Electronic funds transfers. The comptroller may not certify a credit union unless:

(A) it submits to the comptroller a request for deducted amounts to be

paid by the comptroller through electronic funds transfers under rules and procedures adopted by the comptroller;

(B) it submits to each institution of higher education that will be paying deducted amounts directly to the credit union a request for those amounts to be paid through electronic funds transfers; and

(C) all those requests are approved.

(4) Notifications.

(A) The comptroller shall mail a notice to a credit union about the comptroller's approval or disapproval of the credit union's request for certification. The notice must be mailed not later than the 30th day after the comptroller receives the request if the request is complete in all respects.

(B) The comptroller shall maintain a list of participating credit unions. The comptroller shall periodically circulate the list to all state agencies and furnish a copy of the list to a state agency upon request.

(5) Effective date of certification.

(A) General effective date. Except as provided in subparagraph (B) of this paragraph, the first deduction to a participating credit union may be made from salary or wages paid on the first workday of the second month following the month in which the comptroller certifies the credit union.

(B) Exception. No deduction to a participating credit union may be made from salary or wages paid before February 1, 1995.

(6) Termination of certification.

(A) A participating credit union may terminate its participation in the deduction program authorized by this section only by terminating its certification.

(B) A participating credit union may terminate its certification by providing written notice of termination to the comptroller. However, the credit union may not provide that notice before the credit union has provided written notice of termination to each state employee from whose salary or wages a deduction to the credit union is occurring.

(C) A participating credit union's termination of its certification is effective beginning with the salary or wages

paid on the first workday of the third month following the month in which the comptroller receives the credit union's proper notice of termination.

(g) Payments of deducted amounts.

(1) Payments by the comptroller through electronic funds transfers.

(A) If feasible, the comptroller shall pay deducted amounts to a participating credit union by electronic funds transfer.

(B) If the comptroller pays deducted amounts to a participating credit union by electronic funds transfer, then the comptroller may:

(i) make one transfer to the credit union and require it to distribute the transferred funds to state employees' accounts according to subsection (h) of this section; or

(ii) make one transfer to the credit union account of each state employee.

(2) Payments through warrants issued by the comptroller.

(A) If it is infeasible for the comptroller to pay deducted amounts to a participating credit union by electronic funds transfer, then the comptroller shall:

(i) pay the amounts by warrant;

(ii) make the warrant payable to the credit union;

(iii) require the credit union to distribute the deducted amounts to state employees' accounts according to subsection (h) of this section; and

(iv) make the warrant available for pick up by the state agency whose employees' deducted amounts are being paid by the warrant.

(B) A state agency shall hand deliver or use an overnight delivery service to deliver a warrant picked up under subparagraph (A) of this paragraph to the payee of the warrant.

(i) If the warrant relates to salary or wages that are paid on the first workday of a month, then the agency shall:

(I) release the warrant to an overnight delivery service not later than the second workday of the month for delivery to the payee of the warrant; or

(II) hand deliver the warrant to the payee of the warrant not later than the third workday of the month.

(ii) If the warrant relates to salary or wages that are paid on a day other than the first workday of a month, then the agency shall:

(I) release the warrant to an overnight delivery service not later than the second workday after the agency receives the warrant for delivery to the payee of the warrant; or

(II) hand deliver the warrant to the payee of the warrant not later than the third workday after the agency receives the warrant.

(3) Payments by institutions of higher education.

(A) This paragraph applies only to deductions from salaries or wages that the comptroller does not pay directly to state employees of institutions of higher education.

(B) If feasible, an institution of higher education shall pay deducted amounts to a participating credit union by electronic funds transfer.

(C) If an institution of higher education pays deducted amounts to a participating credit union by electronic funds transfer, then the institution may:

(i) make one transfer to the credit union and require it to distribute the transferred funds to state employees' accounts according to subsection (h) of this section; or

(ii) make one transfer to the credit union account of each state employee.

(D) If it is infeasible for an institution of higher education to pay deducted amounts to a participating credit union by electronic funds transfer, then the institution shall:

(i) pay the amounts by check;

(ii) make the check payable to the credit union; and

(iii) require the credit union to distribute the deducted amounts to state employees' accounts according to subsection (h) of this section.

(E) An institution of higher education shall hand deliver or use an overnight delivery service to deliver a check issued under subparagraph (D) of this paragraph to the payee of the check.

(i) If the check relates to salary or wages that are paid on the first

workday of a month, then the institution shall:

(I) release the check to an overnight delivery service not later than the second workday of the month for delivery to the payee of the check; or

(II) hand deliver the check to the payee of the check not later than the third workday of the month.

(ii) If the check relates to salary or wages that are paid on a day other than the first workday of a month, then the institution shall:

(I) release the check to an overnight delivery service not later than the second workday after the date printed on the check for delivery to the payee of the check; or

(II) hand deliver the check to the payee of the check not later than the third workday after the date printed on the check.

(h) Distributions of deducted amounts.

(1) Applicability of this subsection. This subsection applies to deducted amounts only if they are paid to a participating credit union under subsection (g)(1)(B)(i), (2), (3)(C)(i), or (3)(D) of this section.

(2) Requirement. A participating credit union shall distribute the amount deducted from a state employee's salary or wages to the proper account of the employee at the credit union.

(3) Deadline for distributions.

(A) This subparagraph applies only if a participating credit union receives a payment of deducted amounts through an electronic funds transfer. The credit union shall distribute them according to paragraph (2) of this subsection not later than the first workday after the credit union receives the detail report for the deducted amounts.

(B) This subparagraph applies only if a participating credit union receives a payment of deducted amounts through a warrant or check. The credit union shall distribute them according to paragraph (2) of this subsection not later than the first workday after the credit union receives the warrant or check.

(4) Distribution of interest earned. This paragraph applies only to the interest that accrues while an employee's deducted amounts are in a credit union account awaiting distribution to the employ-

ee's account at the credit union. The interest shall be paid to the employee's account unless the credit union determines the payment would violate federal or state law or an agreement between the credit union and the employee.

(i) Charging administrative fees to cover costs incurred to make deductions.

(1) Requirement.

(A) If a state employee's salary or wages are paid through a warrant issued or an electronic funds transfer initiated by the comptroller, then the employee from whose salary or wages a deduction is made shall pay an administrative fee to cover the cost of making the deduction.

(B) If a state employee's salary or wages are paid through a check issued or an electronic funds transfer initiated by an institution of higher education and the institution's payroll costs are reimbursed from the state treasury, then the institution may determine whether the employee must pay an administrative fee to cover the cost of making the deduction

(C) An administrative fee shall be paid through payroll deduction.

(2) Determination by the comptroller of the amount of the fee.

(A) The comptroller shall determine the amount of the administrative fee paid by a state employee covered by paragraph (1)(A) of this subsection.

(B) The comptroller shall periodically recalculate the fee to ensure that the amount of the fee equals the cost of making the deduction. The comptroller shall notify each state agency and participating credit union whenever the comptroller calculates or recalculates the fee.

(C) A state agency that receives a notification from the comptroller under subparagraph (B) of this paragraph shall inform each agency employee who has authorized a deduction about the calculation or recalculation of the fee.

(3) Determination by an institution of higher education of the amount of the fee.

(A) An institution of higher education shall determine the amount of the administrative fee, if any, to be paid by a state employee covered by paragraph (1)(B) of this subsection.

(B) The institution shall periodically recalculate the fee to ensure that

the amount of the fee equals the cost of making the deduction. Except as otherwise provided in this subparagraph, the institution shall notify each participating credit union and employee of the institution whenever the institution calculates or recalculates the fee. The institution is not required to notify an employee who has not authorized a deduction or a participating credit union to which no employee of the institution has authorized a currently-effective deduction.

(4) Payment of the administrative fees. The total amount of administrative fees that a state agency deducts from its state employees' salary and wages shall be paid to the agency.

(j) Refunding deducted amounts to employers.

(1) Authorization of refunds. The payment of a state employee's deducted amounts to a participating credit union may be refunded to the employee's employer if:

(A) they exceed the amount that should have been paid to the credit union; or

(B) they have been withdrawn from the employee's account at the credit union according to subsection (k)(4)(C) of this section .

(2) Method for accomplishing refunds. If a refund from a participating credit union is authorized by paragraph (1) of this subsection, then the refund shall be accomplished by:

(A) the employer of the state employee whose deducted amounts are being refunded subtracting the amount of the refund from a subsequent payment of deducted amounts to the credit union; or

(B) the credit union issuing a check to the employer in the amount of the refund, if authorized by paragraph (3) of this subsection.

(3) Paying refunds by check. A participating credit union may issue a check to an employer only if it submits to the credit union a written request for the refund to be made by check.

(4) Deadline for paying refunds by check. If a participating credit union is authorized by paragraph (3) of this subsection to make a refund to an employer by check, then the credit union shall ensure that the employer receives the check not later than the 30th calendar day after the date on which the credit union receives the agency's written request for the refund.

(k) Responsibilities of participating credit unions.

(1) Notification to the comptroller. A participating credit union shall notify the comptroller in writing immediately after a change occurs to:

(A) the credit union's name;

(B) the street address of the credit union's main branch;

(C) the mailing address of the credit union's main branch, if different from the street address;

(D) the full name, title, telephone number, facsimile telephone number, or mailing address of the credit union's primary contact; or

(E) the credit union's routing number or bank account number.

(2) Primary contact. The individual that a credit union designates as its primary contact must represent the credit union for the purposes of:

(A) communicating with the comptroller, including receiving and responding to correspondence from the comptroller;

(B) disseminating information, including information about the requirements of this section, to representatives of the credit union; and

(C) communicating with state agencies about payment reconciliation and refunds.

(3) Payment reconciliation and discrepancies.

(A) A participating credit union shall reconcile the detail report provided by a state agency under subsection (1) of this section with the deducted amounts paid to the credit union on behalf of or by the agency under subsection (g) of this section.

(B) A participating credit union shall report all discrepancies between a detail report provided by a state agency and the actual amount of deductions received from or on behalf of the agency. The credit union shall provide its report to the state agency that submitted or on whose behalf the comptroller submitted the detail report. The credit union must ensure that its report is received not later than the 60th calendar day after the day on which the detail report was mailed, hand delivered, or released, whichever applies. If the 60th calendar day is not a workday, then the first

workday following the 60th calendar day is the deadline.

(4) Canceled payments of salary or wages.

(A) If a state agency notifies a credit union that the agency has canceled a payment of salary or wages to a state employee and if the credit union receives the notice before it distributes deducted amounts to the employee's account, then the credit union may not make the distribution.

(B) If a credit union's distribution of deducted amounts is prohibited by subparagraph (A) of this paragraph, then the state agency that paid them to the credit union shall obtain a refund of them according to subsection (j)(2)(A) or (B) of this section.

(C) If a state agency notifies a credit union that the agency has canceled a payment of salary or wages to a state employee and if the credit union receives the notice after it distributes deducted amounts to the employee's account, then the credit union shall withdraw the amounts from the account unless:

(i) the credit union determines the withdrawal would violate federal or state law; or

(ii) the amount of funds in the account is insufficient for withdrawal of the full amount.

(5) Return of magnetic tapes and cartridges. A participating credit union shall return a magnetic tape or cartridge to a state agency not later than the 30th day after the credit union received the tape or cartridge from the agency.

(6) Submission of detail reports. A participating credit union that wants a monthly or additional detail report to be submitted to an entity other than the credit union must notify the comptroller in writing. A state agency is not required to submit the report to the entity before the agency has received notification from the comptroller that the report must be submitted to the entity.

(1) Responsibilities of state agencies.

(1) Authorization forms. A state agency:

(A) may accept an authorization form only if it complies with this section; and

(B) is not required to accept an authorization form that contains an obvi-

ous alteration without the state employee's written consent to the alteration.

(2) Monthly detail reports to participating credit unions.

(A) A state agency shall submit a monthly detail report to each participating credit union that received or should have received a payment of amounts deducted from the salary or wages of at least one of the agency's state employees. If the participating credit union has notified the comptroller in writing that the monthly detail reports should be submitted to an entity other than the credit union, then the reports shall be submitted to that entity.

(B) If a state agency uses USPS and submits its monthly detail reports electronically, then the comptroller shall submit those reports on behalf of the agency. The requirements of this subsection that apply to the submission of those reports by state agencies also apply to the comptroller's submission of the reports.

(C) A monthly detail report may cover only the deductions from salary or wages that are paid on the first workday of the month. Deducted amounts that were paid by electronic funds transfer directly to the credit union accounts of state employees may not be included in the report.

(D) A state agency shall hand deliver or use an overnight delivery service to deliver a monthly detail report.

(i) If the agency hand delivers the report, then the agency shall ensure that the report is received not later than the third workday of the month.

(ii) If the agency uses an overnight delivery service, then the agency shall release the report to the service not later than the second workday of the month.

(E) A monthly detail report to a participating credit union for a particular month must include:

(i) the name and social security number of each state employee from whose salary or wages deducted amounts were paid to the credit union for the month; and

(ii) the amount of deductions from each state employee's salary or wages that were paid to the credit union for the month.

(F) A state agency shall submit its monthly detail reports in the format required by the comptroller.

(G) A state agency shall notify a participating credit union about the agency's cancellation of a payment of salary or wages to a state employee. The notification must be by facsimile and must be provided not later than the day the agency processes the cancellation. This subparagraph applies only if:

(i) the payment is canceled after the agency has hand delivered to the credit union or released to an overnight delivery service a monthly detail report; and

(ii) the deductions covered by the report include deductions from the canceled payment of salary or wages.

(3) Additional detail reports to participating credit unions.

(A) A state agency shall submit an additional detail report to each participating credit union that received or should have received a payment of amounts deducted from the salary or wages of at least one of the agency's state employees. If the participating credit union has notified the comptroller in writing that the additional detail reports should be submitted to an entity other than the credit union, then the reports shall be submitted to that entity.

(B) If a state agency uses USPS and submits its additional detail reports electronically, then the comptroller shall submit those reports on behalf of the agency. The requirements of this subsection that apply to the submission of those reports by state agencies also apply to the comptroller's submission of the reports

(C) An additional detail report may cover only the deductions from salary or wages that are paid on a day other than the first workday of the month. Deducted amounts that were paid by electronic funds transfer directly to the credit union accounts of state employees may not be included in the report.

(D) This subparagraph applies only to an additional detail report that covers deducted amounts which are paid by electronic funds transfer to a participating credit union. A state agency shall hand deliver or use an overnight delivery service to deliver the report.

(i) If the agency hand delivers the report, then the agency shall ensure that the report is received not later than the third workday after the deducted amounts are paid to the credit union.

(ii) If the agency uses an overnight delivery service, then the agency shall release the report to the service not

later than the second workday after the deducted amounts are paid to the credit union.

(E) This subparagraph applies only to an additional detail report that covers deducted amounts which are paid by warrant or check to a participating credit union. The report shall accompany the warrant or check when it is mailed or otherwise delivered to the credit union.

(F) An additional detail report to a participating credit union for a particular month must include:

(i) the name and social security number of each state employee from whose salary or wages deducted amounts were paid to the credit union for the month; and

(ii) the amount of deductions from each state employee's salary or wages that were paid to the credit union for the month.

(G) A state agency shall submit its additional detail reports in the format required by the comptroller.

(H) A state agency shall notify a participating credit union about the agency's cancellation of a payment of salary or wages to a state employee. The notification must be by facsimile and must be provided not later than the day the agency processes the cancellation. This subparagraph applies only if:

(i) the payment is canceled after the agency has hand delivered to the credit union or released to an overnight delivery service an additional detail report; and

(ii) the deductions covered by the report include deductions from the canceled payment of salary or wages.

(4) Payment discrepancies. A state agency that receives a report of discrepancies from a participating credit union shall:

(A) investigate the discrepancies; and

(B) notify the credit union of the action to be taken to eliminate the discrepancies

(m) Responsibilities of the comptroller. The comptroller shall notify all state agencies whenever the comptroller receives written notification from a participating credit union that monthly or additional detail reports should be submitted to an entity other than the credit union.

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 31, 1994.

TRD-8450223

Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Earliest possible date of adoption: December 5, 1994

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

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS**

**Part III. Texas Youth
Commission**

**Chapter 85. Admission and
Placement**

Commitment and Reception

• 37 TAC §§85.3, 85.5, 85.7

The Texas Youth Commission (TYC) proposes amendments to §§85.3, 85.5, and 85.7, concerning admission process, assessment/evaluation, and mentally retarded youth. The amendments will allow the new diagnostic intake unit at Evins Regional Juvenile Center in Edinburg, Texas to perform intake functions for youth served by South Region with the exception of all females and youth under a determinate sentence and youth likely to be classified as Type A violent offenders.

John Franks, Director of Fiscal Affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections

Mr. Franks also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more efficient use of the TYC facility in South Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendments are proposed under the Human Resources Code, §61.071, which provides the Texas Youth Commission with the authority to examine and make a study of each child committed to it as soon as possible after commitment.

The proposed rules implement the Human Resource Code, §61.034.

§85.3. Admission Process.

(a) Policy. Intake activities, including receipt of the youth from the committing county and orienting the youth to new surroundings, are performed by Texas Youth Commission (TYC) diagnostic intake units, statewide reception center (SRC) at Brownwood and Evins Regional Juvenile Center (ERJC) diagnostic unit at Edinburg.

(b) Rules.

(1) The diagnostic intake units serve different youth and counties and they operate on different schedules.

(A) The ERJC Diagnostic Unit in Edinburg, Texas receives youth each Tuesday between the hours of 8:00 a.m. and 5:00 p.m. The unit does not serve females or male youth who are under a determinate sentence or are likely to be classified as type A violent offenders. Such youth are served by the statewide reception center. The ERJC unit serves the following counties: Aransas, Jim Hogg, Nueces, Zapata, Bee, Jim Wells, Refugio, Brooks, Kenedy, San Patricio, Cameron, Kleberg, Starr, Duval, Live Oak, Webb, Hidalgo, McMullen, Willacy.

(B)(1) The statewide reception center in Brownwood, Texas receives youth committed to TYC five days per week, between 8:00 a.m. and 5:00 p.m. Youth may be received after 5:00 p.m. only if prior arrangements are made. The reception center serves all counties not served by the ERJC unit, all females, all sentenced offenders, and all youth likely to be classified as type A violent offenders.

(2) Youth are allowed to have a limited number of personal possessions while at the diagnostic units. [reception center.] Personal items beyond basic necessities are inventoried and returned to the county transporter. The transporter is asked to sign a receipt for items returned to his care. Items a youth is allowed to keep are inventoried and a receipt issued to the transporter.

(3) (No change.)

(4) The statewide reception center assigns each youth [is assigned] an official TYC registration number.

(5)-(8) (No change.)

(9) In addition to assessment and placement activities, counseling is provided at both sites. Academic education is provided at the statewide reception center. [In addition to assessment and placement activities, the statewide reception center provides a program including recreation, education and counseling.]

(10) Intake [Reception] staff identify the home parole officer according to the agency assignment system based on zipcode area and county. The staff forward to the home parole officer, within five working days of admission, the following:

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

(11) Reception staff or regional transporters transport youth to their initial placements and notify the families, the region parole officer, committing court, prosecuting attorney, chief probation officer and others as needed of the placement location.

§85.5. Assessment/Evaluation.

(a) Policy. The Texas Youth Commission (TYC) youth assessment process includes summarizing admission information, conducting diagnostic evaluations, identifying classification, and developing an initial placement category recommendation by the classification panel at the statewide reception center or at Evins Regional Juvenile Center. The youth assessment process is completed within two weeks of receipt of the youth [by TYC] at statewide reception center or within one week of receipt of youth at Evins Regional Juvenile Center Diagnostic Unit.

(b) Rules. Intake staff at the diagnostic units [statewide reception center] conduct the following routine evaluations:

(1)-(7) (No change.)

(8) physical and dental examinations; [(within six months prior to placement in a halfway house);]

(9)-(11) (No change.)

(12) psychiatric interview of youth sentenced or youth classified as [committed for murder, capital murder, and voluntary manslaughter] type A violent offenders [offenses] and other youth as referred by the professional staff; and

(13) assessment of behavior while at the facility [reception center].

§85.7. Mentally Retarded Youth.

(a) (No change.)

(b) Rules.

(1) (No change.)

(2) If a youth at a TYC diagnostic intake unit [the statewide reception center (SRC)] is suspected to be mentally retarded and a [an SRC] psychologist or (diagnostic supervisor at ERJC) assesses the youth as potentially mentally retarded, the psychologist or (diagnostic supervisor at ERJC) refers the youth to the committing

county for a diagnostic evaluation. Psychologists or (diagnostic supervisor at ERJC) refers a youth to the committing county if:

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

(3) While at any placement other than the TYC diagnostic units, [the SRC] TYC staff may refer a youth to a local Texas Department of Mental Health and Mental Retardation (TDMHMR) diagnostic evaluation team for an assessment.

(4) (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 27, 1994.

TRD-9450149

Steve Robinson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: December 5, 1994

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

◆ ◆ ◆
Placement Planning

• 37 TAC §85.25

The Texas Youth Commission (TYC) proposes an amendment to §85.25, regarding minimum length of stay. The amendment provides that youth who have not completed an established minimum length of stay and are reclassified as violent offenders for an assault on TYC staff and assigned a minimum length of stay, will complete the length of stay requirements consecutively, thus extending their time in the facility.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be fewer assaults on TYC staff. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.071, which provides the Texas Youth Commission with the authority to examine and make a study of each child committed to it according to rules established by the commission.

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

§85.25. Minimum Length of Stay.

- (a) (No change.)
- (b) Rules.
 - (1) Minimum Length of Stay.
 - (A)-(I) (No change.)

(J) Youth given a disciplinary assigned minimum stay complete up to six months to run consecutive to [concurrent] with any other minimum length of stay.

(2) Creditable Time.

(A) For a youth, except a sentenced offender or a youth subject to subparagraph (E) of this paragraph, whose classifying offense was found at the most recent due process hearing:

- (i)-(iii) (No change.)

(B) For a youth, except a sentenced offender or a youth subject to subparagraph (E) of this paragraph, whose classifying offense was found at an earlier due process hearing:

- (i)-(ii) (No change.)

(C)-(D) (No change.)

(E) For a youth who has not yet completed an established minimum length of stay and is reclassified as a violent offender for an assault on TYC staff:

(i) the minimum length of stay as a violent offender is counted from the date the original minimum length of stay is completed;

(ii) after the count begins, time spent on furlough or in detention or jail counts toward meeting the minimum length of stay requirement;

(iii) time spent as an escapee from a placement assigned by TYC does not count toward meeting the minimum length of stay.

- (3) (No change.)

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

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Executive Director
Texas Youth Commission

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

(II)-(III) (No change.)

Chapter 91. Discipline and Control

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

Disciplinary Practices

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

• 37 TAC §91.9, §91.11

The Texas Youth Commission (TYC) proposes amendments to §91.9 and §91.11, concerning parole revocation consequence and disciplinary transfer/assigned minimum length of stay consequences. The amendments allow youth to be assigned a minimum length of stay and be transferred to another program as consequence of assault on a TYC staff member. Currently only one or the other consequence may occur.

[(C) Specific training school placements are the responsibility of the statewide reception center. All other placements, including Evins Regional Juvenile Center, are the responsibility of centralized placement.]

John Franks, Director of Fiscal Affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

(C) [(D)] If a youth is on parole from another state and is being supervised by Texas Youth Commission (TYC) under agreement with the other state, a parole revocation hearing is held by TYC and the youth returned to the sending state, coordinated by the interstate compact administrator and general counsel.

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

(D) [(E)] If a TYC parolee commits an offense in another state, the return of such youth is coordinated by the interstate compact administrator and the general counsel. A parole revocation hearing is coordinated by and held at the request of the assigned parole officer.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

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

The proposed rules implement the Human Resource Code, §61.034.

§91.11. Disciplinary Transfer/Assigned Minimum Length of Stay Consequence.

(a) Policy. A youth may, for disciplinary reasons, be transferred to an appropriate placement and/or assigned a minimum length of stay [in the current placement] except that a youth on parole shall not be transferred into a placement of high or maximum restriction. Disciplinary transfer and assignment of a minimum length of stay are considered major consequences and require a level II hearing.

§91.9. Parole Revocation Consequence.

- (a) (No change.)
- (b) Rules.
 - (1) (No change.)
 - (2) Criteria and Classification.

- (b) Rules.
 - (1) (No change.)
 - (2) Criteria. A youth may be transferred or assigned a minimum length of stay if it is found at a level II hearing that the youth has committed:

(A) Parole is revoked when it is shown in a level I hearing that a youth has:

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

- (i)-(iii) (No change.)

(iv) following the youth's disciplinary level II hearing [transfer] and prior to the completion of a medium restriction program:

(C) escape from a high restriction facility operated by TYC staff;

(D) [(C)] any major rule violation and has previously been classified for a high risk offense;

(I) committed a major rule violation causing substantial bodily injury; or

(E) [(D)] any major rule violation causing substantial bodily injury;

(F)(E) the sum of two or more major rule violations within 30 days at the most recent permanent placement and any subsequent temporary placement; or

(G)(F) the sum of three or more major rule violations at the most recent permanent placement and any subsequent temporary placement.

(3) Disposition.

(A) If criteria are met, a youth may be:

(i) transferred to a placement of equal or more restriction than the youth's most recent permanent placement; and/or

(ii) [retained in the current placement and] assigned a minimum length of stay.

(B) (No change.)

[(C) Specific training school placements are the responsibility of the statewide reception center. All other placements, including Evins Regional Juvenile Center, are the responsibility of centralized placement.]

(4) Assigned Minimum Length of Stay.

(A) At a level II hearing, a youth's primary service worker may request that the youth be assigned a specific minimum length of stay and/or [rather than] transferred to another program.

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

(5) Completing Assigned Minimum Length of Stay.

(A)(D) A youth assigned a minimum length of stay may remain[s] in the current program or be transferred and remain in the new placement until the assigned length of stay and other program completion criteria are completed.

(B) The institutional superintendent or the regional director of the location where the youth is placed to complete the assigned minimum length of stay may reduce the assigned stay based on the youth's behavior and progress toward ICP objectives.

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 27, 1994.

TRD-9450150 Steve Robinson
Executive Director
Texas Youth Commission

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

◆ ◆ ◆
Due Process Hearings Procedures

• 37 TAC §91.33

The Texas Youth Commission (TYC) proposes an amendment to §91.33, concerning, Level II hearing procedure. The amendment allows youth to be assigned a minimum length of stay and be transferred to another program as consequence of assault on a TYC staff member. Currently only one or the other consequence may occur.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a reduction in assaults on staff. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

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

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

§91.33. *Level II Hearing Procedure.*

(a) (No change.)

(b) Rules.

(1)-(16) (No change.)

(17) After announcing his findings of fact, the hearing manager shall proceed to disposition to determine whether the action proposed by staff is appropriate under TYC policy.

(A) (No change.)

(B) A hearing manager's decision to assign a minimum length of stay (with or without a transfer) is final subject to approval by the executive director or

designee. If, subsequent to the assignment of a minimum length of stay, the executive director disapproves the assignment, neither the assignment nor a transfer may then occur.

(18)-(23) (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 27, 1994.

TRD-9450151 Steve Robinson
Executive Director
Texas Youth Commission

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XVI. Council on Sex Offender Treatment

Chapter 511. Criminal Background Check Security

• 40 TAC §§511.1-511.4

The Council on Sex Offender Treatment proposes new §§511.1-511.4, concerning the security of the criminal background check process for sex offender treatment providers. The new rules are added to provide a confidential security process for information providers submit to the Council on Sex Offender Treatment in order to conduct criminal background checks.

Eliza May, executive director, Council on Sex Offender Treatment, has determined that for the first five years the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. May also has determined that the for each year the rules are in effect the public benefit anticipated as a result of enforcing the rules will provide confidentiality and security on the information submitted by the providers. There will be no cost to small businesses. There is no anticipated economic costs to persons who are required to comply with the rules as proposed.

A public hearing is scheduled on December 9, 1994 from 10:00 a.m.-11:00 a.m. in the Central Services Building, 1711 San Jacinto, Room 402, Austin, Texas.

Comments on the proposal may be submitted to Eliza May, Council on Sex Offender Treatment, P.O. Box 12546, Austin, Texas 78701.

The new rules are proposed under Texas Civil Statutes, Article 4413(51), §13 and §15, which provide the Council on Sex Offender Treatment with the authority to establish and maintain a registry, develop procedures for

criminal background checks and destruction of criminal history records.

Texas Civil Statutes, Article 4413(51) and the Code of Criminal Procedure, Article 42.12 is cross-reference to statute.

§511.1. Access to Criminal History Records. The Council is authorized to obtain information about the conviction or deferred adjudication that relates to an applicant of the Registry and maintained by the Department of Public Safety or the Federal Bureau of Investigation. The Council may obtain criminal a history record information from any law enforcement agency. The criminal history record information received under this section is for the exclusive use of the Council and is privileged and confidential. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or with the consent of the applicant.

§511.2. Records. All other records of the Council that are not made confidential by other law are open to inspection by the public during regular office hours. The contents of the criminal background check on each provider are not public records and are confidential under lock and key security. Unless expressed in writing by the Chairperson of the Council, the Executive Director and the Fiscal Officer of the CSOT are the only staff authorized to have daily access to the criminal history records. These records will be maintained in separate files and not in the Registered Sex Offender Treatment Provider files.

§511.3. Destruction of Criminal History Records. The Council will destroy adjudication information relating to a person after the Council makes a decision on the eligibility of the applicant. The Council will destroy adjudication information 12 months after the date of the Council's decision on the applicant's eligibility. The Council will shred the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency, and the submitted applicant's finger print card.

§511.4. Frequency of Criminal Background Check. The Council will conduct a Criminal Background Check on providers every three years, beginning September 1994.

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 27, 1994.

TRD-9450141
Eliza May
Executive Director
Council on Sex Offender
Treatment

Earliest possible date of adoption: December 5, 1994

For further information, please call: (512) 463-2323

Part XIX. Texas Department of Protective and Regulatory Services

Chapter 700. Child Protective Services

Subchapter E. Intake, Investi- gation, and Assessment

- 40 TAC §§700.507, 700.509,
700.516, 700.519, 700.520

The Texas Department of Protective and Regulatory Services (TDPRS) proposes amendments to §§700.507, 700.509, 700.516, and 700.519, and proposes new §700.520, concerning intake, investigation, and assessment, in the department's child protective services chapter. The purposes of the amendments and new section are to implement an amendment to the Human Resources Code enacted by the 73rd Texas Legislature, to implement a change in the Office of Child-Care Licensing's (CCL's) *Minimum Standards for Child-Placing Agencies*, and to make other minor changes in light of TDPRS's current practices. More specifically, the new section identifies the parties subject to criminal background checks during investigations. And the amendments add a reference to such criminal background checks; simplify PSFC's policies for purchasing medical, psychological, and psychiatric examinations during investigations of child abuse or neglect; authorize alleged perpetrators to contact TDPRS's Office of the Ombudsman at the end of administrative reviews of investigation findings; and increase (from 15 hours to 20) the minimum amount of training that investigation workers must receive annually to comply with CCL's new *Minimum Standards for Child-Placing Agencies*.

Jerry Abel, chief fiscal officer, 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. Abel 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 to improve the protection of children from abuse and neglect by identifying the parties subject to criminal background checks during investigations of child abuse and neglect and by making several minor additional changes in the department's policies for investigating and assessing reports of child abuse and neglect. 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 Janet Luft at (512) 706-5442 in TDPRS's Protective Services for Families and Children department. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and

Policy Services-069, Texas Department of Protective and Regulatory Services E-295, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments and new section are proposed under the Human Resources Code, Title 2, Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendments and new section are also proposed under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect. The amendments and new sections are further proposed under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS.

The amendments and new section implement the Human Resources Code, §22.0065(a)(4), which authorizes TDPRS to obtain information from the Texas Department of Public Safety, the Federal Bureau of Investigation, and other law-enforcement agencies regarding the criminal backgrounds of people who are the subjects of reports of child abuse and neglect. The amendments also implement Texas Civil Statutes, Article 4413(503), §15, which authorize the department to enter into contracts as necessary to perform any of its powers or duties. The amendments additionally implement the Texas Family Code (TFC), §34.052(c)(d), which authorizes anyone whom TDPRS designates as an alleged perpetrator of child abuse or neglect to request an administrative review of the investigation findings. And finally, the amendments implement TFC, §34.054, which requires TDPRS to adopt voluntary standards for investigators of child abuse.

§700.507. Investigation Interviews.

- (a) The worker always must:

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

(b) Whenever necessary to complete the risk assessment or to conclude whether abuse or neglect has occurred, the worker must also:

(1) (No change.)

(2) make a home visit; [and/or]

(3) conduct a criminal background check on the alleged perpetrator and/or the parents; and/or

(4)[(3)] interview every child in the home who may have information that will help determine whether any child in the home:

(A) has been abused or neglected; or

(B) is at risk of abuse or neglect.

§700.509. Purchase of Medical, Psychological, or Psychiatric Examinations.

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

(c) If no other resources are available, the Office of Protective Services for Families and Children (PSFC) may directly [CPS may use child welfare earned funds to] purchase medical examinations of children during investigations of abuse and [or] neglect. [However, child welfare earned funds must not be used to purchase treatment or the physician's or dentist's professional time required for court testimony. Child welfare earned funds may also be used to pay for psychiatric or psychological examinations.]

(d) (No change.)

(e) As specified in §700.1714(c)(1) of this title (relating to Evaluation and Treatment Services), PSFC can also directly purchase psychiatric and psychological examinations when no other resources are available to pay for such examinations during an investigation.

§700.516. Administrative Review of Investigation Findings.

(a) Anyone whom the Texas Department of Protective and Regulatory Services' (TDPRS's) Office of Protective Services for Families and Children (PSFC) [child protective services (CPS) program] designates as an alleged perpetrator of child abuse or neglect as specified in §700.512(b)(1) of this title (relating to Conclusions About Possible Perpetrators) may request an administrative review of PSFC's [CPS's] investigation findings, unless the case involves:

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

(b) (No change.)

(c) If civil or criminal court proceedings related to the abuse or neglect that PSFC [CPS] has investigated are pending when an alleged perpetrator requests an administrative review, or if such proceedings are initiated before PSFC [CPS] begins the

review, PSFC [CPS] may postpone the review until the proceedings are completed.

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

(h) The regional director for protective services for families and children, or his designee, conducts the review. The reviewer must confirm or revise PSFC's [CPS's] original findings based on the same policies that PSFC [CPS] applied during the original investigation. Within 30 days after completing the review, the reviewer notifies the alleged perpetrator of the outcome of the review.

(i) The reviewer's notification must inform the alleged perpetrator that he can complain to TDPRS's Office of the Ombudsman if he is dissatisfied with the reviewer's decision. To this end, the notification must include the address and telephone number of the ombudsman.

(j)(i) If the reviewer revises PSFC's [CPS's] original findings or advises PSFC [CPS] to take any other actions in the case, PSFC [CPS] must:

(1) enter the revised findings into the Child Abuse and Neglect Reporting and Inquiry System (CANRIS);

(2) notify each person who was notified of the original findings about the revised findings; and

(3) take the other actions specified by the reviewer, if any.

§700.519. Voluntary Standards for Investigators of Child Abuse. To encourage professionalism and consistency in the investigation of reports of child abuse as specified in the Texas Family Code (TFC), §34.054, the Texas Department of Protective and Regulatory Services [(PRS)] recommends the voluntary standards set forth in this section to individuals who investigate reports of child abuse.

(1) As specified in TFC, §34.054, and in the Office of Child-Care Licensing's [Item 2300(1) of] *Minimum Standards for Child-Placing Agencies*, each individual responsible for investigating re-

ports of child abuse, or for conducting interviews during investigations of child abuse, must receive at least 20 [15] hours of professional training every year.

(2)-(6) (No change.)

§700.520. Criminal Background Checks.

(a) As specified in the Human Resources Code, §22.0065(a), the Texas Department of Protective and Regulatory Services "is entitled to obtain criminal history information records maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to investigate . . . a person who is the subject of a report . . . alleging that the person has abused or neglected a child."

(b) Under the authority cited in subsection (a) of this section, when necessary to complete the risk assessment during an investigation of child abuse or neglect, the Office of Protective Services for Families and Children (PSFC) can ask the Texas Department of Public Safety to check the criminal background of any of the following parties:

(1) the alleged perpetrator;

(2) the alleged victim's custodial parent(s);

(3) any absent parent involved in the investigation; and

(4) anyone else responsible for the child's care, custody, or welfare.

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 28, 1994.

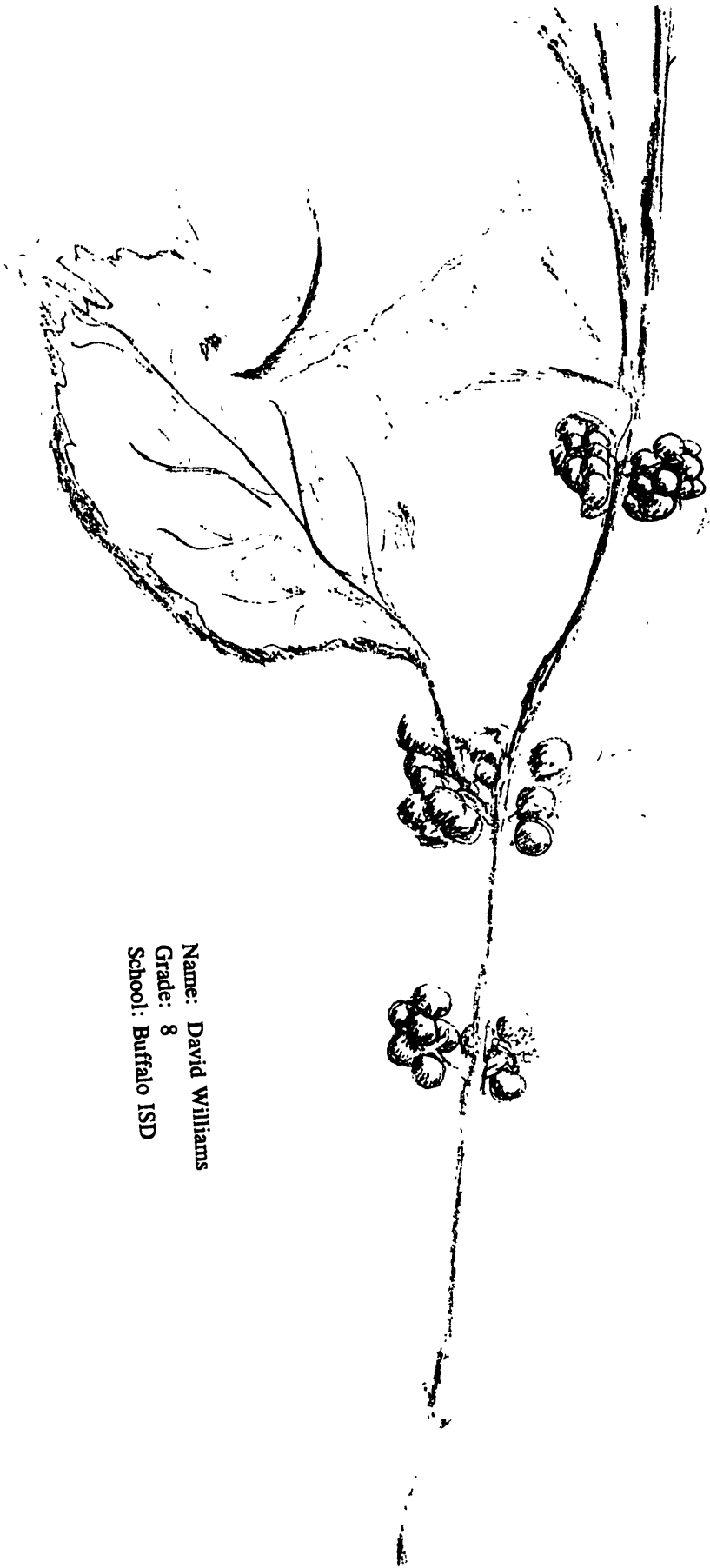
TRD-9450184

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

Proposed date of adoption: February 1, 1995

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





Name: David Williams
Grade: 8
School: Buffalo ISD

WITHDRAWN RULES

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

TITLE 37. PUBLIC SAFETY AND CORREC- TIONS

Part VI. Texas Department of Criminal Justice

Chapter 151. General Provisions

Subchapter B. Ethics

• 37 TAC §§151.11-151.16

The Texas Department of Criminal Justice has withdrawn from consideration for permanent adoption a proposed new §§151.11-151.16, which appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3902). The effective date of this withdrawal is October 27, 1994.

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

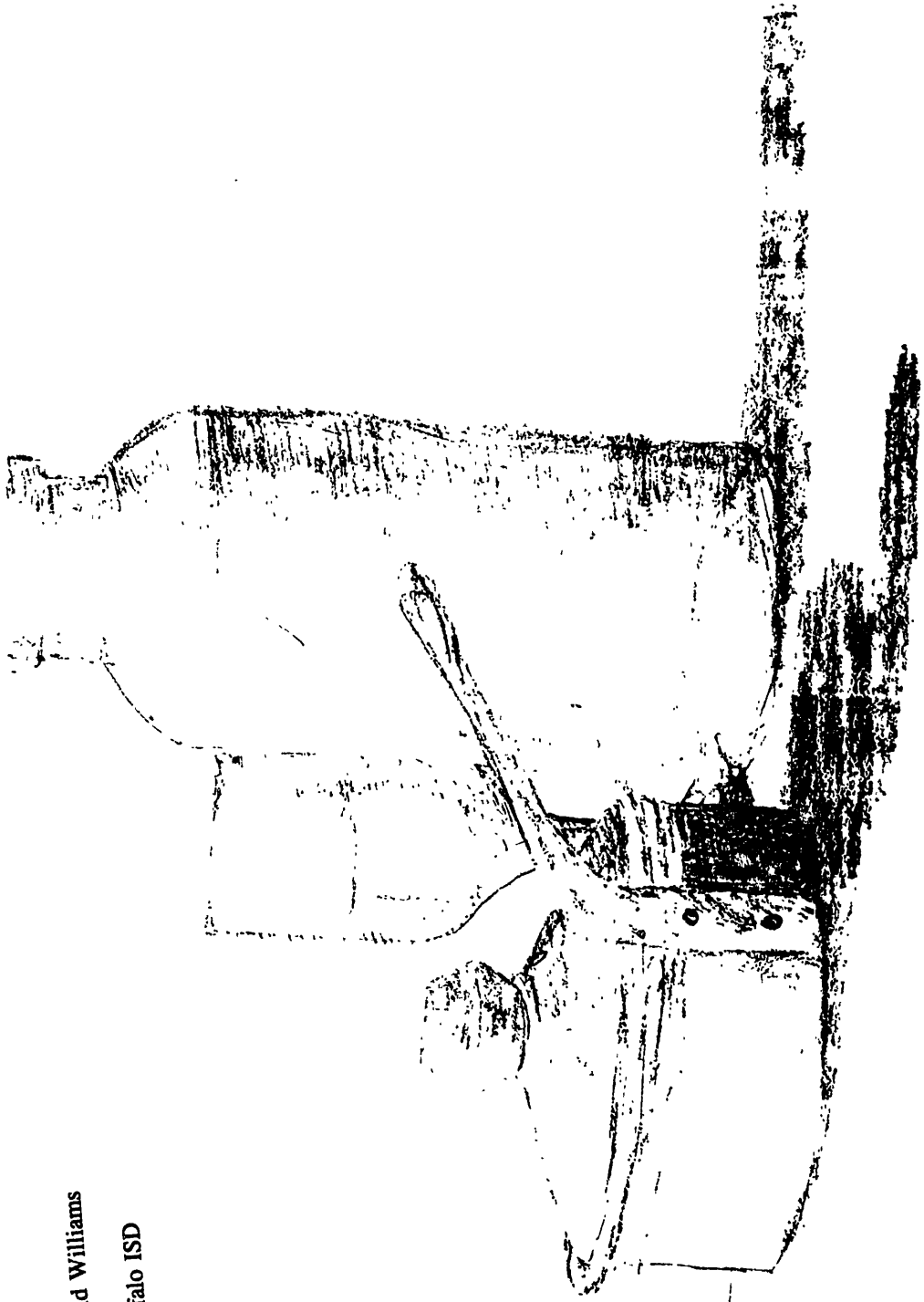
TRD-9450139 Carl Reynolds
 General Counsel
 Texas Department of
 Criminal Justice

Effective date: October 27, 1994

For further information, please call: (512)
463-9693



Name: David Williams
Grade: 8
School: Buffalo ISD



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 VII. State Office of Administrative Hearings Chapter 161. Requests for Records

• 1 TAC §161.1

The State Office of Administrative Hearings adopts new §161.1, concerning charges for copies of public records, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6691).

The justification for the new section will be to provide a framework within which the State Office of Administrative Hearings may recover the reasonable cost of providing copies of open records, consistent with the guidelines recommended by the General Services Commission which promotes statewide consistency of copy charges, and to set forth the State Office of Administrative Hearings' option to waive those charges.

No comments were received regarding adoption of the new section.

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

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

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

TRD-9450201

Shella A. Bailey
Deputy Chief Administrative
Law Judge
State Office of
Administrative Hearings

Effective date: November 18, 1994

Proposal publication date: August 26, 1994

For further information, please call: (512) 475-4993.



TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 17. Marketing and Development Division

Texas-Israel Exchange Program

• 4 TAC §§17.100-17.104

The Texas Department of Agriculture (the department) adopts new §§17.100-17.104, concerning the Texas-Israel exchange program, with changes to the proposed text as published in the August 5, 1994, issue of the *Texas Register* (19 TexReg 6085). Sections 17.101-17.104 are adopted with changes. Section 17.100 is adopted without changes and will not be republished.

The new sections are adopted to provide procedures for participation in the Texas-Israel exchange program. Section 17.101 has been changed, replacing the word "on" with the word "for" to correct a clerical or grammatical error. Section 17.102 has been changed, deleting the word "Commissioner's" to clarify that the choice of projects is not solely that of the Commissioner. Section 17.102 has also been changed to reflect that an equal amount of funds shall be contributed by Texas and Israel for each year the program is in operation. These changes are in response to comments made by representatives of the Ministry of Agriculture of the State of Israel. The department believes that these changes assist in clarifying and emphasizing the joint (Texas-Israel) nature of this program, and the fact that decisions will be made in cooperation with the appropriate representative in Israel. Section 17.103 has been changed by adding subsection (e) to clarify that only projects with a collaborative partner in Israel will be funded. In addition, the listing of recommended projects has been amended to include "all disciplines of irrigation." These changes are in response to comments by representatives of the Israeli government. The department believes that these changes clarify that projects which are funded jointly by the Israeli government and the exchange fund will be required to have participants from both Texas and Israel. The department also agreed with the suggestion that all disciplines of irrigation should be emphasized, since wise utilization of water in irrigation, as it relates to agricultural activities under semi-

arid conditions, is a major concern of both Texas and Israel. Section 17.104 has been changed, with subsection (b) being amended to clarify that all projects should be completed by the end of the fiscal year for which they were funded. The department wanted to ensure that applicants were aware of the exact fiscal year being referenced.

The new sections provide a general statement of the authority and purpose of the Texas-Israel exchange program. In addition, the new sections provide definitions, general project eligibility requirements, application requirements, procedures for soliciting and filing of applications, recommendations for projects, and certain criteria for approval of a grant application under the program.

Comments by the representative of the Israeli government were generally supportive of the program, and were offered as technical observations and comments from the perspective of our program collaborator. No further comments were received regarding adoption of these rules.

The new sections are adopted under the Texas Agriculture Code, §45.004, which provides the Texas Department of Agriculture with the authority to establish rules necessary for the implementation and administration of the Texas-Israel Exchange Program; and Texas Government Code, §2001.004, which requires that the department adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§17.101. Purpose. The TIE program is created to provide matching grant funds for joint agricultural research and development projects benefiting, and the development of trade and business relations between, Texas and Israel.

§17.102. Administration. The TIE program will be administered by a coordinator appointed by the Commissioner, who shall work in cooperation with a counterpart designated by Israel to support projects of mutual benefit to Texas and Israel. The Board will ratify the choice of projects to receive TIE funding, after consultation with corresponding designees of the Israeli government. An equal amount of monies shall be contributed by Texas and Israel for each year the program is in operation.

§17.103. Selection Criteria.

(a) Projects will be selected on a competitive basis.

(b) Preference will be given to projects that are unique in nature and avoid duplication with other projects being funded by the Texas or Israeli governments.

(c) Projects should demonstrate an innovative use of funding or resources.

(d) Projects in the areas of research, trade development, improving business relations, information exchange and mutual assistance are all eligible. Recommended topics for research and development include water conservation, water management and use, all disciplines of irrigation, soil management and conservation, innovative sources of energy for agricultural production, intensive crop production, environmental aspects of agricultural technology, and agricultural engineering and processing. The commercial exchange of agricultural products or processes may also be supported by TIE.

(e) Only projects with an active collaborative partner in Israel shall be funded.

§17.104. Application Procedure.

(a) The department shall issue an annual request for proposals, to be published in the Texas Register during each fiscal year for which Texas and Israel have dedicated an equal amount of funds for implementing the TIE program.

(b) All projects should be completed by the end of the fiscal year for which they were funded.

(c) Public or private entities which can demonstrate their commitment to the program's objectives are eligible to apply.

(d) Proposed projects must comply with the purpose and objectives set forth in the Texas Agriculture Code, Chapter 45, and these rules.

(e) The application shall include project manager information, other participating organizations' cash or in-kind contributions, project budget broken down by task, project summary, project need and background, project goals and timeline, plan for dissemination of information gained from the project, and agricultural and economic impact.

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 27, 1994.

TRD-9450164

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: November 17, 1994

Proposal publication date: August 5, 1994

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

TITLE 16. ECONOMIC
REGULATION
Part III. Texas Alcoholic
Beverage Commission
Chapter 45. Marketing
Practices

Subchapter D. Advertising and
Promotion—All Beverages

• 16 TAC §45.109

The Texas Alcoholic Beverage Commission adopts new §45.109, concerning the restocking and rotation of alcoholic beverages in retail licensed premises, with changes to the proposed text as published in the July 29, 1994, issue of the Texas Register (19 TexReg 5820).

This section was adopted to clarify statutory provisions of the Alcoholic Beverage Code, §102.19, which provides for the restocking of displays and rotation of alcoholic beverage stock in retail establishments by a representative of wholesalers or distributors and providing that the commission may publish guidelines for these procedures.

The rule sets out which license and permit holders may restock or rotate retailer's inventories and outlines what specific activities are legal and which ones are illegal services to a retail license or permit holder. The commission adopted the new rule that clarifies the providing of schematic diagrams by either wholesalers, distributors or manufacturers and clarified under what conditions a manufacturer may contact retailers on behalf of their distributors.

The Wholesale Beer Distributors of Texas spoke in favor of the rule and represented that the language for the new rule had been worked out by all of the major brewers and their wholesalers.

No comments were received against the new rule.

The new rule is adopted under Alcoholic Beverage Code, §5.31, which provides the Texas Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

This rule affects Alcoholic Beverage Code, §102.19.

§45.109. Restocking and Rotation of Alcoholic Beverages.

(a) This rule is promulgated under the Texas Alcoholic Beverage Code, §102.19, which provides for the Alcoholic Beverage Commission to set guidelines for wholesalers and distributors to rotate and stock alcoholic beverages. The purpose of this rule is to set guidelines for proper stocking and rotation of alcoholic beverages at the premises of a retail license or permit holder and to define what activities constitute an illegal service to a retailer.

(b) Other than a consumer and any licensed retailer authorized to sell alcoholic beverages, and his employees, no person shall remove, replace or stock any display of alcoholic beverages in a retail establishment except the holders of the following licenses and permits and their employees:

- (1) general distributor's license;
- (2) local distributor's license;
- (3) branch distributor's license;
- (4) general class B wholesaler's permit;
- (5) local class B wholesaler's permit;
- (6) wholesaler's permit; or
- (7) the holder of a manufacturer's license, a brewer's permit, or a wine bottler's permit specifically authorized to sell directly to a retail license or permit.

(c) The mentioned authorized personnel in subsection (b) of this section may:

- (1) place brands sold by him on a retailer's shelves, coolers, or displays in space allocated to his brands by the retailer;
- (2) move brands sold by him from a retailer's storage area and place it on a retailer's shelves, coolers, or other display location allocated to his brands by the retailer; or

(3) move a competitor's product to a "limited nature" if they have encroached upon the space allocated to his brands by the retailer. If a competitor's product is moved, it must be moved to an available location assigned to that brand by the retailer. If no space is available, the retailer must be notified of the encroaching product and shall have the responsibility of moving the product.

(d) The persons listed in subsection (b) may not:

- (1) re-set the shelves for any retailer; or
- (2) clean or mop shelves, floor space, or display areas or perform any other services incidental to a re-set of alcoholic beverages.

(e) It is not the intention of this rule that the "limited nature" movement of a competitor's product be used in any way as the basis of a cooler or shelf "re-set" for any retailer. If a retailer wishes to completely rearrange his shelf or cooler space, it must be done by his own employees.

(f) A schematic diagram or drawing may be furnished by a distributor or wholesaler to a retailer, but there are certain restrictions on the preparation and use of schematics, as follows:

(1) the distributor or wholesaler may use his own past sales to the retailer;

(2) the distributor or wholesaler may use market sales or shipment data correlated or compiled from public records or reports; or

(3) the distributor or wholesaler may use sales or purchase data on other brands which are furnished to him by the retailer; provided, however, such sales or purchase data must be fully compiled and be in a readily usable form when furnished by the retailer to the distributor or wholesaler. A distributor or wholesaler may not perform an audit or inventory of a retailer's stock in order to gather data to compile a schematic.

(g) The furnishing of a schematic is prohibited and will be considered illegal if it is tied to or is part of a commitment or promise by the distributor or wholesaler to furnish services to the retailer (such as labor to re-set a cooler box in accordance with the schematic) which is an inducement prohibited by the code. The use of a schematic as a sales tool only, to demonstrate to the retailer how he can benefit from optimum shelf displays, is not per se illegal. It only becomes illegal if it is coupled with a scheme calculated to induce a retailer by providing services not specifically authorized by the code or rule of the commission.

(h) The activities authorized in subsection (c) of this section, may only be performed during the hours when the sale or delivery of specific alcoholic beverages are legal.

(i) Nothing in this section is deemed to authorize any wholesale or manufacturing license or permit holder to perform any restocking or rotation service for a retailer other than what is specifically authorized in this section.

(j) Manufacturers' authority to provide schematic diagrams. Holders of manufacturer's licenses, nonresident manufacturer's licenses, brewer's permits, or nonresident brewer's permits, or their properly licensed agents, may, subject to the following limitations, furnish schematic diagrams in the manner and under the conditions as authorized for distributors or wholesalers, provided that:

(1) schematics may only be furnished to representatives of a retailer who holds retail licenses or permits which are located in the assigned territories of more than one distributor or wholesaler of the manufacturer's or brewer's brands;

(2) the schematics intended to be furnished by the manufacturing-level licensee or permittee to the retailer shall be furnished to the affected distributors or wholesalers of the manufacturer's or brewer's brands prior to the time the schematics are to be submitted to the retailer, together with the data and its source upon which the schematic was based, and the distributor or wholesaler shall be given a reasonable period of time to offer or suggest changes in the schematic to more accurately reflect local sales trends; and

(3) any affected distributor or wholesaler of the manufacturer's or brewer's brands shall be given reasonable notice of and be afforded the right and option to be present at any meeting with a retailer when a schematic diagram is to be furnished by a manufacturing-level licensee or permittee.

(k) A manufacturing-level permittee or licensee is prohibited from soliciting, accepting, taking or receiving an order from a retailer for the purchase, sale, and/or delivery of any malt beverage unless the manufacturing-level permittee or licensee is specifically authorized by the code to sell malt beverages to a retailer.

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 26, 1994.

TRD-9450101 Doyne Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: November 16, 1994

Proposal publication date: July 29, 1994

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

Chapter 50. Alcohol Awareness and Education

• 16 TAC §50.5

The Texas Alcoholic Beverage Commission adopted an amendment to §50.5, concerning the revocation or suspension of program approval, without changes to the proposed text as published in the September 23, 1994, issue of the *Texas Register* (19 TexReg 7494).

This amendment changes the time period that is reviewed, since the discharge of a sentence imposed as a result of a conviction of a crime, from two years to three years, and

thereby is consistent with the Alcoholic Beverage Commission rules §50.5(a)(3) and §50.7(a)(3).

This rule will result in the better education of the public concerning laws involving intoxication and the purchase of alcohol by minors which, in turn, will aid in the enforcement of the Alcoholic Beverage Code.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Alcoholic Beverage Code, §5.31, which provides the Texas Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

This amendment to the rule affects Alcoholic Beverage Code, §106.14.

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 27, 1994.

TRD-9450155 Gayle Gordon
General Counsel
Texas Alcoholic Beverage
Commission

Effective date: November 17, 1994

Proposal publication date: September 23, 1994

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

TITLE 22. EXAMINING BOARDS

Part XXVIII. Executive Council of Physical Therapy and Occupational Therapy Examiners

Chapter 651. Fees

• 22 TAC §651.1

The Executive Council of Physical Therapy and Occupational Therapy Examiners adopts new §651.1, concerning fees, without changes to the proposed text as published in the August 2, 1994, issue of the *Texas Register* (19 TexReg 5931).

This rule is being adopted to set fees for services provided by the Texas Board of Occupational Therapy Examiners.

This rule will establish fees for services provided by the Texas Board of Occupational Therapy Examiners.

No comments were received regarding adoption of this new rule.

The new section is proposed under Texas Civil Statutes, Article 4512e-1.

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

TRD-9450100

Nina Hurter
Acting Director
Executive Council of
Physical Therapy and
Occupational Therapy
Examiners

Effective date: December 1, 1994

Proposal publication date: August 2, 1994

For further information, please call: (512) 443-8202

◆ ◆ ◆
TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels Tax

• 34 TAC §3.196

The Comptroller of Public Accounts adopts an amendment to §3.196, concerning reports, due dates, bonding requirements, and qualifications for annual filers, without changes to the proposed text as published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3565).

This amendment allows the comptroller to determine the reporting requirements for a diesel fuel bonded user permit. The change will allow a diesel fuel bonded user to initially qualify to file an annual report upon approval by the comptroller.

No comments were received regarding adoption of the amendment.

This amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2

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 26, 1994

TRD 9450104

Martin Cherry
Chief, General Law
Comptroller of Public
Accounts

Effective date: November 16, 1994

Proposal publication date: May 10, 1994

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VII. Texas Commission on Law Enforcement Officer Standards and Education

Chapter 211. Administration Division

• 37 TAC §211.70

The Texas Commission on Law Enforcement Officer Standards and Education (commission) adopts the repeal of §211.70, concerning the minimum training standards for reserve law enforcement officers, without changes to the proposed text as published in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3634). The rule was amended and adopted as §219.70 to establish continuity and consistency in the rule numbering scheme.

The effective date of the repeal was changed to December 1, 1994. Section 211.70 was adopted as Final Order 94-4.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, Chapter 415, §415.010(1) which provides the commission with authority to pass rules for the administration of this Chapter; §415.010(9) which provides the commission with authority to establish minimum standards for licensing; and §415.031(a) which requires the commission to establish and maintain training programs; and under the Texas Government Code, Chapters 2001 and 2002, which taken together establish the procedures for the rule making requirements for the commission.

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 26, 1994.

TRD-9450088

D. C. Jim Dozier
Executive Director
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: December 1, 1994

Proposal publication date: May 13, 1994

For further information, please call: (512) 450-0188

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Chapter 219. Pre-licensing and Reactivation Courses, Tests, and Endorsement of Eligibility Division

• 37 TAC §219.70

The Texas Commission on Law Enforcement Officer Standards and Education (commis-

sion) adopts new §219.70, with changes to the proposed text as published in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3637). The commission is required by statute to establish and maintain training programs for officers and county jailers. Reserve law enforcement officers constitute an important and substantial part of the law enforcement community. It is the objective of the commission to provide reserves with convenient means of acquiring mandated training. The proposed rule will amend and replace commission rule §211.70, and will provide reserves an opportunity to complete the required training courses through alternative methods.

The new section was adopted with changes at the September 13, 1994, regular quarterly meeting of the commission. The changes made were to subsections (a), (b), and (f)—the effective date of September 1, 1994, was changed to December 1, 1994. Section 219.70 was adopted as Final Order 94-3.

A written comment was received concerning the sequencing of the Arrest, Search and Seizure training subject within the Reserve Training Modules. Students completing the Basic phase have the opportunity to test for a provisional license and to work in actual police incidents without the benefit of Arrest, Search and Seizure. It was recommended that the Arrest, Search and Seizure curricula should be included in the Basic Reserve Training Module, and that the commission consider adding this vital training requirement into the Basic Reserve Module.

Written comments were received recommending that the commission postpone action on this rule in order to provide administrators and individuals an opportunity to discuss with the Commissioners their concerns about the rule and how it will affect their agencies. An oral comment was received at the June 1994 commission meeting recommending that the commission postpone final adoption of this rule until all of the issues and questions have been addressed and evidence is presented to the commission. Some questions, particularly among small agencies, exist regarding the training of reserves, the amount of time it will take for these volunteers to complete their training, and the distance they will have to travel to get to a school to be trained. The commission postponed action on final adoption until the September 1994 commission meeting.

The commission convened a Public Hearing on July 18, 1994, to receive testimony concerning alternative delivery of mandated and in-service training. An ad hoc committee was appointed to study this issue. The committee will meet in October 1994 and will report their findings and recommendations to the commission during the December 1994 commission meeting.

The new section is adopted under Texas Government Code, Chapter 415, §415.010(1) which provides the commission with authority to pass rules for the administration of this chapter; §415.010(9) which provides the commission with the authority to establish minimum standards for licensing; and §415.031(a) which requires the commission to establish and maintain training programs; and

under the Texas Government Code, Chapters 2001 and 2002, which taken together establish the procedures for the rule making requirements for the commission.

§219.70. Minimum Training Standards for Reserves.

(a) The minimum training standards for permanent licensing for a reserve on and after December 1, 1994, shall be:

(1) completion of the 560-hour basic peace officer course;

(2) successful completion of the college level law enforcement courses, which are known as the criminal justice transfer curriculum with law enforcement emphasis and the Texas peace officer sequence;

(3) completion of any specifically required supplementary or remedial training; or

(4) credit for sufficient previous training which is equivalent to the current basic peace officer course, including specifically, completion of one each of the separate reserve component courses which together meet or exceed the learning objectives of the basic peace officer course.

(b) On and after December 1, 1994, the commission shall issue one of the following licenses to an applicant who meets all other reserve licensing standards, including the appropriate state examination:

(1) a permanent peace officer license to a reserve applicant who meets the full peace officer training standard and who has passed the peace officer exam; or

(2) a conditional reserve license to an applicant who has passed the reserve exam and who:

(A) under the professional training path, has received credit for at least the 228-hour basic reserve course; or

(B) under the academic path, has successfully completed at least the college level law enforcement courses which are known as the criminal justice transfer curriculum with law enforcement emphasis and the course, known as Texas peace officer skills, from the Texas peace officer sequence.

(c) A conditional reserve license expires if the holder has not received credit for the following training, or successfully completed the following courses, under each respective path, within the specified time from the conditional license date:

(1) under the professional training path:

(A) the 190-hour intermediate reserve course within two years;

(B) both the 190-hour intermediate reserve and the 142-hour advanced reserve courses within four years; and

(2) under the academic path:

(A) the Texas peace officer laws course within two years; or

(B) both the Texas peace officer laws and procedures courses within four years.

(d) In any event, a conditional reserve license will expire after four years if the holder has not passed the peace officer exam and, if it has expired after four years, such license will never be reinstated or reissued. If it has expired after two years, the commission may reinstate an expired conditional reserve license for the balance of the original four-year period, but only if the holder has been reported to the commission as having successfully completed either the 190-hour intermediate reserve course or the Texas peace officer laws course, under each respective path.

(e) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(f) However, if the previous training is out-of-state, the applicant may challenge the state license exam referred to in §211.74 of this title (relating to State Examinations) once. If challenged and passed, the license will be issued. If failed, the applicant may not be retested until successful completion of a supplementary peace officer training course in addition to any out-of-state training which may have been credited.

(g) Each reserve course, basic, intermediate, and advanced, shall cover the subjects and be taught in accordance with the current instructor guides provided by the commission.

(h) The basic reserve course shall consist of 228 hours of instruction, including the following topics and hours: Introduction and Orientation (2 hours), U.S. & Texas Constitutions and Bill of Rights (10 hours), Penal Code (40 hours), Use of Force-Law (8 hours), Use of Force-

Concepts (16 hours), Strategies of Defense-Mechanics of Arrest (40 hours), Strategies of Defense-Firearms (40 hours), Traffic Law (24 hours), Code of Criminal Procedure (16 hours), Emergency Medical Assistance (16 hours), Professionalism and Ethics (8 hours), Juvenile Issues-Texas Family Code (8 hours).

(i) The intermediate reserve course shall consist of 190 hours of instruction, including the following subjects and topics: Arrest, Search & Seizure (24 hours), Traffic (48 hours), Patrol Procedures (40 hours), Civil Process and Liability (12 hours), Interpersonal Communications/Report Writing (24 hours), Field Notetaking (4 hours), Texas Alcoholic Beverage Code (4 hours), Emergency Communications (12 hours), Family Violence and Related Assaultive Offenses (16 hours), Recognizing & Interacting with Persons with Mental Illness & Mental Retardation (6 hours)

(j) The advanced reserve course shall consist of 142 hours of instruction, including the following topics and hours: Drugs (8 hours), Multiculturalism and Human Relations (12 hours), Victims of Crime (8 hours), Crowd Management (2 hours), Hazardous Materials Awareness (6 hours), Fitness and Wellness (6 hours), Criminal Investigation (45 hours), Professional Police Driving (32 hours), History of Policing (3 hours), Criminal Justice System (2 hours), Stress Management for Peace Officers (8 hours), Problem Solving and Critical Thinking (4 hours), Professional Policing Approaches (6 hours).

(k) On and after January 1, 1989, an applicant for a conditional reserve license, who has met the minimum training standards for reserves, must pass the required state licensing examination before two years has elapsed after meeting those standards. If not, training or courses that would otherwise meet the minimum standards of this section must be supplemented by completion of the supplementary peace officer training course. The executive director may, in his discretion, determine the exact date of completion or credit in unusual or questionable cases.

(l) The effective date of this section is December 1, 1994.

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

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

TRD-9450089

D. C. Jim Dozier
Executive Director
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: December 1, 1994

Proposal publication date: May 13, 1994

For further information, please call: (512) 450-0188

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 1. Management

Advisory Committees

• 43 TAC §1.85

The Texas Department of Transportation adopts an amendment to §1.85, concerning Department Advisory Committees, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6751). Section 1.85 is amended to establish a Bicycle Advisory Committee.

Texas Civil Statutes, Article 6673h require the commission to adopt rules regarding departmental policies affecting bicycle use of the state highway system. To provide for sufficient public input and ensure effective communication with the bicycle community, and to ensure that the bicyclist's perspective will be considered in the development of departmental policies affecting bicycle use, it is necessary to amend §1.85(a) by adding paragraph (19) to establish a Bicycle Advisory Committee. The committee will provide advice to the department with respect to bicycle issues including, the design, construction and maintenance of highways.

On September 12, 1993, the department conducted a public hearing on the proposed amendment. One individual submitted oral comments on the proposed amendment, stating that she was in favor of the amendment.

The amendment is proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically Texas Civil Statutes, Article 6252-33, which provide that a state agency that is advised by an advisory committee shall adopt rules that state the purpose of the committee and describe the task of the committee and the manner in which the committee will report to the agency and Texas Civil Statutes, Article 6673h, which require the commission to adopt rules regarding departmental policies affecting bicycle use of state highway system.

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 31, 1994

TRD-9450229 Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: November 21, 1994

Proposal publication date: August 26, 1994

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

Chapter 7. Bridge Division

Railroad Grade Crossings

• 43 TAC §7.72

The Texas Department of Transportation adopts the repeal of §7.72, related to warning sign visibility at railroad grade crossings, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6752). Section 7.72 is no longer necessary due to the simultaneous adoption of new §§25.70-25.73, concerning Railroad Grade Crossings. Due to the consolidation under Chapter 25, Traffic Operations of all rules concerning warning signs and signals at railroad grade crossings, the subject matter is being reenacted in Chapter 25, Traffic Operations, as new §§25.70-25.73.

On September 6, 1993, the department conducted a public hearing on the proposed repeal.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation.

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 28, 1994.

TRD-9450210 Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: November 18, 1994

Proposal publication date: August 26, 1994

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

Chapter 9. Contract Management

Subchapter C. Contracting for Architectural and Engineering

• 43 TAC §§9.30-9.40

The Texas Department of Transportation adopts new §§9.30-9.40, concerning the contracting of architectural and engineering services, with changes to the proposed text as published in the August 12, 1994, issue of the *Texas Register* (19 TexReg 6344).

Government Code, Chapter 2254, Subchapter A, the Professional Services Procurement Act, sets forth requirements for se-

lection and contracting of architectural and engineering services. Texas Civil Statutes, Article 6674g-1 sets forth the policy of the department regarding the use of private sector professional services for preliminary and construction engineering and engineering design. General Appropriations Act, 73rd Legislature, Article V, §41, provides schedules and provisions for payment to architects and engineers.

It is necessary to permanently adopt new §§9.30-9.40 to provide for a fair and equitable process by which the department selects engineering and architectural firms and manages contracts for engineering and architectural services, and to inform potential providers and the general public of department policy and procedure.

On August 23, 1994, the department held a public hearing to receive data, comments, views, and testimony concerning the proposed new sections. The Consulting Engineers Council of Texas suggested revisions, requested clarification, or expressed opposition or approval to the proposed changes in new §§9.31, 9.33-9.39 orally and in writing. One commenter from the Austin Minority Women Alliance expressed approval, suggested revisions and requested clarification to the proposed new §§9.34-9.37 and 9.40. Another commenter from the Austin Minority Women Alliance expressed approval, or suggested revisions to §§9.35, 9.37, and 9.40. No comments were received concerning new §9.32. The comments received and the department's response are presented in the order in which they appear in the proposed rules.

Three commenters expressed approval of the department having a written consistent process to procure providers.

One commenter suggested alternate wording for the definition of "Current Dollar Volume of Contract" in §9.31. This definition provides an indicator of availability to do work. The commenter suggested adding wording that would reflect the fees remaining to be earned consider only active, authorized contracts. The department agrees to modify the definition to reflect active, authorized contracts. The definitions for "DBE/HUB Special Provision" and "Good Faith Effort" were added for clarity.

One commenter objected to the process of advertising and receiving proposals from all interested parties in §9.33 as expensive and time-consuming both for the provider to prepare and for the department to review, and suggested a pre-qualification process with a limited number of proposals solicited. Texas Civil Statutes, Article 6669c instructs the department to set and strive to meet annual goals for the awarding of state or federally funded contracts to disadvantaged business in accordance with provision of law and state policy. In order to comply with these requirements, the department developed the advertising and proposal processes in order to open the processes to all interested providers. The department will monitor the implementation and progress of these rules, and propose appropriate changes as necessary.

A commenter suggested that a provider be able to respond to the advertisement with a telephone request, in addition to the letter of

intent required in §9.33(b). In order for the department to have proper documentation for its files and for proper mail distribution, it is essential that the request be made in writing. The subsection has been clarified to allow submittal of the letter of intent by electronic facsimile.

A lobbying certification/disclosure (if federally funded) requirement has been added to §9.33(c) to comply with 49 Code of Federal Regulations Part 20. A copy of the proposed contract, with all the attachments has been added to the Request for Proposal (RFP) for information purposes.

A commenter suggested that the preproposal meetings required by §9.33(d) should be limited to the contracts that require significant explanation, and suggested that the threshold for mandatory meetings be raised to contracts with estimated fees in excess of \$500,000. The department proposed the preproposal meetings to ensure that all participants would be fully informed and provided with the information necessary to complete the contract. This opens the information process to all providers. A benefit of this rule is that it provides an avenue for smaller firms to network. The department has revised the rule to provide for a mandatory preproposal meeting for contracts with estimated fees greater than \$250,000, an increase from the original \$100,000 estimated fee.

Another commenter suggested that the size of the RFP in §9.34(a) be relative to the size of the project. The rules specify that the department will identify a maximum proposal size in the RFP.

It was suggested that §9.34(b), concerning delivery of proposals, be clarified to allow delivery services or express mail delivery services. The department agrees that this was the intent, and the subsection has been modified to clarify that the proposal is to be received by the date, time, and place specified.

In §9.35(a)(6), concerning evaluation, a commenter recommended that the word "adverse" be deleted, so that the provider is evaluated on all prior performance evaluations. The department's intent was to consider prior performance evaluations as part of the qualifications and experience. That subsection has been deleted and §9.35(a)(2) and §9.38(f) have been revised to clarify this item.

One commenter suggested that the 0-3 evaluation scale in §9.35(b) would not result in sufficient differentiation among proposals. The department agrees that there is a potential for a smaller point spread, however, the evaluation score is identifiable. The department will monitor the implementation and progress of these rules, and propose appropriate changes as necessary.

Two commenters expressed concern that §9.35 and §9.37 placed too much emphasis on work experience rather than qualifications. The department uses work experience as a means of determining qualifications, and prior similar work is considered, including experience gained while employed by another firm, similar work performed for other clients, or experience gained as a subprovider to a prime provider. The experience requirements

will be different for different contracts, depending on the complexity of the work, therefore a firm with sufficient experience in the specified work tasks would be considered qualified to perform the proposed work.

A comment was received recommending that the maximum number of firms to be interviewed in §9.36(a) be limited to five in order to reduce the expenditure of resources. Another commenter identified the interview as an expensive process that could be a challenge to HUB-owned firms. In order to determine the best qualified firm, the department needs to interview the project manager to be directly involved in performing the contract work to assure qualifications and understanding of the project. The rule has been changed to indicate that the DCRC will choose from three (except in cases when less than three providers submit a proposal) to ten providers based upon the number of proposals, qualifications, and score on the proposal evaluation scale.

Section 9.37(a)(1)(B), adding the criteria of the experience of the project manager, has been added to clarify the evaluation interview evaluation process. This information will be obtained in the interview under §9.36.

A commenter encouraged the department to give points in the evaluation for HUB involvement, both as subproviders and as primes in §9.37. Another commenter expressed concern that during the evaluation process that consideration was not given for utilization of HUBs. The department has determined that the practice of giving points could be considered a quota which the United States Supreme Court has ruled unconstitutional under *City of Richmond v. J.A. Croson Company*, 488 U.S. 469 (1989). DBE/HUB utilization is not an element of the criteria for selection under the Professional Services Procurement Act. Section 9.37(d)(4) has been added to require a provider to meet the DBE/HUB participation goal or provide written documentation that a good faith effort was conducted to attempt to meet the goal.

One commenter recommended deleting the DBE/HUB goal participation of proposed §9.37(a)(1)(D), the DBE/HUB composite utilization of proposed §9.37(b)(1) from the short list summary, and the DBE/HUB participation of proposed §9.37(b)(2)(B)(ii) from the interview evaluation section. The commenter recommended moving those requirements to the negotiation stage and requiring the provider to provide information on DBE/HUB subcontracting in §9.37(d). The department agrees that the provider shall submit with the proposal a statement of intent to meet the department's DBE/HUB goal or provide proof of a good faith effort to meet the goal during the negotiation process as amended in §9.37(d)(4). If the provider is unable to meet the goal or provide proof of good faith effort outlined in the DBE/HUB attachment to the standard contract, negotiations will cease with the provider and will be initiated with the next ranked provider.

The names of the subproviders have been added to the short list summary in §9.37(b)(1) so that the team as well as the project manager may be considered.

The work "proposal" has been added to clarify the documents that the CRC will review in §9.37(b)(2)(A). The CAT will be provided the ranking of the DCRC as part of the short list under §9.37(b)(2)(A). Because the CAT will receive this information, "ranking of the DCRC" has been added to the factors to be considered by the CAT in §9.37(b)(2)(A).

One commenter suggested consolidating the CRC and the CAT. That commenter suggested in the alternative, for clarity, to amend §9.37(b)(2)(A) to state whether the proposal and interview evaluations completed by the DCRC are forwarded to the CRC/CAT. The department believes that the CRC and the CAT should remain separate committees because each committee completes a different function, and therefore the committees will not be consolidated. Section 9.37(b)(2)(A) has been clarified to require that the CRC review the DCRC's recommendation for compliance with state and federal laws, department procedures, and policies.

The commenter also suggested that the DCRC's recommendation of the provider should bear considerable weight because the district personnel will be performing primary evaluations and supervision. Section 9.37(b)(1) and §9.37(b)(2)(B)(vi) have been clarified to include the DCRC's ranking. Consideration of the subproviders included on the team has also been added to §9.37(b)(2)(B)(i) for clarity as the CAT will be provided that information.

In §9.37, one commenter noted that the term "available personnel," is not defined. The following definition will be added to §9.31:

Available personnel—The total number of personnel employed by the provider, in all offices or branches, regardless of location or discipline.

One commenter suggested that prenegotiation audits only be performed on contracts expected to exceed \$250,000 and that §9.37(d)(1) be amended to accept independent audits performed by another federal, state or local agency. This section has been revised to clarify that the determination of the fairness and reasonableness of the contract price will include a prenegotiation audit. All audits will conform to state and federal law and rules, accepted audit procedures, and current audit office policies.

To ensure that both sides take the 35-working day limit on negotiations in §9.37(d) seriously, one commenter suggested that the 35-day negotiation period commence upon notification to the provider in writing, accompanied by the detailed scope of services. It is the intent of the department to provide the detailed scope with the RFP. The section has been revised to commence the negotiation period on the date of the notification letter issued by the DCRC to the provider.

A commenter suggested that the provision of revised §9.38(b)(1) that states that a prime must perform at least 30% of the contract work with its own work force be amended to provide that no subprovider may perform a higher percentage of the work than the prime provider. The department agrees that this was the intent, and the subsection has been

revised to clarify the item. An exception to the percentage of subcontracting allowed has been added as §9.38(a) in compliance with Texas Civil Statutes Article 601i. New §9.38(a) provides that if the subcontractor or the prime provider is to receive credit as a DBE/HUB provider then all work in the trade of the provider must be accomplished by employees of that provider.

In proposed §9.38(a)(2)(A), a commenter recommended the deletion of the parenthetical phrase providing that DBE/HUB prime providers are not required to subcontract with DBE/HUB subcontractors. The provision for the DBE/HUB prime provider to subcontract with DBE/HUB subcontractors is no longer a requirement in federally funded contracts. The parenthetical has been deleted, and the section modified to clarify that the DBE/HUB goal may be satisfied by the prime.

Clarification was requested of proposed §9.38(a)(4). A commenter questioned whether the statement regarding prohibition of multipliers includes applying a multiplier to the subcontracts to cover insurance and administration of the subcontract. If so, the commenter disagrees. The department has always prohibited the use of multipliers (i.e. supplies plus 10%) by prime providers and subcontractors. Non-labor direct contract cost (except subcontract cost) such as travel, reproduction, supplies, can be included in the computation of the profit amount (fixed fee). All other multipliers are prohibited. All costs incurred by the prime provider associated with the management and administration of the subcontract is billable as either as direct or indirect cost. Since all direct and indirect costs of the prime provider (exclusive of subcontract cost) can be considered in the negotiation of the fixed fee amount, the use of a multiplier (subcontract cost plus 10%) is prohibited.

One commenter recommended that the department delete the requirement of retainage from revised §9.38(b)(5), and the department's policies. It is the commenter's position that the law regarding retainage is only applicable to contractors or vendors who provide labor and materials for construction of highway improvements, not to providers of professional services. The department disagrees with this interpretation and believes applicable law not only authorizes, but mandates retainage in a highway design contract entered into by the department. Texas Civil Statutes, Article 6674m has not related to materialmen or laborers since its amendment in 1963 by the 58th Legislature. The statute had originally been enacted in 1925 to require withholding of 10% of payment until the work was completed and accepted and until payment to laborers and materialmen had been made. The 1963 amendment dropped the payment requirement. Thus cases cited by the commenter are not dispositive of the issue. As to the type of contracts covered by the retainage requirement, Article 6674m refers to "said contracts" which term referred to highway improvement contracts and must be read in the context of the original act in which it appeared. The 1925 legislation, Senate Bill Number 74, described, *inter alia*, the new step by step process for entering highway improvement contracts by the department.

Those steps were set out in sequential sections of the bill, and were preceded by a definitions section. Most salient was the definition of "improvement" which includes construction, reconstruction or maintenance and the plans and surveys involved. Subsequent codification of the bill assigned a separate statute number to each of its sections, surviving today in Article 6674a, et seq., with the retainage language of §13 becoming Article 6674m. Later enactment of the Professional Services Act, formerly Texas Civil Statutes, Article 664-4, now Government Code §§2254.001-2254.005 altered the process only to the extent of forbidding the award of an engineering design contract solely on the basis of competitive bids. Design contracts, i.e., to prepare plans for construction or reconstruction of the State Highway System, as well as construction and maintenance contracts continue to be contracts "for the improvement of any highway constituting a part of the State Highway System" within the context of Article 6674m and the clear and unambiguous letter and intent of its enacting legislation. The commenter also cites the department rule in 43 TAC §3.1 as proof that only construction contracts are covered. The rule in question only relates to a policy for approving the establishment of interest bearing accounts for the amounts retained from a construction contract. The department may, of course, promulgate similar policies for interest bearing accounts for other retainages.

A commenter on proposed §9.38(e) suggested that the requirement for final audits be deleted if prenegotiation audits have been performed. Prenegotiation audits, performed prior to the award of the contract, are not connected with final audits which are performed after all work on the contract has been completed. The value of the final audit is a decision for the department. Final audits are not performed on all negotiated contracts. For example lump sum, specific rates, and cost per unit are excluded. It is the department's opinion that the cost of our provider engineering services would significantly increase and the department would be at considerable risk without the efforts of the prenegotiation and final audits.

A commenter suggested that the DCRC should conduct the performance evaluation in proposed §9.38(f). A question is also raised regarding the audit office manual. It was the intent that the DCRC conduct the performance evaluation, and that the divisions involved also provide input. The reference to the audit office manual was apparently a typographical error and has been removed.

Section 9.39 has been changed to authorize the executive director's designee to certify an emergency. In the case of an emergency, the DCRC will select the provider. This has been changed from the CAT to bring the selection closer to area needing the emergency provider.

Two commenters commended the department on the 30% DBE/HUB goal contained in §9.40.

One commenter requested that a public hearing be held for revised rules. Because the revisions either clarify the previous rules or do not place additional restrictions on the

person who must comply with the rules, under the provision of the Administrative Procedure Act, another hearing is not required. If the rules are revised in the future, a public hearing will be held at that time.

The new sections are permanently adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the department, and specifically Government Code, Chapter 2254, Subchapter A, the Professional Services Procurement Act which sets forth requirements for selection and contracting of architectural, engineering services, and Article 6674g-1 which sets forth the policy of the department regarding the use of private sector professional services for preliminary and construction engineering and engineering design.

§9.30. Purpose. This subchapter establishes standard procedures for selection and contract management of architectural and professional engineering service providers in accordance with Government Code, Chapter 2254, Subchapter A, the Professional Services Procurement Act.

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

Available personnel—The total number of personnel employed by the provider in all offices or branches, regardless of location or discipline.

Business Opportunity Programs Office (BOP)—The chief administering office for DBEs and HUBs which certifies that a DBE meets the criteria to be a DBE.

Child support statement—A signed, sworn statement, required by §14.52 of the Family Code, accompanying a proposal, affirming that a sole proprietor, partner, majority shareholder, or substantial owner of the provider business entity is not 30 days or more delinquent in providing child support under a court order or a written repayment agreement.

Close out—The actions required to close out or complete the contract, including receipt and acceptance of deliverables, resolution of audit findings, receipt of outside approvals if applicable, resolution of other contract-related issues, and issuance of final payment.

Consultant approval team (CAT)—The department team that receives provider recommendations from the DCRC through the CRC, and selects the provider for the contract.

Consultants review committee (CRC)—The department committee that oversees the provider review process and reviews eligibility of providers.

Current dollar volume of contract—The total dollar amount of fees under an active, authorized contract to a provider

by the department, on which the work is less than 90% complete, including fees as a prime provider (less any fees for work subcontracted), and fees resulting from a subcontract through another prime provider.

Disadvantaged Business Enterprise (DBE)—As defined in 49 CFR §23.5, a small business concern, certified by BOP, which is 51% owned by one or more minorities, women, or others that can prove social and economic disadvantages, or in the case of a publicly owned business, at least 51% of the stock is owned by one or more minorities, women, or others that can prove social and economic disadvantages, and whose management and daily business operations are controlled by one or more such individuals.

DBEHUB goal participation—The percentage goal of participation by DBE/HUB providers determined by the percentage of work performed by the DBE/HUB providers.

DBE/HUB Special Provision—A special provision to the provider contract that identifies Good Faith Effort, and the procedure to demonstrate that Good Faith Effort was attempted if the DBE/HUB goal could not be fulfilled.

Debarment certification—A certification that the provider and its principals are not debarred from participation and not under consideration for debarment anywhere, and are eligible to perform the contract.

Department—The Texas Department of Transportation.

District, division or special office consultants review committee (DCRC)—A department committee that drafts RFPs, evaluates proposals, and recommends providers for selection.

Good Faith Effort—A provider must demonstrate to the department's satisfaction, that sufficient effort on its part was made to obtain DBE/HUB participation. Good Faith Effort is identified in the DBE/HUB Special Provision to the contract.

Historically Underutilized Business (HUB)—A corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit, certified by the General Services Commission, in which 51% of the company is owned by one or more persons who are socially disadvantaged because of their identification as a member of certain groups including Black Americans, Hispanic Americans, Women, Asian Pacific Americans, Asian Indian Americans, Native Americans, and have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; and have a proportionate interest and demonstrate active participation in the control, operation, and management of the business affairs.

Lower tier debarment certification

(form 1734)—A debarment certification form that is completed by subproviders or other lower tier participants.

Lower tier participant—A subprovider or other participant in the contract, other than the state, that is not the prime provider.

Preproposal meeting—A meeting held to answer questions regarding the contract and to distribute RFP information.

Prime provider—The provider awarded a department provider contract.

Professional services provider (provider)—An individual or entity that provides engineering or architectural services.

Request for proposal (RFP)—A request for submittal of a technical proposal from a provider that demonstrates competence and qualifications to perform the requested services, and shows an understanding of the specific contract.

Relative importance factor (RIF)—The weight of each evaluation criterion as it relates to a particular contract.

Short list—A list of providers identified as qualified and able to competently perform the requested services for further consideration by the department.

Small business concern—A small business as defined in the Small Business Act, codified in 15 United States Code §632, and relevant regulations.

Team—The provider and all proposed subproviders who will be working on a particular contract.

§9.32. Provider Services Policy. Pursuant to Texas Civil Statutes, Article 6674g-1, it is the policy of the department regarding the regular use of private sector professional services for preliminary construction engineering and engineering design, to achieve a balance between the use of department employees and the use of private contractors, provided the costs are equivalent. In order to do so, the department may contract the following types of work:

(1) preliminary engineering, design, plan work, specifications, and estimates;

(2) bridge inspection and scour analysis services;

(3) environmental engineering, project observation, and inspection;

(4) architectural design, plan work, specifications, and estimates;

(5) architectural observation and inspection; and

(6) other engineering or architectural services as defined in Government Code, Chapter 2254, Subchapter A.

§9.33. Request for Proposals and Preproposal Meetings

(a) Notice.

(1) *Texas Register* and newspapers. The department will prepare a notice identifying a proposed contract and a due date for providers to send letters of intent to the department. The department will publish this notice in the *Texas Register* and newspapers a minimum of ten days prior to the event. The department will select newspapers based on general circulation to provide statewide distribution.

(2) Electronic notice. The department will publish a notice containing the same information as the notices in the *Texas Register* and newspapers on an electronic bulletin board a minimum of ten days prior to the event.

(3) Organizations. The department will publish a monthly statewide list of projected contracts for consulting engineering and architectural services and will furnish the list on a monthly basis to community, business, and professional organizations for dissemination to their membership.

(b) Letter of intent. Within ten days of the publication of the notice concerning the contract, the provider shall send a letter of intent to the department notifying the department of the provider's intent to submit a proposal. The department will accept a letter of intent by electronic facsimile. The department will notify the provider of the date for the preproposal meeting, if applicable, and send the provider a copy of the RFP.

(c) Requests For Proposals. An RFP will include the following proposal requirements:

(1) deadline, date, location, and time for submittal;

(2) scope of services to be provided by the department;

(3) scope of services to be provided by the provider;

(4) an outline of the proposal format and content;

(5) any geographic constraints directly relating to the performance of the contract, if applicable;

(6) description of the evaluation criteria including minimum and preferred qualifications,

(7) a copy of the evaluation matrices,

(8) a standard form for a statement of intent to meet department goals for DBE/HUB participation in accordance with §9.38(a) of this title (relating to Contract Management) and §9.40 of this title (relating to Affirmative Action) (the department's assigned DBE/HUB participation

goal for the contract will be stated on this form);

(9) a child support statement form;

(10) a debarment certification form;

(11) a lower tier debarment certification form;

(12) a lobbying certification/disclosure form (if federally funded);

(13) a copy of the proposed contract, with all attachments including, but not limited to, the DBE/HUB special provision; and

(14) any special contract requirements.

(d) Preproposal meeting. The preproposal meeting provides an opportunity for the provider to seek clarification of questions concerning the contract. The meeting is mandatory for contracts with an estimated fee over \$250,000. The meeting is optional at the discretion of the district for contracts with an estimated fee less than or equal to \$250,000. The department will not accept proposals from providers that did not have a representative at the preproposal meeting.

§9.34. Proposals.

(a) Proposal format. The proposal shall be limited to the length and contain the information specified in the RFP.

(b) Receipt of proposals. All proposals must be received by the date, time, and place specified in the RFP. The department will not accept a proposal by electronic facsimile.

§9.35. Proposal Evaluation.

(a) Criteria. The DCRC will evaluate proposals based on the following criteria:

(1) professional qualifications of firm, including subproviders;

(2) experience of the project manager, project team, and ability to commit resources (the project manager may not be changed without prior consent of the department, and performance evaluations within the last five years, involving any member of the proposed team, may be considered in evaluating applicable experience);

(3) demonstrated understanding of the scope of services, including identifying which type of work will be performed by each subprovider;

(4) demonstrated understanding of applicable rules, regulations, and policies, and information to be gathered; and

(5) ability to meet the schedule of the district, division, or special office.

(b) Evaluation scale. The DCRC will assign a numerical value to the proposal based upon the following evaluation scale of 0 to 3 points per criterion:

(1) 0 = does not meet minimum qualifications;

(2) 1 = meets minimum qualifications;

(3) 2 = meets preferred qualifications; and

(4) 3 = exceeds preferred qualifications.

§9.36. Interview.

(a) Identification of providers for interview. The department will evaluate each proposal and prepare a proposal evaluation matrix which totals the scores from the proposal evaluations. The DCRC will then choose a minimum of three providers to interview (provided that no less than three providers have submitted proposals) up to ten of those qualified from the highest ranking scores to interview based upon the number of proposals, qualifications, and score on the proposal evaluation scale.

(b) Interview structure. The interview allows the providers to briefly address items within the proposal and demonstrate their understanding of the project and knowledge of applicable rules, regulations, codes, and special information to be gathered.

§9.37. Selection.

(a) Evaluation criteria.

(1) Factors considered. The DCRC will consider the following factors in its evaluation of the provider's interview:

(A) understanding of the scope of services;

(B) experience of the project manager and project team; and

(C) ability to meet district, division, or special office schedule, and commit resources.

(2) Evaluation. The DCRC will prepare a numerical interview evaluation matrix to evaluate the interview based upon the following scale of 0 to 3 points:

(A) 0 = does not meet minimum qualifications;

(B) 1 = meets minimum qualifications;

(C) 2 = meets preferred qualifications; and

(D) 3 = exceeds preferred qualifications.

(b) Short list.

(1) Short list summary. The department will prepare a short list summary which will include the DCRC's ranking of qualified providers, the name of the project managers, the names of any subproviders included on the team, and current dollar volume of the providers interviewed compared to the ratio of available personnel. All those interviewed will be included, unless the department discovers that a provider has misrepresented information in the proposal.

(2) Selection.

(A) The CRC will review the DCRC recommendations to ensure compliance with state and federal laws, and department policies and procedures, and forward the short list, proposals, and its recommendations to the CAT for approval.

(B) The CAT will consider the following factors in selecting a provider:

(i) professional qualifications, including the subproviders on the team;

(ii) good faith effort commitment to meet the department's DBE/HUB goal in accordance with §9.38(a) of this title (relating to Contract Management) and §9.40 of this title (relating to Affirmative Action);

(iii) current dollar volume of work with the department compared to the ratio of available personnel;

(iv) the project manager;

(v) the ability of the provider to commit resources; and

(vi) the DCRC ranking of qualified providers.

(c) Notification. The department will:

(1) prepare a letter to notify the provider selected;

(2) prepare a letter to each of the remaining short list of providers not selected, naming the one selected; and

(3) set up a meeting with the selected provider to begin contract negotiations.

(d) Negotiations.

(1) Select provider. The department will enter into negotiations with

the selected provider. The provider shall submit the information requested in the contract, a work outline, work schedule, and cost proposal. The provider shall furnish data as to professional fees as required by the department to determine the fairness and reasonableness of the contract price during the prenegotiation audit.

(2) Contract execution. The provider shall sign the contract 35 working days from the date of notification to the provider. The department may grant one 30-working day extension.

(3) Selection of alternative providers. If the department is unable to execute a satisfactory contract containing a fair and reasonable price within the allotted time period with the selected provider, negotiations shall formally end with that provider and negotiations shall begin with the provider ranked second. Negotiations shall be undertaken in this sequence until a contract is made.

(4) DBE/HUB goal documentation. The selected provider shall provide written documentation that the provider has met the specified DBE/HUB goal or made a good faith effort to meet the goal in accordance with §9.38(a) of this title (relating to Contract Management) and §9.40 of this title (relating to Affirmative Action). If the provider does not submit such documentation, the department will cease negotiation with the provider and enter into negotiation with the next provider in the order of preference for this contract.

§9.38. Contract Management.

(a) DBE/HUB participation.

(1) DBE/HUB program goals may be satisfied by the prime.

(2) If the prime provider or the subprovider is a DBE/HUB, all work in the trade of that DBE/HUB provider must be accomplished by employees of that provider in accordance with Texas Civil Statutes, Article 601i.

(b) Subcontracts.

(1) A prime provider shall perform at least 30% of the contracted work with its own work force. No subcontractor may perform a higher percentage of the work than the prime provider.

(2) The department will review subcontracts for compliance with the requirements of this subsection. Subcontracts shall incorporate by reference all of the provisions of the prime contract.

(3) Subcontracts shall:

(A) refer to the prime contract and have the same purpose;

(B) include nondiscrimination attachment;

(C) include DBE/HUB special provision;

(D) include lower tier debarment certification (negotiated contracts); and

(E) provide clear payment terms.

(4) Subcontracts shall not include:

(A) multipliers, such as supplies plus 10%; and

(B) the state as a party to the subcontract.

(c) Operations.

(1) Management responsibility. The division, special office, or district administrative officer requesting the provider contract will manage it.

(2) Commencement of work. The provider shall not proceed with any contract work until advised in writing by the department to proceed.

(3) Suspension of work. The department may suspend the work by:

(A) verbally notifying the provider;

(B) providing written notification of the suspension;

(C) identifying the reason for suspension; and

(D) identifying approximate length of suspension and payment based on actual work completed as of the date of suspension.

(4) Payment on engineering contracts. Payment for eligible costs will be made within thirty days after receiving a correct invoice. Payment may be withheld pending verification of satisfactory work performed. To obtain payment, the provider shall submit the following documents to the department project manager:

(A) a monthly progress report;

(B) an itemized and certified invoice (form 132 or other acceptable format); and

(C) a DBE/HUB report (the BOP may require proof of DBE/HUB use, including submittal of cancelled checks that are properly identified by department project number or contract number).

(5) Retainage on engineering contracts. The department will withhold 5.0% of each monthly payment until completion of the contract work. The department will withhold the entire retainage for lump sum contracts which allow monthly billing until satisfactory completion of the contract. For contracts which require a final audit, the department may reduce retainage from 5.0% to 2.0% upon successful completion and approval of the contract work. The department may request an interim audit upon successful completion and approval of all contract work prior to the release of the retainage. The department will release the final 2.0% upon completion of the final audit.

(6) Interim audit. The department may require the services of the provider during the construction phase to review shop drawings, plans or procedures, or perform other services related to its design. If these services are anticipated, the department may request an interim audit upon completion and approval of the plans, specifications, and cost estimate.

(d) Supplemental agreements

(1) The original executed contract will require a supplemental agreement if:

(A) additional funding is required in accordance with terms of the contract;

(B) additional time is needed to complete work in progress; or

(C) changes in scope of services are necessary.

(2) The supplemental agreement will be executed:

(A) prior to the expiration date of the original contract;

(B) prior to exceeding the contract amount; and

(C) prior to performance of unauthorized work.

(e) Errors and omissions.

(1) Policy. It is the department's policy to require providers to perform such additional work as may be necessary to correct errors or omissions in the work re-

quired under the contract without undue delay and without additional cost to the department.

(2) Procedure.

(A) Notification. The department will notify the provider of the errors and omissions.

(B) Resolution. A dispute involving errors and omissions shall be resolved in accordance with §1.68 of this title (relating to Contract Claim Procedure).

(f) Contract close out.

(1) Final audit. The department audit office will perform a site audit of the provider's records in accordance with the terms of the contract.

(2) Time. A contract is ready for close out when:

(A) services have been provided;

(B) products are received and accepted;

(C) approval is received from the U.S. Department of Transportation, when federally funded;

(D) payments are made;

(E) audit findings are resolved; and

(F) on expiration date, unless extended by supplemental agreement.

(g) Provider performance evaluations. The DCRC will evaluate the provider's performance in the categories of cost administration, engineering/architectural or services delivery quality, and conformance upon completion of the contract. These performance evaluations may be used in determining the qualifications of the provider.

§9.39. Emergency Selection. If the executive director of the department or his or her designee certifies in writing that there is good cause to believe that an emergency situation exists, including hazards to safety and imminent expiration of a contract on an incomplete project, he or she will authorize the DCRC to select a provider on an emergency basis.

§9.40. Affirmative Action. The department's overall participation goal for DBEs and HUBs is 30%. The department goals will be established for each contract on an

individual basis to achieve the overall goal. The department requires as a minimum, written documentation of a good faith effort toward meeting the specified goal for DBE/HUB participation.

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 27, 1994.

TRD-9450154.

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: November 25, 1994

Proposal publication date: August 12, 1994

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

Chapter 11. Design

Continuous Lighting Systems

• 43 TAC §11.61

The Texas Department of Transportation adopts the repeal of §11.61, concerning Financing of Continuous Lighting Systems, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6752). Section 11.61 is no longer necessary due to the simultaneous adoption of new §25.11, concerning Continuous and Safety Lighting Systems. Due to the transfer of responsibilities for roadway lighting from the department's Design Division to its Traffic Operations Division and in order to revise the roadway lighting policy to provide for lighting of bikeways and pedestrian ways, and to protect the state's investment by providing for lighting agreement default procedures, the subject matter is being reenacted in Chapter 25, Traffic Operations, as new §25.11.

On September 6, 1993, the department conducted a public hearing on the proposed repeal.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation.

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 28, 1994.

TRD-9450212

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: November 18, 1994

Proposal publication date: August 26, 1994

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

Chapter 25. Traffic Operations

General

• 43 TAC §25.11

The Texas Department of Transportation adopts new §25.11, concerning Continuous and Safety Lighting Systems, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6753). Section 25.11 replaces §11.61, concerning Financing of Continuous Lighting Systems, which is simultaneously being adopted for repeal. Due to the transfer of responsibilities for roadway lighting from the department's Design Division to its Traffic Operations Division and in order to revise the roadway policy to provide for lighting of bikeways and pedestrian ways, and to protect the state's investment by providing for lighting agreement default procedures, the subject matter is being reenacted in Chapter 25, Traffic Operations, as new §25.11.

On September 6, 1993, the department conducted a public hearing on the proposed new section.

No comments were received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation.

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

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Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

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

Railroad Grade Crossings

• 43 TAC §§25.70-25.73

The Texas Department of Transportation adopts new §§25.70-25.73, relating to Railroad Grade Crossings, with changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6756). The Texas Transportation Commission has previously adopted rules relating to the procedures and policies applicable to the Bridge Division of the Department codified under Title 43, Texas Administrative Code, Chapter 7. House Bill 1657, 73rd Legislature, Regular Session, 1993, added Texas

Civil Statutes, Article 6370d, which prohibits a person from dismantling a warning signal at a grade crossing on an active rail line if the cost of the warning signal was originally paid either entirely or partly from public funds unless the person: 1) obtains a permit from the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing; and 2) pays to the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing an amount equal to the present salvage value of the warning signal, as determined by the governmental entity under applicable law. To comply with House Bill 1657, and to consolidate under Chapter 25, Traffic Operations all rules concerning warning signs and signals at railroad grade crossings, it is necessary to adopt new §§25.70-25.73, with the following changes: The definition of "person" has been changed in §25.71 to add the "individual" in order to clarify the intent of the department. To comply with the intent of the legislature, §25.72 has been changed to exempt Class I and II railroads in compliance with Texas Civil Statutes, Article 6370d.

On September 6, 1993, the department conducted a public hearing on the proposed new sections.

No comments were received regarding adoption of the new rules.

The new sections are adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation; and Texas Civil Statutes, Article 6370d, which provide the department with the authority to adopt any rules necessary to administer this Act under the procedures and policies applicable to the Traffic Operations Division of the department codified under Title 43, Texas Administrative Code, Chapter 25, Traffic Operations.

§25.70. Purpose and Scope. The sections under this undesignated head describe the policies and procedures governing the department's statutory responsibilities concerning warning signs and signals at railroad grade crossings.

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

Active rail line—Any railroad tracks that are classified by the Interstate Commerce Commission to carry freight or passenger trains, and are currently being operated and maintained by a railroad company or railroad carrier.

Active warning device—A bell, flashing light, gate, wigwag, or other automatically activated warning device.

Applicant—A person applying to the department for a permit issued under §25.72 of this title (relating to Dismantling Warning Signals at Railroad Grade Crossings).

Crossbuck—A standard railroad/highway crossing sign design as Number R 15-1, and described in the Manual of Uniform Traffic Control Devices (MUTCD), issued by the United States Department of Transportation, Federal Highway Administration.

Department—The Texas Department of Transportation.

Director—The director of the department's Traffic Operations Division.

District—One of the 25 geographical areas, managed by a district engineer, in which the department conducts its primary work activities.

Grade crossing—The intersection of a railroad and a public roadway at grade.

Local jurisdiction—A city or county government responsible for the building and maintenance of public roadways.

Nonsignalized crossing—A grade crossing not protected by active warning devices.

On-system—A public roadway, designated as part of the state highway system.

Off-system—A public roadway not designated as part of the state highway system.

Person—An individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

Public roadway—A roadway built and maintained with public funds.

Railroad company—A business operating and maintaining rail transportation of freight and passengers.

Retroreflectorized material—Material that reflects light so that the paths of the reflected light rays are parallel to those of the incident rays.

Salvage value—Any monetary value that may be derived from signal equipment being retired or removed or any material necessary for its operation, including but not limited to the following:

(A) the depreciated value of reusable electrical equipment, such as signal controllers, relays, rectifiers, batteries, etc.;

(B) signal equipment, such as signal heads, lenses, signal hoods and backgrounds, light bulbs, crossbuck signs, gate arm mechanisms, gate arms, lights, counterweights, etc.;

(C) track circuit equipment, such as termination shunts, capacitors, chokes, tuned joint couplers, insulated joints, etc.; and/or

(D) the scrap value of all of the above, including all material or aluminum components, such as signal masts or cantilevers, gate mechanisms, counter-

weights, signal cabins or signal cases.

Warning device—An active warning device, crossbuck, or other traffic control sign, the purpose of which is to alert motorists of a grade crossing.

Warning signal—A traffic control device that is activated by the approach or presence of a train, including a flashing light signal, automatic gate, or similar device that warns motorists of the approach or presence of a train.

§25.72. Dismantling Warning Signals at Railroad Grade Crossings.

(a) **Purpose.** In accordance with Texas Civil Statutes, Article 6370d, a person may not dismantle a warning signal at a grade crossing on an active rail line, as defined in §25.71 of this title (relating to Definitions), if the cost of the warning signal was originally paid either entirely or partly from public funds, unless the person:

(1) obtains a permit from the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing; and

(2) pays to the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing an amount equal to the present salvage value of the warning signal, as determined by the governmental entity under applicable law.

(b) **Permit Application.**

(1) This subsection applies to warning signals at railroad grade crossings on a rail line that intersects a highway maintained by the department.

(2) An applicant for a permit to dismantle a warning signal must submit an application, on a form prescribed by the department, to the department's district office in the district where the warning signal is located. The application must be accompanied by a statement certifying the justification for the request to dismantle the warning signal. If the applicant is a corporation, the application must be accompanied by a resolution from the board of directors certifying the justification for the request to dismantle the warning signal.

(c) **Conditional approval.**

(1) The district engineer will approve the application conditioned on payment of salvage value if, based on information provided in the permit application and the accompanying justification, he or she determines that removal of the warning signal would not adversely affect public safety.

(2) The district engineer will consider the following factors in determining if removal of the warning signal would adversely affect public safety:

(A) current and projected average daily traffic using the grade crossing;

(B) the nature or type of vehicle traffic using the grade crossing;

(C) the total daily number and speed of trains conducted through the grade crossing;

(D) the nature or type of train operations conducted through the grade crossing;

(E) the sight distance in each quadrant on the roadway approaches to the grade crossing; and

(F) train-involved and non-train-involved accident history at the grade crossing.

(d) Salvage value. Upon approval of an application, the department will assess the salvage value of the warning signal and inform the applicant of its assessment.

(e) Permit issuance. Upon receipt of payment of the assessed salvage value of the signal, the department will issue a permit for removal of the warning signal.

(f) Appeal process. An applicant may appeal the denial of a permit or the assessment of salvage value to the director. An applicant may appeal an adverse decision of the director by filing a petition for an administrative hearing pursuant to §§1.21-1.63 of this title (relating to Contested Case Procedure).

(g) Other governmental entities. A person desiring to dismantle a warning signal at a grade crossing may request the department to determine what governmental entity is responsible for maintaining the intersecting road or highway and whether the warning signal was originally paid either entirely or partly from public funds by submitting a request to the department's district office in the district where the warning signal is located.

(h) Exempt railroads. The provisions of this section shall not apply to Class I or Class II railroads as defined by Interstate Commerce Commission rules and regulations.

§25.73. Warning Sign Visibility at Railroad Grade Crossings.

(a) Purpose. In accordance with Texas Civil Statutes, Article 6370b, the department is authorized to develop guidelines

and specifications for the installation and maintenance of retroreflectorized material at all public railroad grade crossings not protected by active warning devices. This section prescribes the requirements and procedures for installation and maintenance to implement the provisions of the Act.

(b) Installation.

(1) Retroreflectorized material shall be affixed to the back of crossbucks and support posts at all public railroad grade crossings not protected by active warning devices in a manner that retroreflects light from vehicle headlights to focus attention to the presence of a nonsignalized crossing.

(2) Each railroad company owning or operating a nonsignalized crossing shall permit, by written letter agreement, department personnel to enter railroad company property at nonsignalized grade crossings for the purpose of affixing retroreflectorized material to the backs of crossbucks and support posts.

(3) The retroreflectorized material shall satisfy the specifications shown in Appendix A of this section.

(4) All new installations or replacements of crossbucks and supports shall meet the current design standards and retroreflectorized material requirements of the department and MUTCD. The current design standards and retroreflectorized material requirements of the department and MUTCD are available upon request, free of charge, from the department at the following address: Texas Department of Transportation, Traffic Operations Division, 125 East 11th Street, Austin, Texas 78701-2483.

(c) Maintenance. Subject to subsection (d) of this section, maintenance of crossbucks, support posts, and retroreflectorized material shall be the responsibility of the railroad company owning or operating the crossing.

(d) Costs.

(1) The initial cost of affixing the retroreflectorized material shall be paid from money appropriated to the department for the purpose of installing safety devices at public grade crossings.

(2) Subsequent maintenance costs of retroreflectorized material installed by the department pursuant to this section shall be the responsibility of:

(A) the department for on-system crossings; or

(B) the local jurisdiction for off-system crossings.

(e) Specifications. The following Appendix A indicates the design specifications and installation instructions for retroreflectorized material.

Figure 1: 43 TAC §25.73(e)

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 28, 1994.

TRD-9450213

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

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Proposal publication date: August 26, 1994

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

Chapter 31. Public Transportation

Federal Programs

• 43 TAC §31.31

The Texas Department of Transportation adopts an amendment to §31.31, concerning the \$16 grant program, without changes to the proposed text as published in the July 19, 1994, issue of the *Texas Register* (19 TexReg 5617). Section 31.31 is amended to formally adopt policies that will then be incorporated in the state management plans for this program as required by the Federal Transit Administration.

On July 19, 1993, the department conducted a public hearing on the proposed amendments. No written or oral comments were received concerning the proposed amendment.

The amendment is proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and specifically to administer the state public transportation fund and state and federal public transportation programs.

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

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

TRD-9450230

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

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

TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

**TITLE 22 EXAMINING BOARDS
PART 14 BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 577: General Administrative Duties
577.15**

Figure 1 22 TAC <*> 577.15

EXAMINATIONS	BOARD FEE	PROF. FEE	TOTAL FEE
State Board Exam(SBE)	\$100.00	\$200.00	\$300.00
Nat'l. Exam(NBE)	\$160.00	\$000.00	\$160.00
Clinical Comp. Exam(CCT)	\$140.00	\$000.00	\$140.00
SBE & NBE	\$225.00	\$200.00	\$425.00
SBE & CCT	\$200.00	\$200.00	\$400.00
SBE & NBE & CCT	\$300.00	\$200.00	\$500.00
NBE & CCT	\$250.00	\$000.00	\$250.00

RENEWALS	BOARD FEE	PROF. FEE	TOTAL FEE
License Renewal (Current)	<etb>\$100.00<et>[\$116.00]	\$200.00	\$300.00
Delinquent Renewals (90 Days or Less)	<etb>\$250.00<et>[\$266.00]	\$200.00	\$450.00
Delinquent Renewals (Over 90 Days but Less Than One Year)	<etb>\$400.00<et>[\$416.00]	\$200.00	\$600.00

**TITLE 22 EXAMINING BOARDS
PART 14 BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 577: General Administrative Duties
577.15**

PHOTOSTATIC COPIES	FIRST PAGE	ADDITIONAL PAGES
Fifty Pages or Less of		
Readily Available	\$.12	\$.12
More Than Fifty Pages of		
Readily Available	\$.98	\$.17
Information Not Readily Available		
	\$.81	\$.17
Postage	\$.29 - 1st Oz.	
	\$.23 - Addtl. Ozs.	

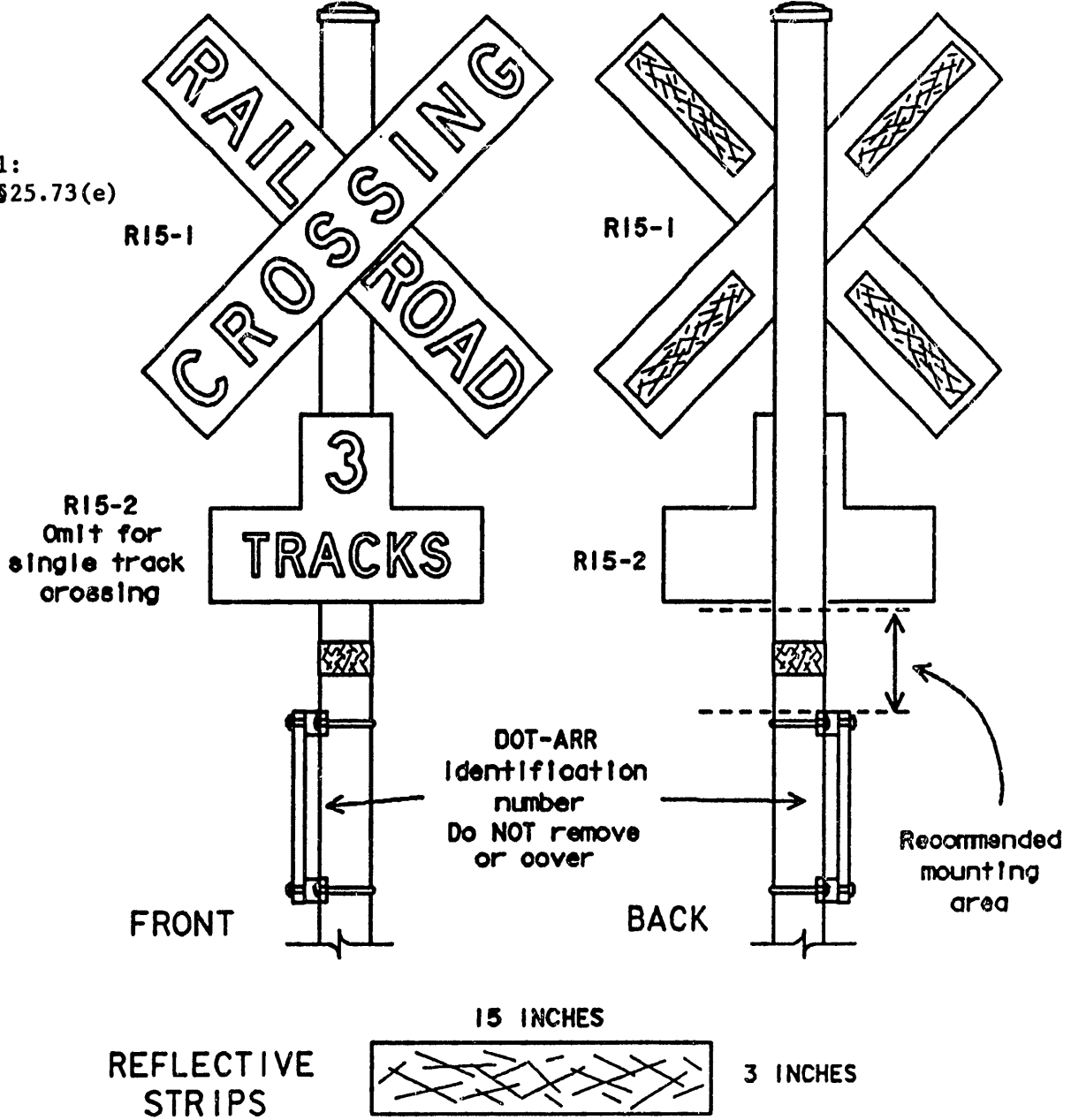
MAILING LISTS AND LABELS

Mailing Lists	.12 per name on list - not to exceed \$200.00
Mailing Labels	.17 per name on label - not to exceed \$300.00

Charges for goods and services such as the tapes, disks, duplicate licenses, the Veterinary Licensing Act, and Rules will be in accordance with applicable statutes and rules, which require recovery of direct costs and overhead.

All fees collected will be deposited to the appropriate fund within the time period specified by S.B. 245.

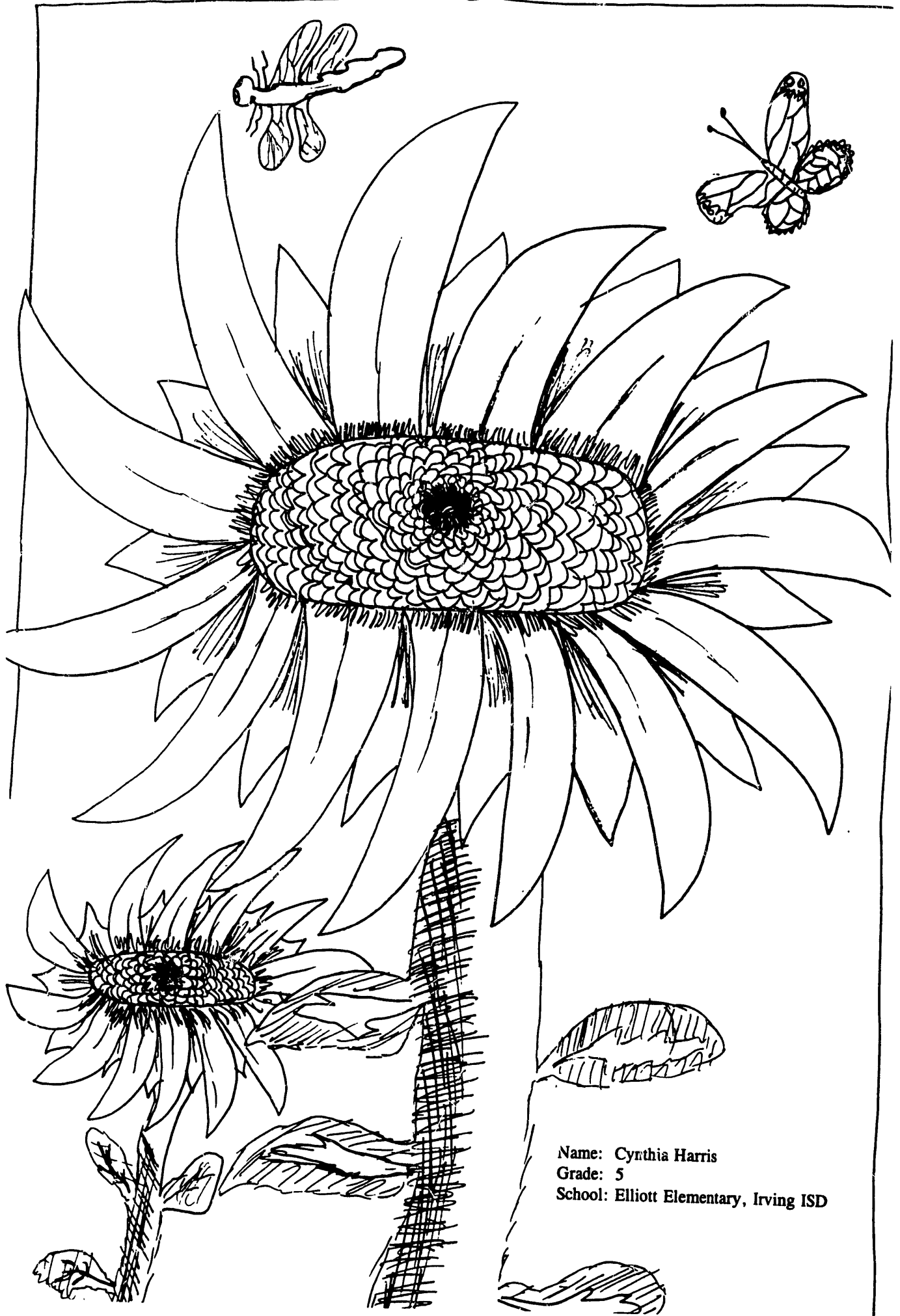
Figure 1:
43 TAC §25.73(e)



Reflective material shall meet SDHPT specifications:
FLAT SURFACE REFLECTIVE SHEETING, TYPE C - D-9-8300

INSTRUCTIONS:

1. Reflective strips shall be applied to the back of the crossbuck and around support, as shown above.
2. Reflective strips should be applied only to clean, dry surfaces. It may be necessary to clean the surface with a non-filming solvent. Allow the surface to dry completely.
3. Remove backing and place strip on cleaned surface. If DOT-ARR number is painted on support do not cover number.
4. Apply firm, even pressure to the strip and smooth out wrinkles. Trim excess on strip around support to avoid overlap.



Name: Cynthia Harris
Grade: 5
School: Elliott Elementary, Irving ISD

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 State Board of Public Accountancy

Friday, November 11, 1994, 9:00 a.m.
333 Guadalupe Street, Tower III, Suite 900
Austin

Board Meeting

AGENDA:

Discussion of pending litigation (executive session), committee reports from the technical standards review, behavioral enforcement, qualifications, continuing professional education, licensing, quality review, rules, major case enforcement, constructive enforcement and ad hoc expert witness and consulting services committees; consideration of the adoption of board rule §519.47; agreed consent orders, proposals for decision and consideration of motion for oral arguments before the board on the proposal for decision concerning the Leonard Mednick complaint-investigation number 92-12-41L, and if granted, oral arguments before the board.

Contact: J. Randel (Jerry) Hill, 333 Guadalupe Street, Tower III, Room 900, Austin, Texas 78701-3900, (512) 505-5542.

Filed: October 28, 1994, 5:45 p.m.

TRD-9450222



Texas Department of Agriculture

Tuesday, November 8, 1994, 12:30 p.m.
(Rescheduled from October 19, 1994.)
Harris County Extension Center, #2
Abercrombie Drive

Houston

Texas Rice Producers Board

AGENDA:

Review and approve: Minutes of previous meeting

Financial report

1993-1994 revenue/expense budget

Discuss: 1994-1995 revenue/expense budget

Report and recommendations on funding uses and programs for: Research activities and market development activities

Other business

Adjourn

Contact: Curtis Leonhardt, P.O. Box 740250, Houston, Texas 77274, 1-800-888-7423.

Filed: October 28, 1994, 9:06 a.m.

TRD-9450175

Thursday, November 17, 1994, 10:30 a.m.

Board Room, Texas Sheep and Goat Raisers, 233 West Twohig

San Angelo

Texas Sheep and Goat Commodity Board
AGENDA:

Opening remarks

Review and approval: minutes of September 26 meeting, fiscal affairs

Reports of officers and directors

Discussion and action: New business-review of telephone messages and contacts with the office; unfinished business-review proposals from three associations; review status of Mason County, Coleman County, Southwest Crockett County, and Sterling County Wildlife Association programs; Rancher's Supply, status of Castleberry situation; and the results of Young County Referendum for addition; and Gary Nunley-animal damage control; scheduling of the next meeting.

Discussion: other business.

Adjourn.

Contact: Minnie Savage, 233 West Twohig, San Angelo, Texas 76902-3543, (915) 659-8777.

Filed: October 28, 1994, 9:07 a.m.

TRD-9450179

Tuesday, November 29, 1994, 10:30 a.m.

Texas Department of Agriculture, 4502 Englewood Avenue

Lubbock

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by M. W. Carrot Company, Inc., as petitioned by R. B. Todd Company, Inc.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: October 28, 1994, 10:52 a.m.

TRD-9450186

Wednesday, November 30, 1994, 10:30 a.m. (Rescheduled from September 27, 1994, 2:00 p.m.)

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Pace Foods, Inc. as petitioned by Hold Farms, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: October 28, 1994, 10:52 a.m.

TRD-9450187

Wednesday, November 30, 1994, 3:00 p.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§103.001-103.015 (Vernon 1982) by Rogers Produce Supply Company, Inc. as petitioned by Valley Onions, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: October 28, 1994, 10:52 a.m.

TRD-9450188

Thursday, December 1, 1994, 10:00 a.m.

Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road

San Juan

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Anno-

tated, §§103.001-103.015 (Vernon 1982) by Jon M. Howerton doing business as Melon World as petitioned by Jerry Flaming and Joel Flaming.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: October 28, 1994, 10:53 a.m.

TRD-9450189

◆ ◆ ◆
Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Wednesday, November 9, 1994, 1:30 p.m.

Texas Industries for the Blind and Handicapped, Inc., 300 Highland Mall Boulevard, Conference Room, Suite 302

Austin

Report Subcommittee

AGENDA:

Call to order and introduction of subcommittee members and guests

Overview of fiscal year 1993 report to the legislature

Overview of fiscal year 1994 results

Discussion and action on recommendations for fiscal year 1994 report to the legislature

Adjournment

Contact: Pam Daggett, P.O. Box 12668, Austin, Texas 78711-2668, (512) 206-4608.

Filed: October 31, 1994, 8:47 a.m.

TRD-9450225

◆ ◆ ◆
Texas Bond Review Board

Tuesday, November 8, 1994, 10:00 a.m.

1400 North Congress Avenue, Capitol Extension, Room E1.012

Austin

Staff Planning Meeting

AGENDA:

I. Call to order

II. Approval of minutes

III. Discussion of proposed issues

A. Texas Water Development Board-Tax-Exempt General Obligation Texas Water Development Bonds, Series 1994A thru D

B. Texas Department of Housing and Community Affairs-Residential Mortgage Revenue Refunding Bonds, Series 1994A and Taxable Series 1994B

C. Texas Department of Housing and Community Affairs-financing of acquisition of multi-family rental housing developments in Arlington, Texas, from the Resolution Trust Corporation

IV. Other business

Discussion of the board's 1994 annual report

V. Adjourn.

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: October 31, 1994, 4:05 p.m.

TRD-9450275

◆ ◆ ◆
Texas Department of Commerce

Wednesday, November 9, 1994, 10:00 a.m.

1700 North Congress Avenue

Austin

Policy Board

AGENDA:

10:00 a.m.-call to order; adoption of the minutes from the meeting of August 3, 1994; report from the Executive Director; tourism updates on tri-agency MOU with Texas Department of Transportation and Texas Parks and Wildlife Department, advertising contract re-bid, Texas Travel Industry Association Legislative agenda; review state auditor's report on Management Controls and Texas Enterprise Zone Program; information regarding assistance to a major aircraft manufacturing and assembly project; discussion of Product Development Fund; approval of Third Amendment to the existing \$25 million Letter of Credit and Reimbursement Agreement between TDOC and Bank One, NA, for Texas Economic Development Loan Program; adjourn.

Contact: Shirley Zimmerman, 1700 North Congress Avenue, Austin, Texas 78701, (512) 936-0158.

Filed: October 31, 1994, 3:08 p.m.

TRD-9450273

Wednesday, November 9, 1994, Noon.

1700 North Congress Avenue, Room 118

Austin

Texas Economic Development Corporation

AGENDA:

Noon-call to order; approval of minutes from the August 11, 1993 meeting; appointing office of President, election of Treasurer; approval of resolution to issue instructions to the State Treasury on the

Funds Management Agreement; adjourn.

Contact: Shirley Zimmerman, 1700 North Congress Avenue, Austin, Texas 78701, (512) 936-0158.

Filed: October 31, 1994, 3:05 p.m.

TRD-9450272

The Daughters of the Republic of Texas, Inc.

Friday-Saturday, November 4-5, 1994, 10:00 a.m. and 9:40 a.m., respectively.

2024 Seawall Boulevard, Galveston Island Galveston

Board of Management Meeting

AGENDA:

The Daughters of the Republic of Texas, Inc. exercising an over abundance of caution, hereby notice a portion of this Board of Management meeting as an open meeting under the Texas Open Meeting Act with regard to all matters pertaining to state-owned properties which are under the management or control of D.R.T., Inc.

10:00 a.m.-Open meeting-Determination of quorum

Reports or discussion preview to reports of committees operating state-owned properties

10:45 a.m.-Recess to closed/executive session-Determination of quorum

11:00 a.m.-Open meeting-Determination of quorum

Alamo Committee

11:30 a.m.-Closed/executive session-Determination of quorum

11:45 a.m.-Open meeting-Determination of quorum

3:00 p.m.-Library Committee-Determination of quorum

French Legation Committee

Recess to closed/executive session-Determination of quorum

4:45 p.m.-Open meeting-Determination of quorum

Reports, discussion of reports of committees operating state-owned properties

November 5, 1994-Determination of quorum-French Legation

9:40 a.m.-Closed/executive session-Determination of quorum

Contact: Gail Loving Barnes, 2922 Chisum, Odessa, Texas 79762, (915) 366-7085 or (915) 366-1612, FAX: (915) 366-7085.

Filed: October 28, 1994, 4:02 p.m.

TRD-9450209

Texas Education Agency

Friday-Saturday, November 4-5, 1994, 8:30 a.m.

Howard Johnson Plaza, Hotel North, 7800 North IH-35, Pecos Room (Friday) and Trinity West (Saturday)

Austin

State Parent Advisory Council For Migrant Education (PAC)

AGENDA:

Introductions and orientation; minutes; election of officers; discussion of reauthorization of Chapter I Migrant Program; discussion of health clinic issues; Summer Migrants Access Resources Through Technology (SMART) Update; discussion of PAC parents' wages compensation; update of actions of State Board of Education; discussion of the State Plan for Migrant Education; recommendations for next meeting's agenda.

Contact: Frank Contreras, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9067.

Filed: October 27, 1994, 4:04 p.m.

TRD-9450156

Friday-Saturday, November 5-6, 1994, 8:30 a.m.

Group Support Lab, University of Houston-Clear Lake, Bayou Building, Room 3322, 2700 Bay Area Boulevard

Houston

Educational Technology Advisory Committee (ETAC)

AGENDA:

Friday: Announcements and information sharing; training for software used in Group Support Lab; progress report on the Long-Range Plan for Technology; discuss proposed outcomes as listed in the 1993 Progress Report on the Long-Range Plan Technology Plan for the state; work and develop concepts; wrap-up and adjourn for the day at 6:00 p.m.

Saturday: Distribute, read, and study information from previous day's work; continue work of proposed outcomes; reach consensus on draft committee report; wrap-up and final group report; adjourn at 3:30 p.m.

Contact: Lane Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9719.

Filed: October 27, 1994, 4:41 p.m.

TRD-9450170

Friday-Saturday, November 4-5, 1994, 1:00 p.m. and 8:30 a.m., respectively.

Doubletree Hotel, Robertson Room, 6505 North IH-35

Austin

Continuing Advisory Committee for Special Education

AGENDA:

Friday, November 4, 1:00 p.m. Approval of minutes, good news, discussion on unmet needs, response to letters from previous meetings, discussion of accountability system in Texas, Medicaid related issues, future meetings/related topics/approval of conferences. Saturday, November 5, 8:30 a.m. Work session: Including reaction to national agenda conference, empowering all students: Building Success for Culturally and Linguistically Diverse Learners with Disabilities, Governor's Committee on People with Disabilities: Long Range Plan, work session, approval of letters, evaluation of TAAS excellent indicators, plan agenda for next meeting.

Contact: Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362

Filed: October 27, 1994, 4:05 p.m.

TRD-9450159

Wednesday, November 9, 1994, 3:00 p.m.

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

Austin

State Board of Education, Committee of the Whole

AGENDA

A public hearing on instruction materials recommended for adoption in 1994 will be held on Wednesday, November 9, 1994. Testimony at the hearing is limited to residents of Texas who filed official written comments or participated in the July joint hearings before the Commissioner of Education and State Textbook Subject Area Committees. Representatives of publishing companies will be allowed to respond to testimony. The deadline for residents and publishers to have filed requests to appear at the November public hearing was 5:00 p.m. on October 14, 1994.

Contact: Ann Smisko, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: October 27, 1994, 11:59 a.m.

TRD-9450129

Advisory Commission on State Emergency Commu- nications

Friday, November 4, 1994, 1:00 p.m.

Parkland Memorial Hospital, 5201 Harry Hines Boulevard, Dining Room A, First Floor

Dallas

Poison Control Coordinating Committee Meeting

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; approval of October 5, 1994 committee meeting minutes; old business; brief status update from each poison center of operation of Texas Poison Center Network; report from Texas Department of Health and the Advisory Commission on State Emergency Communications on operations of Texas Poison Network; report of the Subcommittee on Medical Management and Protocols; report of the Subcommittee on Operations; report of the Subcommittee on Education; report of the Subcommittee on Telecommunications; report of the Subcommittee on Finance; new business. Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: October 27, 1994, 4:05 p.m.

TRD-9450158

Texas Employment Commis- sion

Tuesday, November 8, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; consideration and possible adoption of amendments to 40 TAC §§301.20, 301.21, and 301.23, concerning claims for unemployment insurance benefits; staff reports; internal procedures of Commission Appeals; consideration and action on tax liability cases listed on Commission Docket 44 and unemployment compensation cases listed on Commission Dockets 44 and 45; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 31, 1994, 4:06 p.m.

TRD-9450276

Texas State Board of Regis- tration for Professional Engineers

Thursday, November 10, 1994, 10:00 a.m.

1917 IH-35 South

Austin

Ad Hoc Committee on Sealing Rules Interpretation

AGENDA:

1. A. Meeting convened by Chairman Pillar at 10:00 a.m.
- B. Roll call
2. Discuss various problems and questions regarding sealing rules.
3. Adjourn

Contact: Charles E. Nemir, 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450299

Foundation School Fund Budget Committee/Legisla- tive Budget Board

Thursday, November 10, 1994, 2:00 p.m.

Capitol Extension, Room E1.014

Austin

Designees of the Committee Members, Legislative Budget Board Staff

AGENDA:

Designees of the Foundation School Fund Budget Committee members and Legislative Budget Board staff will conduct a joint public hearing on the Legislative Budget Board's "Report to the Foundation School Fund Budget Committee" and the Foundation School Fund Budget Committee's proposed rules (19 TAC Chapter 203 and 19 TAC Chapter 205). No action will be taken.

1. Call to order
2. Presentation by Texas Education Agency staff
3. Public hearing
4. Any other business
5. Adjourn

Contact: Brian Wilson, P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

Filed: October 26, 1994, 8:40 a.m.

TRD-9450084

Texas General Land Board

Thursday, November 10, 1994, 1:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 9:59 a.m.

TRD-9450297

Friday, November 11, 1994, 1:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas

Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450300

Monday, November 14, 1994, 1:00 p.m.
1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450301

Tuesday, November 15, 1994, 1:00 p.m.
1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m.

at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450302

Wednesday, November 16, 1994, 1:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450303

Thursday, November 17, 1994, 1:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450304

Friday, November 18, 1994, 1:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

Revised Agenda

Veterans Land Board

AGENDA:

The Veterans' Land Board of the State of Texas hereby calls a meeting at 1:00 p.m. at the Stephen F. Austin Building, on each business day from November 10-18, inclusive, to consider the following agenda item.

70. Determination of winning proposal to enter into an interest rate swap agreement (the "Swap Agreement") relating to the \$20 million State of Texas Veterans' Housing Assistance Program, Fund I Series 1994D Bonds, and the \$160 million State of Texas Veterans' Housing Assistance Program, Fund II Series 1994A Bonds, pursuant to which the Board will pay a variable rate of interest and receive a fixed rate of interest.

Multiple meetings are scheduled due to the uncertainty of market conditions and to allow the Board to obtain the best market rate

of interest for veterans of the State. If final action on the above agenda is taken at any meeting, all subsequent meetings are automatically canceled.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: November 1, 1994, 10:00 a.m.

TRD-9450305

◆ ◆ ◆
Office of the Governor-Criminal Justice Division

Thursday, November 10, 1994, 10:00 a.m.

Insurance Annex Building, 221 East 11th Street

Austin

Texas Narcotics Control Program

AGENDA:

The Governor's Drug Policy Advisory Board will meet to discuss the public hearings and make recommendations for the Fiscal Year 1995 purpose areas for the next grant cycle.

I. Call meeting to order, Chairman

II. Discuss recommendations heard during 1994 public hearings

III. Review all 26 purpose areas available

IV. Discuss the ten authorized program areas established for 1994

V. Make final recommendations for authorized program areas for 1995

VI. Other business items

VII. Adjourn.

Contact: Sharon Chesnutt, P.O. Box 12428, Austin, Texas 78711-2428, (512) 463-1957.

Filed: October 31, 1994, 12:56 p.m.

TRD-9450242

◆ ◆ ◆
Texas Growth Fund

Wednesday, November 9, 1994, 10:30 a.m.

1000 Red River

Austin

Board of Trustees

AGENDA:

1. Review and approve minutes of the August 31, 1994, Special Meeting.

2. Review and approve Treasurer's report.

3. Review and approve Resolutions designating signatories on business checking and safekeeping accounts.

4. Review and approve reimbursement expenses for current and former trustees.

5. Review and approve invoices from Vinson & Elkins L.L.P.

6. Receive a report from Vinson & Elkins L.L.P. on conflict of interest.

7. Review and approve directors and officers, errors and omissions and mutual fund liability insurance renewal.

8. Receive an activity report from TGF Management Corporation.

9. Review and approve TGF Management Corporation's 1995 budget request.

10. Review and approve proposed investment(s).

11. Such other matters as may come before the Board of Trustees.

Contact: Janet Waldeier, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: October 31, 1994, 2:01 p.m.

TRD-9450246

◆ ◆ ◆
Health and Human Services Commission

Thursday, November 10, 1994, 9:15 a.m.

701 West 51st Winters Building

Austin

Medical Care Advisory Committee

AGENDA:

Opening comments; State Medicaid Director's comments; approval of minutes; cost determination rules for certain long term care programs; nursing facility waiver rule changes; special alternative reimbursement class for ICF/MR state operated facilities; ICF/MR rate setting methodology for Ada Wilson Children's Center; home and community-based services for persons with mental retardation 1993-1998 waiver renewal rules change; Medicaid policies governing ambulance services for clients and providers; ICF/MR technical amendments; reinstatement of transfer of assets rule; income excluded from deeming; selective contracting-update; rule changes to the CLASS Program-update; revision of the NF Licensure and Certification rules-update; criminal history checks for nurse aides-update; subcommittee report-EPSDT dental professional; open discussion by members; next meeting/adjournment.

Contact: Geri Willems, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759, (512) 502-3256.

Filed: October 28, 1994, 3:03 p.m.

TRD-9450206

Texas Department of Housing and Community Affairs

Wednesday, November 9, 1994, 9:00 a.m.

1400 North Congress Avenue, Capitol Extension Building, Room E1.016

Austin

Audit Committee of the Board of Directors

AGENDA:

Call to order; roll call; public comment; consider and possibly act on: KPMG Peat Marwick/Martinez and Mendoza report on fiscal year 1993 audit and report on fiscal year 1994 audit. Status report on community development revolving loan fund, status of internal audits and special projects, fiscal year 1995 audit plan; and adjourn.

Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Austin 78704, (512) 475-3800.

Filed: October 27, 1994, 4:40 p.m.

TRD-9450167

◆ ◆ ◆
Texas Department of Insurance

Monday, November 7, 1994, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502

Austin

AGENDA:

454-94-1618.D

To consider whether disciplinary action should be taken against LifeUSA Insurance Company, which holds a Certificate of Authority issued by the Texas Department of Insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 27, 1994, 12:58 p.m.

TRD-9450135

Tuesday, November 8, 1994, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502

Austin

AGENDA:

454-94-1657.C

To consider whether disciplinary action should be taken against Delbert Lee Turk, Plano, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License, Group II Insurance Agent's License, and Local Recording Agent's License, issued by the Texas Department of Insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 27, 1994, 12:57 p.m.

TRD-9450134

Wednesday, November 9, 1994, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502 Austin

AGENDA:

454-94-1676.C

To consider whether disciplinary action should be taken against David Sanders, San Antonio, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 27, 1994, 12:57 p.m.

TRD-9450133

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Wednesday, November 9, 1994, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters: Petroleum storage tank enforcement; State Implementation Plan; rules; 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 beings 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 27, 1994, 2:37 p.m.

TRD-9450143

Wednesday, November 9, 1994, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters: Temporary variance and proposed permit; water quality permit amendment; 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 27, 1994, 2:37 p.m.

TRD-9450142

Thursday, November 10, 1994, 9:30 a.m.

6300 Ocean Drive, Texas A&M University Corpus Christi, Conrad Blucher Institute

Corpus Christi

Management Committee of the Corpus Christi Bay National Estuary Program

AGENDA:

I. Call to order/introduction/minutes

II. Program update

III. Oral presentations on fiscal year 1994 proposals

IV. Discussion/approval of concept paper to refocus CCMP development efforts

V. Discussion/approval of data and information management strategy

VI. Discussion/approval of public participation strategy

VII. Discussion/approval of program policy statement

VIII. Additional items/adjourn

Contact: Richard Volk, TAMU-CC, Campus Box 290, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: October 28, 1994, 5:44 p.m.

TRD-9450219

Monday, November 14, 1994, 10:00 a.m.

TNRCC, Room 308E, Building C, 12124 Park 35 Circle

Austin

AGENDA:

To consider whether the executive director's emergency executive order to authorize the installation and construction of temporary package boilers at the Cedar Bayou, Harris County, Texas facility of Amoco Chemical Company should be affirmed, modified, or denied and set aside.

Contact: Randall Terrell, P.O. Box 13087, Austin, Texas 78711, (512) 239-0577.

Filed: October 27, 1994, 4:05 p.m.

TRD-9450160

Wednesday, December 7, 1994, 9:30 a.m.

Room 201S, Building E, TNRCC, Park 35 Office Complex, 12118 North IH-35

Austin

AGENDA:

For an agenda hearing on Harris County Municipal Utility District Number 205's application for authority to adopt and impose an annual debt service standby fee and an annual operation and maintenance standby fee on undeveloped property within the District. The amount of the operation and maintenance standby fee requested is \$469.44 per acre and the amount of the annual debt service standby fee requested is \$2,462.52 per acre, for a unimproved acreage within the District.

Contact: Gloria Vasquez, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: October 28, 1994, 1:18 p.m.

TRD-9450196

Wednesday, December 7, 1994, 9:30 a.m.

Room 201S, Building E, TNRCC, Park 35 Office Complex, 12118 North Interstate 35

Austin

AGENDA:

For an agenda hearing on River Place Municipal Utility District of Travis County's impact fee application for new connections in the service area of River Place Section Six. The amount of the impact fee requested is \$2,000 per equivalent single family connection for new connections within River Place Section Six.

Contact: Gloria Vasquez, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: October 28, 1994, 1:18 p.m.

TRD-9450197

◆ ◆ ◆
Board of Nurse Examiners

Monday, November 7, 1994, 4:00 p.m.

9101 Burnet Road, Suite 104

Austin

Communications Plan Committee

AGENDA.

Call to order

Roll call

Minutes of September 12, 1994 meeting

1. New business

1.1 Review committee charge and status of activities

1.2. Discuss report to full board on November 8, 1994

Adjourn

Contact: Eric M. Gutierrez, Box 140466, Austin, Texas 78714, (512) 835-8674.

Filed: October 28, 1994, 1:16 p.m.

TRD-9450191

Tuesday-Wednesday, November 8-9, 1994, 8:00 a.m. and 8:30 a.m., respectively.

1812 Centre Creek Drive, Room 203

Austin

Emergency Revised Agenda

AGENDA

The Board of Nurse Examiners will receive the minutes from the August Retreat and September meeting; August and September financial statements; consider education matters, practice and compliance matters and receive a report from the executive director. An open forum will be held from 1:30-2:00 p.m. on Tuesday, November 8, 1994, to provide an opportunity for public comment. The board will receive reports from various committees; consider the adoption of a new rule regarding charges for public records, take action on four proposed board orders and one ALJ proposal for decision. The board will meet in executive session pursuant to Government Code, §551.074, to discuss personnel matters. On Wednesday, November 9, 1994, the board will meet at 8:30 a.m. in Room 203, 1812 Centre Creek Drive to receive legislative information.

Reason for Emergency: The time and location for the meeting on November 9, 1994, has been changed to 8:30 a.m. at 1812 Centre Creek Drive, Room 203, Austin.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675

Filed: November 1, 1994, 10:00 a.m.

TRD-9450298

Texas State Board of Examiners of Psychologists

Wednesday-Thursday, November 9-10, 1994, 8:30 a.m.

Adams Mark Hotel-Ask Concierge for Room, 2900 Briarpark

Houston

Revised Agenda

AGENDA:

In addition to the previous agenda filed October 14, 1994 and published in the Texas Register on October 21, 1994, and the first revised agenda filed October 25, 1994 and published in the Texas Register on November 1, 1994, the Texas State Board of Examiners of Psychologists is adding the following names to the proposed Agreed Board Orders under Item XXII of the original agenda which will be considered at the meeting: Michael Lobb, Ph.D. and Charles Schaefer, Ph.D.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: October 31, 1994, 1:40 p.m.

TRD-9450244

Public Utility Commission of Texas

Monday, November 7, 1994, 1:30 p.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A joint prehearing conference has been scheduled for the above date and time in Docket Number 13162 and 13173, Docket Number 13162-application for sale, transfer, or merger of Panhandle Telephone Cooperative, Inc.; Docket Number 13173-application of sale, transfer, or merger of EagleNet, Inc.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 27, 1994, 4:40 p.m.

TRD-9450168

Wednesday, November 9, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A prehearing conference has been scheduled for the above date and time in Docket Number 13575-application of Texas Utilities Electric Company for approval of its 1995 Integrated Resource Plan and the demand-side management programs and contracts, renewable resource agreement,

and notices of intent associated therewith, and for approval of certain cost recovery mechanisms, and for other relief.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 27, 1994, 4:41 p.m.

TRD-9450169

Thursday, January 12, 1995, 10:00 a.m. (Rescheduled from: Monday, January 9, 1995, 10:00 a.m.)

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

The hearing on the merits has been rescheduled for the above date and time in Docket Number 13444-Application of Golden Spread Electric Cooperative, Inc. for approval of notice of intent.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 1, 1994, 9:59 a.m.

TRD-9450295

Railroad Commission of Texas

Monday, October 31, 1994, 9:30 a.m.

1701 North Congress Avenue, Willa Mae Palmer Conference Room, 12th Floor

Austin

Emergency Revised Agenda

AGENDA:

To consider emergency rule amendments to make certain replacement propane water heaters in federally designated disaster areas eligible for the Alternative Fuel Research and Education Division water heater rebate program.

Reason for emergency: Flooding in a 28 county area of southeast Texas designated as a disaster area by President Bill Clinton.

Contact: William E. Taylor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 475-2950.

Filed: October 27, 1994, 4:05 p.m.

TRD-9450157

Texas Senate

Tuesday-Wednesday, November 15-16, 1994, 9:00 a.m.

El Paso Convention and Performing Arts Center, Juarez Room

El Paso

Senate Finance Committee

AGENDA:

Tuesday, November 15

I. Call to order

II. Clerk call the roll

III. Overview of the 1996-1997 biennial budget

IV. Welcoming remarks

V. El Paso state funding issues

VI. Recess

Wednesday, November 16

I. Call to order

II. Continue with El Paso state funding issues

III. Public testimony

IV. Adjourn

Contact: David Wingard, P.O. Box 12068, Austin, Texas 78711, (512) 463-0370.

Filed: October 28, 1994, 4:00 p.m.

TRD-9450207

Structural Pest Control Board

Thursday, November 17, 1994, 9:00 a.m.

Joe C. Thompson Conference Center, 2405 East Campus Drive, Room 2.108

Austin

Continuing Education Committee

AGENDA:

I. Public comment.

II. Review and approval of continuing education programs.

Contact: Benny M. Mathis, Jr., 9101 FM 1325, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: October 31, 1994, 3:07 p.m.

TRD-9450271

Teacher Retirement System of Texas

Tuesday, November 8, 1994, Noon.

1000 Red River, Room 420-E

Austin

Medical Board

Discussion of 1) the files of members who are currently applying for disability retirement and 2) the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: October 27, 1994, 10:22 a.m.

TRD-9450128

Texas Department of Transportation

Tuesday, November 15, 1994, 9:00 a.m.

410 East Fifth Street, Room 221

Austin

Environmental Advisory Committee

AGENDA:

Approve minutes. Final review of proposed rulemaking concerning environmental review of transportation projects. Final review of proposed rulemaking concerning use of state highway rights-of-way for vendors, signs, filming and closures. Preliminary review of proposed rulemaking concerning the implementation of the Texas coastal management program. Briefing on current status/commission action regarding rules previously reviewed.

Contact: Dianna Noble, 125 East 11th Street, Austin, Texas 78701, (512) 416-3001.

Filed: November 1, 1994, 7:51 a.m.

TRD-9450293

University of Houston System

Tuesday, November 1, 1994, 9:00 a.m.

UH System Offices, 1600 Smith, Suite 3400

Houston

Board of Regents

To discuss and/or approve the appointment of an alternative investment manager for the Endowment Fund-UH System.

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7442.

Filed: October 27, 1994, 12:51 p.m.

TRD-9450132

University Interscholastic League

Monday, October 31, 1994, 9:00 a.m.

Sheraton Hotel, IH-35 at Fifth Street

Austin

State Executive Committee

AGENDA:

AA. Appeal of decision of District 13 AAAAA Executive Committee ruling a Highland Park School student athlete ineligible for violating Amateur Rule

BB. Appeal of the decision of the 20 AA Executive Committee ruling a student athlete ineligible at James Bowie High School for violating rule which prohibits moving or changing schools for athletic purposes.

CC. Written appeal of automatic penalty for coaches ejection by Mark Lance or Dalhart High School and Napoleon Nation of Corpus Christi Grant Middle School.

DD. Case transferred from District 16 AAAAA Executive Committee recommending a public reprimand be issued to Barry Colburn, former coach at Huntsville High School for allowing ineligible student to participate in track meets.

Contact: C. Ray Daniel, 3001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: October 27, 1994, 2:37 p.m.

TRD-9450144

Board for Lease of University Lands

Thursday, November 10, 1994, 10:00 a.m.

Center for Energy and Economic Diversification, 1400 North FM 1788

Midland

AGENDA:

1. Approval of August 16, 1994, minutes of the Board for Lease meeting.

2. Approval of tracts offered and opening of bids received on or before Thursday, November 10, 1994.

3. Approval of lease awards to highest bidders.

4. Review of results of Take-in-Kind sale; ratification of contracts dated effective November 1, 1994; and authorization to continue the Take-in-Kind program.

5. Termination of Temporary Unitization, Pooling and Development Unit Agreement for University Lands, Pecos County, Texas, by and between the State of Texas and the Board for Lease of University Lands and Shenandoah Petroleum Corporation dated October 6, 1993, for failure to comply with the drilling obligation set out in Article V of the agreement.

6. Discussion of future lease sales.

7. Board will meet in executive session to discuss pending or contemplated litigation.

(Persons with disabilities who plan to attend the meeting and who may need auxiliary aids or services may contact Kathy Cope at (512) 499-1462 at least two work days prior to the meeting date so that appropriate arrangements can be made.)

Contact: Mary Burke, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4462.

Filed: October 31, 1994, 2:01 p.m.

TRD-9450245

Texas Veterans Commission

Friday, November 18, 1994, 9:30 a.m.

E. O. Thompson Building, Sixth Floor, Tenth and Colorado Street

Austin

AGENDA:

Regular meeting to approve the minutes of the fourth quarterly meeting, discuss matters concerning veterans' benefits and receive staff reports. The Commission will also hold election of officers for the coming year and conduct routine business of the Commission and any old or unfinished business will be presented. Action may be taken by the Commission on those items which are discussed.

Contact: Douglas K. Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538

Filed: October 28, 1994, 2:13 p.m.

TRD-9450199

Texas Board of Veterinary Medical Examiners

Wednesday, November 2, 1994, 10:00 a.m. (Rescheduled from October 26, 1994.)

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 27, 1994, 2:18 p.m.

TRD-9440140

Texas Workers' Compensation Commission

Thursday, November 3, 1994, 9:00 a.m.

4000 South IH-35, Room 910-911, Southfield Building

Austin

AGENDA:

1. Call to order
2. Approval of minutes for the public meeting of October 13, 1994
3. General reports and possible action on issues relating to commission activities
4. Discussion and possible action on rules for possible proposal and/or amendment: Rules §§102.5, 102.8, 102.9, 124.1, 124.2, and 124.4
5. Discussion and possible action on rules for repeal for adoption: Rules §168.1 and §168.2
6. Discussion and possible action on applications for certificate to self-insure
7. Discussion and possible action on requests for renewal of certificate of authority to self-insure
8. Discussion and possible action on members and/or alternate members to serve on the Medical Advisory Committee
9. Discussion and possible action on rules for adoption: Rule §134.1000
10. Executive session
11. Action on matters considered in executive session
12. Confirmation of future public meetings and hearings
13. Adjournment

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690.

Filed: October 28, 1994, 5:45 p.m.

TRD 9450220

Regional Meetings

Meetings Filed October 27, 1994

The Callahan County Appraisal District Board of Directors will meet at 130-A West Fourth Street, Callahan County Appraisal District Office, Baird, November 7, 1994, at 7:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165, Fax (915) 854-1413. TRD-9450130.

The Central Plains Center for MHMR and SA (Emergency Meeting.) Board of Trustees met at 308 South Columbia, Plainview, October 27, 1994, at 6:00 p.m. (Reason for emergency: Contracts expire.) Information may be obtained from Gail P. Davis, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9450148.

The Erath County Appraisal District Appraisal Review Board met at 1390 Harbin Drive, Stephenville, November 3, 1994, at 7:00 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9450153.

The Heart of Texas Region MHMR Center Board of Trustees met at 110 South 12th Street, Waco, November 2, 1994, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451, Ext. 290. TRD-9450146.

The Texas Health Benefits Purchasing Cooperative will meet at 222 Welborn Street, Scottish Rite Hospital for Children, Dallas, November 7, 1994, at 9:30 a.m. Information may be obtained from Rebecca Lightsey, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956. TRD-9450131.

Meetings Filed October 28, 1994

The Aqua Water Supply Corporation Board of Directors will meet at 305 Eskew, Aqua Office, Bastrop, November 7, 1994, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas 78602, (512) 303-3943. TRD-9450177

The Aqua Water Supply Corporation (Revised agenda.) Board of Directors will meet at 305 Eskew, Aqua Office, Bastrop, November 7, 1994, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas 78602, (512) 303-3943. TRD-9450221.

The Bell-Milam-Falls WSC Board met at the Office, FM 485 West, Cameron, November 3, 1994, at 8:30 a.m. Information

may be obtained from Dwayne Jekel, P.O. Box 150, Cameron, Texas 76520, (817) 697-4016. TRD-9450171.

The Creedmoor Maha Water Supply Corporation (Monthly Meeting.) Board of Directors met at 1699 Laws Road, Mustang Ridge, November 2, 1994, at 7:00 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-2113. TRD-9450173.

The Dawson County Central Appraisal District Board of Directors met at 1806 Lubbock Highway, Lamesa, November 2, 1994, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9450204.

The East Texas Council of Governments Executive Committee met at the Gilmer Country Club, Corner of #155 and FM 2685, Gilmer, November 3, 1994, at 1:30 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9450205.

The Education Service Center, Region IV (Rescheduled from October 19, 1994.) Board of Directors met at South Shore Harbor Conference Center, 2500 South Shore Boulevard, Baccarat Room, League City, November 2, 1994, at 10:00 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092-2096, (713) 744-6534. TRD-9450183.

The Ellis County Appraisal District Board of Directors met at 400 Ferris Avenue, Waxahachie, November 3, 1994, at 8:00 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9450202.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, November 3, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9450174.

The Hansford Appraisal District (Regular Meeting.) Board will meet at 709 West Seventh Street, Spearman, November 9, 1994, at 9:00 a.m. Information may be obtained from Alice Peddy, P.O. Box 519, Spearman, Texas 79081, (806) 659-5575. TRD-9450203.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, November 3, 1994, at 7:00 p.m. Information may be obtained from Katrina Perry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9450181.

The Texas Municipal Asset Pool (Annual Meeting.) will meet at the Houstonian, 111 North Post Oak, Houston, November 4, 1994, at 2:00 p.m. Information may be obtained from Jamie D. Hall, P.O. Box 56572, Houston, Texas 77256, (713) 552-2618. TRD-9450177.

The Texas Municipal Asset Pool Board of Directors will meet at the Houstonian, 111 North Post Oak, Houston, November 4, 1994, at 2:30 p.m. Information may be obtained from Jamie D. Hall, P.O. Box 56572, Houston, Texas 77256, (713) 552-2618. TRD-9450176.

The Panhandle Quality Work Force Panhandle Quality Work Force Planning Committee will meet at 815 South Tyler, Amarillo, November 9, 1994, at 3:00 p.m. Information may be obtained from Deborah Pickering, P.O. Box 15443, Amarillo, Texas 79105-5443, (806) 371-7577. TRD-9450190.

The Stephens County Rural WSC Board (Regular Meeting) met at 301 West Elm Street, Breckenridge, November 3, 1994, at 7:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9450208.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, November 8, 1994, at 4:00 p.m. Information may be obtained from Mollie Parker, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9450180.

The Wheeler County Appraisal Board of Directors will meet at 103 East Texas, Courthouse Square, Wheeler, November 21, 1994, at 6:30 p.m. Information may be obtained from Larry Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9450182.

◆ ◆ ◆
**Meetings Filed October 31,
1994**

The Capital Area Planning Council Executive Committee will meet at 2520 IH-35 South, Suite 100, Austin, November 9, 1994, at 1:30 p.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9450239.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Stephenville, November 8, 1994, at 7:00 a.m. Information may be obtained from Vicky Greenough, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434, Fax: (817) 965-5633. TRD-9450274.

The Heart of Texas Region MHMR Center (Emergency Revised Agenda.) Board

of Trustees met at 110 South 12th Street, Waco, November 2, 1994, at 11:45 a.m. (Reason for emergency: Need to move accounts from existing bank to another bank that can provide adequate collateral for cash balances.) Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451, Ext. 290. TRD-9450243.

The Lamb County Appraisal District Agricultural Advisory Board will meet at 331 LPD Drive, Littlefield, November 10, 1994, at 7:00 p.m. Information may be obtained from Vaughn E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950, (806) 385-6474. TRD-9450238.

The Lavaca County Central Appraisal District Board of Directors will meet at 113 North Main Street, Hallettsville, November 14, 1994, at 4:00 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9450291.

The Millersview-Doole Water Supply Corporation Board of Directors will meet One Block West of FM Highway 765 and FM Highway 2134, Millersview, November 7, 1994, at 7:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9450228

The Permian Basin Regional Planning Commission Board of Directors, Permian Basin Private Industry Council will meet at 2910 La Force Boulevard, Midland, November 9, 1994, at 10:00 a.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9450240

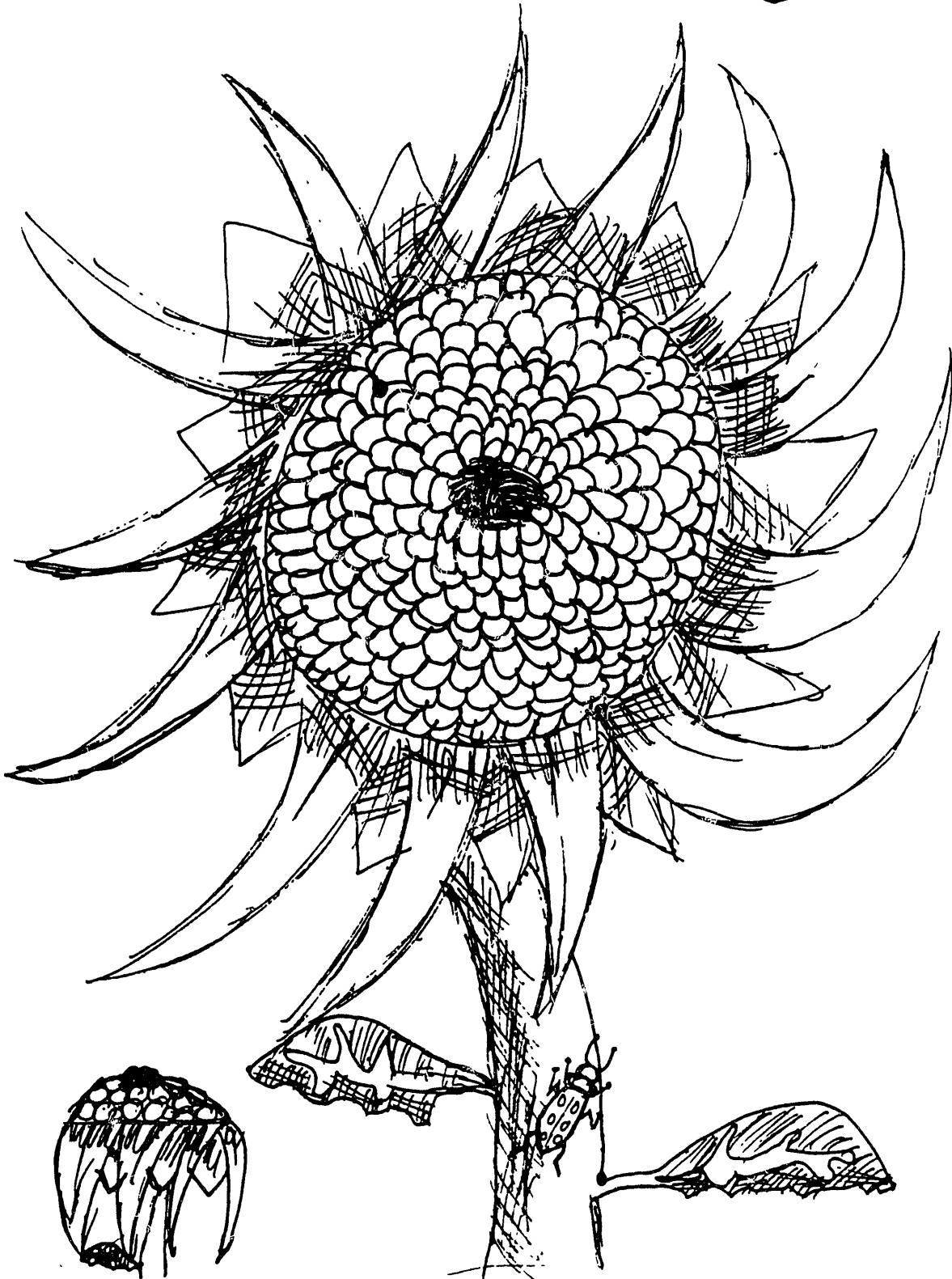
The Permian Basin Regional Planning Commission Board of Directors will meet at 2910 La Force Boulevard, Midland, November 9, 1994, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9450292

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**Meetings Filed November 1,
1994**

The Hunt County Appraisal District Appraisal Review Board will meet at 4801 King Street, Greenville, November 15, 1994, at 2:00 p.m. Information may be obtained from Shirley Gregory, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9450296.

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Name: Chris Ortez
Grade: 5
School: Elliott Elementary, Irving 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.

Comptroller of Public Accounts Local Sales Tax Changes Effective January 1, 1995

The 1.0% city sales tax will become effective January 1, 1995, in the City of Neylandville (Hunt County), City Code 2116109, New Rate 0.01000, Combined Rate 0.07750.

An additional 0.375% sales tax for improving and promoting economic and industrial development will become effective January 1, 1995, in the City of DeSoto (Dallas County), City Code 2057182, New Rate 0.01375, Combined Rate 0.07625.

An additional 0.5% sales tax for improving and promoting economic and industrial development will become effective January 1, 1995, in the following cities.

<u>CITY NAME</u>	<u>CITY CODE</u>	<u>NEW RATE</u>	<u>COMBINED RATE</u>
Cisco (Eastland County)	2067019	0.01500	0.07750
Dalhart (Dallam County)	2056012	0.01500	0.07750
Dalhart (Hartley County)	2056012	0.01500	0.07750
Hereford (Deaf Smith County)	2059019	0.01500	0.08250
Nederland (Jefferson County)	2123048	0.01500	0.08250
Oak Ridge North (Montgomery County)	2170102	0.02000	0.08250
Port Isabel (Cameron County)	2031058	0.02000	0.08250
Queen City (Cass County)	2034064	0.01500	0.07750
Silsbee (Hardin County)	2100018	0.02000	0.08250

The additional 0.5% sales tax for improving and promoting economic and industrial development as permitted under Texas Civil Statutes, Article 5190.6, §4A, will be replaced with an additional 0.5% sales tax for improving and promoting economic and industrial development as permitted under Texas Civil Statutes, Article 5190.6, §4B, in the following cities. These changes will become effective January 1, 1995. There will be no change in the city rates nor in the combined rates. City of Mission (Hidalgo County), City Code 2108065, New Rate 0.02000, Combined Rate 0.08250; and the City of San Benito (Cameron County), City Code 2031021, New Rate 0.02000, Combined Rate 0.08250.

A 0.5% special purpose district sales tax will become effective January 1, 1995, in the Special Purpose District of Kimble County Emergency Services District, SPD Code 5134508, New Rate 0.00500, Combined Rate Note:

The boundaries of the Kimble County Emergency Services District are coterminous with the boundaries of Kimble County.

The City of Junction is currently collecting a 1.5% city sales tax. The combined rate in the City of Junction will be 0.08250.

The combined rate for the seven cities in the county that have not adopted city sales tax and for the unincorporated areas of Kimble County will be 0.06750.

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

TRD-9450224

Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Filed: October 31, 1994

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	10/31/94-11/06/94	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(3)	11/01/94-11/30/94	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose. (3)For variable rate commercial transactions only.

Issued in Austin, Texas, on October 24, 1994.

TRD-9450198 Leslie L. Pettijohn
Acting Commissioner

Filed: October 28, 1994

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Texas Education Agency

Request for Proposals Concerning Research Related to the Texas Counseling and Guidance Programs

Filing Authorization. Request for Proposals (RFP) #701-95-008 is filed under The Elementary and Secondary Education Act, Title I, Chapter 2.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from nonprofit organizations, institutions of higher education, private companies, or individuals to help conduct research related to counseling and guidance programs in Texas public schools. Historically underutilized businesses are encouraged to submit proposals.

Description. The research will assess the availability and quality of counseling in an effort to define a professional identity for the school counselor that better addresses student needs. It also will look at the policy implications of enhancing counseling and guidance programs in terms of the organization of their delivery and coordination with other agencies.

The objectives of the research are to: provide a cross-section of demographic and employment information about Texas public school counselors, present state and national models of guidance programs and issues related to these models, and review state policy regarding guidance programs and counselors; examine counselor duties and work load, and staffing needs of guidance programs; provide information against which the current models of guidance programs can be evaluated in relation to student needs and program goals and objectives; and explore questions related to supply and demand of counselors through longitudinal analysis of data.

The selected contractor will review the research design and data collection instruments prepared by TEA staff for use in conducting the interviews during the site visits. The contractor will help schedule the site visits and work with TEA staff to assure inter-rater reliability across all staff to be involved in conducting interviews. The contractor will collect a core of standard information on counseling and guidance programs in Texas public schools. Information will be collected during approximately 20 site visits made by the contractor to school districts. More than one site will be incorporated into regional trips to the extent possi-

ble, with the sites being geographically representative of Texas. During each site visit, the contractor will collect information from counselors, teachers, campus administrators, other professional support staff, and possibly parents and students, through individual and focus group interviews. The contractor will prepare a publication quality descriptive case report of the site visits. The contractor will also review and comment on analyses and reports prepared by TEA staff.

Dates of Project. Proposers should plan for a starting date of no earlier than January 2, 1995, and an ending date of no later than August 31, 1995.

Project Amount. Funding for the requested services will not exceed \$25,000.

Selection Criteria. 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 selection criteria and the review process are specified in the RFP. 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 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.

Requesting the Proposal. A complete copy of RFP #701-95-008 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.

Further Information. For clarifying information about the RFP, contact Nancy Stevens, Policy Analysis and Evaluation Division, Texas Education Agency, (512) 463-9701.

Deadline for Receipt of Proposals. A proposal must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Monday, December 5, 1994, to be considered for funding.

Issued in Austin, Texas, on October 31, 1994

TRD-9450227 Criss Clout
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: October 31, 1994

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Request for Applications Concerning the Innovative Education Grant Program, School Years 1995-1997

Filing Authority. Request for Application (RFA) #701-95-009 is filed under the Texas Education Code, §11.27.

Eligible Applicants. The Texas Education Agency (TEA) and the Educational Economic Policy Center (EEPC) are requesting applications from school districts or cooperatives of school districts on behalf of individual school campuses to develop applications that demonstrate innovative educational practices and/or related projects on different campuses that provide an opportunity for the evaluation of such practices.

Description. The following are characteristics of fundable projects. The idea is new and innovative. A clear need for the program can be documented. The program has the potential for making a positive impact on student achievement. The program has the potential of being cost effective. The program can be expected to be continued with local funds when external funding ends. A significant component of this program is the ability of a campus to obtain waivers from any state statute or State Board of Education rule except those prohibiting conduct that constitutes a criminal offense.

Each application must provide a description of the means by which the effectiveness of the proposed program will be evaluated. Detailed descriptions of the following should be included.

Criteria: Describe the criteria—the behavioral indicators, the evidence—that will be used to judge the extent to which the program achieved its stated objectives/outcomes. Achievement of relevant campus performance objectives as measured by the Academic Excellence Indicator System (AEIS) must be included in these criteria.

Design: Describe the evaluation design to be used to judge the effectiveness of the program. The design should state when and from whom data will be collected during the course of the evaluation. The selected design should produce the comparative information necessary to judge program accomplishments. It is suggested that experimental designs (the pretest-posttest control group design, for example) often best serve this purpose.

Procedures: Describe the data to be collected with regard to each of the objectives, the instruments to be used to collect those data, the means by which those instruments will be administered, and the statistical procedures to be used to analyze those data collected.

Proposals initially recommended by the review committee will be reviewed by evaluation staff within TEA for appropriate match to program objectives and expected outcomes. If modifications are necessary for technically sound evaluations, contact will be made to negotiate needed changes for final contract execution. Additional requests for data and/or interviews during on-site monitoring or evaluation visits may be made as part of the evaluation design. The nature of these requests will be a function of the specific program.

Dates of Project. The Innovative Education Grant Program will be implemented during the 1995-1997 school years. Applicants should plan for a starting date of no earlier than

June 1, 1995, and an ending date of no later than August 31, 1997. Campuses may apply for summer programs, one-year programs, or two-year programs.

Project Amount. Each project will receive a maximum of \$150,000 for the 1995-1997 school years for a total of \$1.5 million. Applicants must request sufficient funds for the duration of up to a two-year project.

Selection criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. The application must contain a statement verifying that the project has been recommended by the school district superintendent and approved by the district's board of trustees.

Priority for program funding will be given to applications submitted by campuses that have 60% or fewer students performing satisfactorily on criterion-referenced assessments. Higher priority will be given to campuses identified as low-performing by the state's accountability system. Ten percent of the funds will be used to fund innovative programs attempting to integrate students with disabilities in regular classrooms. Campus-level Texas Assessment of Academic Skills (TAAS) data from the 1994 administration will be used to determine which campuses had fewer than 60% of their students passing all tests taken. Applications for the innovative programs must originate from campuses and include substantial evidence that the campuses have adequately planned the programs. Priority will be given to programs in the following areas: campus-based accountability systems; teacher and staff development and training; agency, parent, business/private sector, community, school collaboration to address external factors inhibiting student achievement; and early childhood, elementary, middle school, and high school restructuring.

The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-95-009 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 RFA number in your request.

Further Information. For clarifying information about the RFA, contact Kathleen Burke, Office of Operations and Special Projects, Texas Education Agency, (512) 463-4251.

Deadline for Receipt of Applications. The deadline for receiving an application in the Document Control Center of the Texas Education Agency is 5:00 p.m., Wednesday, December 21, 1994.

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

TRD-9450226
Crisis Cloudt
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: October 31, 1994

Texas State Board of Registration for Professional Engineers

Continuing Professional Competency Guidelines

The Texas State Board of Registration for Professional Engineers has adopted a position regarding voluntary Continuing Professional Competency for Engineers (CPC). This position, adopted on April 20, 1994, is as follows:

1. Develop a thoughtfully planned CPC Program for professional engineers who are registered to practice in Texas.
2. Implement a meaningful voluntary CPC Program to become effective September 1, 1995.

a. The voluntary program shall be evaluated beginning in August, 2001, for the purpose of making recommendations for the agency Sunset Review scheduled for 2003.

b. A CPC Advisory Council (AC) shall be appointed by the Chairman of the Board in June, 1994, consisting of two Board Members (P.E.) and three members appointed in consultation with the president of the Texas Society of Professional Engineers (TSPE) (at least one member shall be from industry and no two members shall be from the same branch as recognized by the Board). The term of appointment to the AC shall be two years except two initial appointees shall serve only one year. One of the Board Member appointees shall serve only one year. AC members may be appointed for more than one term. This AC shall help develop and recommend the program details. The AC shall seek advice and input from the Board's Industry Advisory Council and Education Advisory Council and other organizations as may be necessary.

c. A CPC Monitoring Team (MT), shall be appointed June, 1995, to develop and recommend guidelines for monitoring compliance and continuing competency. This team shall be chaired by a Board Member and the membership shall represent each engineering branch recognized in Texas.

On October 19, 1994, the Board approved a draft of the Continuing Professional Competency guidelines. These draft CPC guidelines provide a framework for the new voluntary CPC program for Texas registered professional engineers. These guidelines were developed by the Board with advice and recommendation from the CPC Advisory Council.

The public is encouraged to review, evaluate and submit written comments concerning the guidelines prior to the January 11, 1995 Regular Quarterly Board Meeting. A public forum on this topic will be held during this Board meeting. Comments should be submitted to John R. Speed, P.E., or Thomas M. Newton, P.E., at the Professional Engineers Board, P.O. Drawer 18329, Austin, Texas 78760. Additional questions may be directed to them at the Board address or at (512) 440-7723.

CPC GUIDELINES

(a) Continuing Professional Competency. The information set forth below is for the purpose of providing guidelines for continuing professional competency. The purpose of the continuing professional competency requirements is to demonstrate a continuing level of competency among professional engineers. Every registrant who meets these continuing professional competency guidelines shall be noted in the roster as an active participant in the Texas State Board of Registration for Professional Engineers' volun-

tary Continuing Professional Competency (CPC) program.

(b) Definitions. Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH)—A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(2) Continuing Education Unit (CEU)—Unit of credit customarily used for continuing education courses. One continuing education unit equals ten hours of class in approved continuing education course.

(3) College/Unit Semester/Quarter Hour—Credit for ABET-approved course or other related college course approved in accordance with Section (e) of these guidelines.

(4) Course/Activity—Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's responsibilities or field of practice.

(c) Requirements for participation. Every registrant who participates in this program must obtain 15 PDH units during the annual renewal period. If a registrant exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. PDH units may be earned for the following:

(1) Documented self-study.*

(2) Successful completion of correspondence, televised, videotaped, audiotaped and other short courses/tutorials.

(3) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences.

(4) Successful completion of continuing education courses.

(5) Successful completion of college courses.

(6) Teaching or instructing in (2), (4) and (5), above.

(7) Authoring published papers, articles, or books.

(8) Active participation in professional or technical societies.

(9) Patents.

*All professional engineers are expected to participate in self-study related to their areas of responsibility or practice to maintain their professional competency and ethical standards.

(d) Units. The conversion of other units of credit to PDH units as follows:

(1) 3 hours of documented self-study 1 PDH

(2) 1 Hour of professional development 1 PDH in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences.

(3) 1 Continuing Education Unit 10 PDH

(4) 1 College or unit semester hour 45 PDH

(5) 1 College or unit quarter hour 30 PDH

(6) For teaching in (d)(3) through (d)(5), apply multiple of 2**

(7) Each published paper, article or book 10 PDH

(8) Active participation in professional 2 PDH and technical society. (Each organization.)

(9) Each patent. 10 PDH

****Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time engineering faculty.**

(e) Determination of Credit. The Board of Registration has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for college or community college approved courses will be based upon course credit established by the college.

(2) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(3) Credit determination for activities (d)(7) and (d)(9) is the responsibility of the registrant (subject to review as required by the Board).

(4) Credit for activity (d)(8), active participation in professional and technical societies (limited to 2 PDH per organization), requires that a licensee serve as an officer and/or actively participate in a committee of the organization. PDH credits are not earned until the end of each year of service.

(5) Credit for activity (d)(1) shall be limited to no more than 5 PDH per renewal period.

(f) Recordkeeping. The responsibility of maintaining records to be used to support credits claimed is the registrant's. Acceptable records may include, but are not limited to:

1) A log showing identifying information such as the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, specifics of self-study, and PDH credits earned;

2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

3) Records as maintained by the National Professional Development Registry for Engineers (NPDRE) or similar repositories.

These records should be maintained by the registrant for a period of three years and copies may be requested by the Board for verification purposes.

(g) Non-Residents. Registrants who are residents of jurisdictions other than Texas should meet any mandatory CPC requirements of their resident jurisdiction. The guidelines for Texas will be deemed as satisfied when non-resident registrants provide evidence of having met any mandatory requirements of their resident jurisdiction.

(h) Reporting. Reporting of CPC activities will be made during the license renewal process. Verification of a registrant's CPC records will not be required for the license renewal process, but the Board of Registration may ask to review such verification.

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

TRD-9450090 Charles E. Nemir, P.E.
Executive Director
Texas State Board of Registration for
Professional Engineers

Filed: October 26, 1994

Texas Department of Health

Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Community Medical Center, P.A. (registrant-R14776) of El Paso to cease and desist performing mammographic examinations until all violations noted during a recent inspection have been corrected. The bureau determined the performance of mammography without qualified physicians to interpret the mammograms and without a quality assurance program constitutes an immediate threat to public health and safety, and the existence of an emergency.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9450233 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: October 31, 1994

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Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Carpenter Medical Clinic (licensee-L04500) of Dallas to cease and desist from using any licensable amount of radioactive material in Texas until the bureau has determined the licensee's technician has received sufficient training to safely handle radioactive material, and the licensee has demonstrated its radiation safety program has been upgraded to permit the safe possession and use of licensed radioactive material. During a recent inspection, the bureau determined the licensee's radiation safety program had degraded to an ineffective or non-existent level, and that an emergency exists requiring immediate action to protect the public health and safety.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9450232 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: October 31, 1994

Public Health Region 1, Community Oriented Primary Care/Rural Health Clinics Pilot Programs

Public Health Region 1 (PHR 1) is considering the development of one to eight community oriented primary care (COPC)/rural health clinic (RHC) pilot programs through bridgegrants in the Panhandle and/or South Plains area of Texas, designed to bridge public health and community health services in rural settings. Financial assistance is available from PHR 1 ranging in amounts of \$5,000 to \$40,000 depending on the number of proposals considered and approved for funding.

PHR 1 is requesting information and proposals for piloting innovative COPC variations of RHC delivery models in which there are: goals emphasizing the integration of community public health and primary care functions; methods for community definition, characterization and involvement that is responsive to the community; processes to identify community health problems that are to be impacted; provisions to modify and customize community health care resources responding to identified community health problems; and means to measure, evaluate and determine outcomes and success in impacting identified community health problems.

Any organization interested in recommending a COPC/RHC pilot program possessing the above characteristics should contact PHR 1 for application materials on or after November 1, 1994. Final proposals should be mailed or faxed by the close of business January 31, 1995. Awards decisions will be made April 1, 1995 by a panel. Awards will be granted May 1, 1995 and must be used within a 12-month period, ending April 30, 1996. Responses should be limited to no more than 12 pages. All proposals will be considered as prospective candidates for future COPC/RHC pilot programs and funding. PHR 1 reserves the right not to fund any proposal(s).

Creative suggestions and innovative approaches to a health care delivery system that promotes accessible, comprehensive, coordinated and continuous care to rural populations in a cost efficient manner are encouraged and welcomed.

For additional information, please contact: Anthony M. Palasota, Texas Department of Health, Public Health Region 1, 1109 Kemper Street, Lubbock, Texas 79403, (806) 767-0302, fax (806) 741-1366.

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

TRD-9450161 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: October 27, 1994

Notice of Revocation of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificates of registration: North Dallas Surgicare, Richardson, Z00817, October 20, 1994; Stonie R. Cotten, M.D., Dallas, R02079, October 20, 1994; Douglas R. Stark, D.V.M., Spring, R09724, October 20, 1994; Gary W. Whitaker, D.C., San Antonio, R13034, October 20, 1994; Rodney B. Brand, D.C., Fort Worth, R13156, October 20, 1994; Charles G. Holmrsten, M.D. & Associates, P.A., Houston, R14965, October 20, 1994; Garland D. Glenn, II, D.C., Tyler, R14972, October 20, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9450231 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: October 31, 1994

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following radioactive material license: Mike Rathman Logging Company, Wichita Falls, L01700, October 20, 1994.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9450234 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: October 31, 1994

Texas Higher Education Coordinating Board Notice of Meeting

The Family Practice Residency Advisory Committee will meet on Wednesday, November 9, 1994, from 10:00 a.m. to 1:00 p.m. The meeting will be held at the Coordinating Board Office, 7700 Chevy Chase Drive, Building 1, Room 1.100. The committee will receive reports on Fiscal Year 1995 contracts; Center for Rural Health Initiatives-Health Fund; efforts to promote the Family Practice Residency Program; Family Practice Residency Pilot Projects; and Rural Rotation Program Survey. For further information, please contact Stacey Silverman at (512) 483-6206.

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

TRD-9450200 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: October 28, 1994

Texas Department of Insurance Amended Plan of Operation for the Texas Workers' Compensation Insurance Fund

The Commissioner of Insurance, or his designee, will consider the approval of an amended filing made by the Texas Workers' Compensation Insurance Fund (Fund) pursuant to the Texas Insurance Code, Article 5.76-3, §5, pertaining to the Plan of Operation for the Texas Workers' Compensation Insurance Fund. The amended Plan of Operation was approved by the Fund's Board of Directors on October 26, 1994.

The amended filing adds two additional provisions to the Plan of Operation as approved by the Fund's Board of Directors on August 31, 1994 and referenced in the notice published in the October 7, 1994, issue of the *Texas Register* (19 TexReg 8071).

A copy of the amended filing is available for review in the office of the Chief Clerk of the Texas Department of

Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request a copy of the amended filing, please contact Angie Arizpe, (512) 322-4147 (refer to reference number W-1094-28).

This amended filing is subject to Department approval without a hearing unless an objection is filed with Nancy Moore, Deputy Commissioner Workers' Compensation, Texas Department of Insurance, Mail Code 202-1A, P.O. Box 149092, Austin, Texas 78714-9092 within five days after publication of this notice.

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

TRD-8450235 D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: October 31, 1994

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Third Party Administration Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas for M.I.S. Insurance Administrators, Inc., a foreign third party administrator. The home office is in Santa Ana, California.

Application for admission to Texas for Healthsource Preferred, Inc., a foreign third party administrator. The home office is in Concord, New Hampshire.

Application for admission to Texas for Contractor Employee Benefits Administration, Inc. (doing business under the assumed name of CEBA), a foreign third party administrator. The home office is in San Diego, California.

Application for admission to Texas for J. F. Molloy & Associates, Inc., a foreign third party administrator. The home office is in Indianapolis, Indiana.

Application for admission to Texas for Financial Administrative Services, Inc. (doing business under the assumed name of Phoenix Financial Administrative Services, Inc. (FAS)), a foreign third party administrator. The home office is in Haddam, Connecticut.

Application for incorporation in Texas of Southwest Health Alliances, Inc., a domestic third party administrator. The home office is in Amarillo, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe Street, Austin, Texas 78714-9104.

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

TRD-8450236 D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: October 31, 1994

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**Texas Natural Resource Conservation
Commission
Enforcement Orders**

An agreed enforcement order was entered regarding Chevron USA Inc., Docket Number 94-0522-IWD-E (Registration Number DR91463) on October 21, 1994, assessing

\$10,000 in administrative penalties with \$2,500 deferred.

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 Bill Heemsbergen, Docket Number 94-0321-PST-E, Enforce I.D. E10437 (No TNRCC Facility I.D.) on October 21, 1994, assessing \$4,300 in administrative penalties with \$3,300 deferred.

Information concerning any aspect of this order may be obtained by contacting Christopher T. Wilson, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0471.

An agreed enforcement order was entered regarding Lebus Manufacturing Company, Docket Number 94-0393-IWD-E (No Permit) on October 21, 1994, assessing \$2,700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mary E. Smith, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4484.

An agreed enforcement order was entered regarding Northline Corporation, Docket Number 94-0348-MWD-E (Permit Number 10518-01) on October 21, 1994, assessing \$15,800 in administrative penalties. Stipulated penalties were also imposed.

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 Smith County WCID One, Docket Number 94-0486-MWD-E (Permit Number 10285-01) on October 21, 1994, assessing \$16,000 in administrative penalties with \$4,000 deferred.

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 the City of Hidalgo Docket Number 94-0523-MSW-E (MSW Permit Number 490) on October 21, 1994, assessing \$20,800 in administrative penalties with \$10,400 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 Hidalgo County, Docket Number 94-0524-MSW-E (MSW

Permit Number 1727) on October 21, 1994, assessing \$960 in administrative penalties.

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 28, 1994.

TRD-9450193
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 28, 1994

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**Notice of Applications for Waste
Disposal Permits**

Notices of Applications for waste disposal permits issued during the period of October 20-28, 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.

Amoco Oil Company; Texas City Refinery; which authorize subsurface disposal of hazardous and non-hazardous waste streams generated by the facility; The waste disposal wells are located on company property at the Texas City Refinery, on the upper Texas Gulf Coast, approximately ten miles northwest of Galveston in Texas City, Galveston

County, Texas; renew and amend; permit numbers WDW-80, WDW-127, WDW-128, WDW-214 AND WDW-215.

Central Power and Light Company; the Coletto Creek Steam Electric Station; is adjacent to Coletto Creek Reservoir approximately 2.5 miles northeast of the Town of Fannin, Goliad County, Texas; renewal; 02159.

Dallas County Water Control and Improvement District Number Six; D-6 Wastewater Treatment Plant; The wastewater treatment facility will serve the City of Balch Springs; The plant site is approximately 0.5 miles east and 0.2 miles south of the intersection of Beltline Road and Beckett Road in southeast Dallas County, Texas; new; 13738-01.

Harris County Water Control and Improvement District Number 8A; the wastewater treatment plant; is at 16224 Bear Bayou Drive, southwest of the intersection of Bear Bayou Drive and North Avenue in the Old River Subdivision in Harris County, Texas; renewal; 10558-01.

City of Houston; the wastewater treatment plant; is at 17230 West Montgomery Road, approximately 3,500 feet north of Greens Bayou and approximately 4,000 feet east of the intersection of West Montgomery Road (FM Road 149) and FM 1960 in Harris County, Texas; renewal; 10495-131.

Rohm and Haas Bayport, Inc., authorizes the continued operation of one existing tank and one existing storage area for the storage of industrial hazardous and Class I non-hazardous waste; the wastes managed at this facility are industrial hazardous waste generated from plant sources and generally described as distillation ends, lab waste, organic liquid, waste oil, wastewater, mineral spirits, pesticide waste, waste monomer, filter wastes, and contaminated solids; the facility is located at 13300 Bay Area Boulevard on approximately 60.155 acres, on the east side of Bay Area Boulevard, approximately 1,000 feet south of Fairmont Parkway in the City of La Porte, Harris County, Texas; renewal; HW-50028.

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

TRD-9450195
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 28, 1994

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**Notice of Opportunity to Comment on
Permitting Actions**

Notice of opportunity to comment on permitting actions for the week ending October 28, 1994.

Amerada Hess Corporation for a minor amendment to Permit Number 00671 in order to include the effluent limitations for total copper at Outfall 001. The final effluent limitations for copper are to be effective following a two-year compliance period. The permit currently authorizes the discharge of treated tank washwater, ship ballast water and stormwater at a volume not to exceed an average flow of 730,000 gallons per day via Outfall 001 and an intermittent, flow variable discharge of stormwater via Outfall 002, which will remain the same. The applicant operates a tank farm and loading terminal. The plant site is on company controlled property abutting the north shore of the Houston Ship Channel at a point approximately 1/2 mile downstream from the Washburn Tunnel and approxi-

mately one mile south of Interstate Highway 10, Harris County, Texas.

Application Number 23-353B by the City of McAllen to combine the Rio Grande water rights authorized by Certificate of Adjudication Numbers 23-353, as amended and 23-746, as amended, under Certificate Number 23-353, as amended, and to amend Certificate Number 23-353, as amended and combined. Applicant seeks to combine the 832.5 acre-feet of Class "B" irrigation water rights authorized by Certificate Number 23-746, as amended, with the 345.84 acre-feet of municipal water rights authorized by Certificate Number 23-353, as amended, and to amend Certificate Number 23-353, as amended and combined, to change the purpose of use of the irrigation rights to municipal rights for use in the City's service area in Hidalgo County.

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

TRD-9450192 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Commission

Filed: October 28, 1994

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**Provisionally-Issued Temporary Permits
to Appropriate State Water**

Listed below are permits issued during the period of October 24-28, 1994.

Application Number TA-7362 by Hunter Industries, Inc., for diversion of one acre-foot of water in a ten-month period for industrial use (highway construction of SH 142). Water may be diverted from Clear Fork Plum Creek at the stream crossing of SH 142 approximately 3.3 miles east of Maxwell and approximately 4.5 miles west of Lockhart in Caldwell County, Texas, Guadalupe River Basin.

Application Number TA-7363 by T. L. James and Company, Inc., for diversion of seven acre-feet of water in a six-month period for industrial use (road construction-soil stabilization and base work). Water may be diverted from two diversion points, Point One from Garretts Creek at the stream crossing of FM 1486, approximately nine miles east of Anderson and Point Two a private stock pond along Little Caney Creek, approximately 10.5 miles east of Anderson in Grimes County, Texas, San Jacinto River Basin.

Application Number 7364 by Ray Faris, Inc., for diversion of two acre-feet of water in a one-year period for industrial use (highway construction, RM 1376). Water may be diverted at the South Grape Creek crossing of RM 1376, approximately ten miles southeast of Fredericksburg in Gillespie County, Texas, Colorado River Basin.

Application Number TA-7358 by Arrow Drilling Company, Inc., for diversion of one acre-foot of water in a one-year period for mining use (oil and gas well drilling). Water may be diverted from Hondo Creek, approximately 0.6 mile west of Edroy and approximately 11.8 miles southwest of Sinton in San Patricio County, Texas, Nueces 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 deter-

mined 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 filed 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 78731, (512) 239-3300.

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

TRD-9450194 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 28, 1994

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**Texas Department of Protective and
Regulatory Services**

Notice of Award

In accordance with Texas Government Code, Chapter 2254, Subchapter B, the Texas Department of Protective and Regulatory Services (PRS) announces its intent to award a contract for additional deliverables to the Institute for Human Services Management, Inc. The contractor will continue to provide knowledge and expertise necessary to assist PRS in the project "Initiatives in Child and Adult Protective Services and Child Care Licensing". This project examines current PRS programs and to design new or revised PRS programs increasing or initiating federal financial participation and enhancing service delivery. The request of notice of intent to contract was published in September 6, 1994, issue of the *Texas Register* (19 TexReg 7026).

Selected Offeror: Institute for Human Services Management, Inc., 7307 MacArthur Boulevard, Suite 214, Bethesda, Maryland 20816.

Credentials: The selected and sole offeror has demonstrated knowledge, competence, and qualifications in developing and implementing similar statewide initiatives, including knowledge and experience with health and human services in the State of Texas.

Performance Deadlines: The selected offeror has targeted implementation dates for service delivery continuing through State of Texas Fiscal Year 1995.

Funding: The amount of the award for these additional services shall not exceed \$75,000.

Limitations: Funding is dependent upon available appropriations.

Term of Contract: The effective dates of the contract will continue through State of Texas Fiscal Year 1995.

Issued in Austin, Texas, on October 7, 1994.

TRD-94450185 Nancy Murphy
Section Manager, Media and Policy
Services
Texas Department of Protective and
Regulatory Services

Filed: October 28, 1994

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**Texas Department of Transportation
Public Hearing Notice**

The Texas Department of Transportation (TxDOT) will hold a public hearing on Friday, November 18, 1994, from 10:00 a.m. to 2:00 p.m. at 200 East Riverside Drive, Room 101 in Austin, to receive public comments on changes to the Statewide Transportation Improvement Program (STIP) for Fiscal Years 1995-1997. The changes reflect the replacement of the Fiscal Years 1994-1996 Transportation Improvement Programs (TIPs) for the Dallas-Fort Worth Metropolitan Planning Organization (MPO) and the Houston MPO with their Fiscal Years 1995-1997 TIPs.

Title 23, United States Code, §134 and §135, as amended by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), require each designated MPO and the state, respectively, to develop a TIP as a condition to securing federal funds for the next three fiscal years for transportation projects under either Title 23 or the Federal Transit Act (formerly the Urban Mass Transportation Act of 1991).

Section 134(h) requires an MPO to develop its TIP in cooperation with the state and affected transit operators; to provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed TIP; and further requires the TIP to be updated at least once every two years and to be approved by the MPO and by the Governor. Section 135(f) requires the state to develop a STIP for all areas of the state in cooperation with those designated MPO's; and further requires the Governor to provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed STIP.

By letters dated September 9, 1992 and September 16, 1992, addressed to federal transportation officials, the Honorable Ann W. Richards, Governor of Texas, delegated to the Texas Transportation Commission (commission) those powers and responsibilities granted to her by the ISTEA, save and except the Recreational Trails Program.

By Minute Order dated October 27, 1994, the commission found the requisites of §135 fully satisfied as they pertain to the revised STIP. Pursuant to the authority delegated by the Governor, the commission also approved the respective TIPs of each designated MPO and the STIP for adoption and final approval subject to public comment and as to the Dallas-Fort Worth TIP the granting of NO,

Waiver by the Environmental Protection Agency, and ordered the executive director to conduct or have conducted a public hearing to secure public comment.

A file copy of the revisions to the Fiscal Years 1995-1997 STIP is available for review at TxDOT central Austin office of the Division of Transportation Planning and Programming, located at Building 1, Room 304, 40th and Jackson Streets, Austin, Texas and in each TxDOT district office throughout the state. Persons wishing to review the revisions to the Fiscal Years 1995-1997 STIP may secure the address and telephone number of the nearest district office from the Division of Transportation Planning and Programming at (512) 465-7466.

Registration for the hearing will begin at 9:00 a.m., and speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearing may contact Roger Polson, public information officer, at 125 East 11th Street, Austin, Texas 78701-2393, (512) 463-8955. Requests should be made no later than two days prior to the hearing. Every reasonable effort will be made to accommodate these needs.

Further information on the revisions to the Fiscal Years 1995-1997 STIP may be obtained from Eddie Shafie of the Transportation Planning and Programming Division, P.O. Box 5051, Austin, Texas 78763-5051, (512) 465-7466. Interested parties who are unable to attend the hearing may submit written comments to Alvin R. Luedecke, Jr., P.E., at that same address. In order to be considered, all comments must be received by TxDOT at the above address no later than Monday, November 21, 1994.

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

TRD-9450217 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: October 28, 1994

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Public Notice

Pursuant to Title 43, Texas Administrative Code, §11.88, concerning Environmental Impact Statements (EIS), the Texas Department of Transportation (TxDOT) is issuing this notice to advise the public that a draft environmental impact statement will be prepared for a proposed highway project in Smith County, Texas.

The department, in cooperation with the Federal Highway Administration (FHWA), will prepare a draft environmental impact statement (EIS) on a proposal to construct the southern section of Loop 49, an approximately 40-mile circumferential controlled access highway around the urbanized area of Tyler in Smith County, Texas. The southern section of the proposed Loop 49 extends from State Highway 155 to State Highway 110 in southern Smith

County. The length of the project varies, depending on the selected alternative, from approximately 15.3 kilometers (9.5 miles) to 18.5 kilometers (11.5 miles).

The proposed action is intended to provide access and increased mobility to the southern Tyler/Smith County area; to alleviate traffic congestion on existing roadways in urbanized Smith County; and to provide a safer, more convenient route for traffic travelling through the Tyler area. Alternatives to the proposed action to be discussed in the EIS consist of taking no action; and improving existing roadways in the urbanized areas of Smith County. The build alternatives include three alternative alignments along new location rights-of-way connecting State Highway 155 to State Highway 110.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in the proposal. A Major Investment Study has been completed in compliance with the Intermodal Surface Transportation Efficiency Act. In addition, several meetings have been held by the Loop 49 Steering Committee, composed of representatives of local governments, agencies, and interested organizations and citizens. A public meeting was held on October 13, 1994, at Robert E. Lee High School in Tyler, Texas, at which public comments on the proposed action and alternatives were requested. In addition, a public hearing will be held after publication of the Draft EIS. Public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Agency Contact: Comments or questions concerning this proposed action and the EIS should be directed to Dianna Noble, Texas Department of Transportation, Division of Highway Design, 125 East 11th Street, Austin, Texas 78701, (512) 416-3001.

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

TRD-9450214 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: October 28, 1994

Requests for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an architectural/engineering consultant, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services: Design and construction of maintenance facilities at two sites, Sierra Blanca on FM 1111 in Hudspeth County and Pellicano on Loop 375 east of El Paso in El Paso County. Services include site master planning, design of all buildings, structures, site appurtenances, utilities, and construction administration. Maximum construction budgets: Sierra Blanca-\$820,250; Pellicano-\$820,250.

Deadline: A Letter of Intent notifying TxDOT of the architectural or engineering consultant's intent to submit a proposal will be accepted by FAX at (512) 416-3072, or delivered to TxDOT, General Services Division, 150 East Riverside Drive, Suite 406N, Austin, Texas 78704, or

mailed to 125 East 11th Street, Austin, Texas 78701-2483, until 5:00 p.m. on Wednesday, November 16, 1994.

Agency Contact: For further information contact Craig Russell, Architect at (512) 416-3041 or Robert Unks at (512) 416-3064. Fax (512) 416-3072.

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

TRD-9450215 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: October 28, 1994

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an architectural or engineering firm, pursuant to Texas Government Code, Chapter 2254, Subchapter A, to provide the following services: schematic design, detailed plans, specifications, estimates and construction administration for an area engineering and maintenance building to be located in Conroe, Montgomery County, on FM 3083, 2.5 miles east of Interstate 45 and a service station and laboratory building to be located at the Genoa Maintenance Site in Houston, Harris County on FM 1959, between Interstate 45 and State Highway 3.

Deadline: A Letter of Intent notifying TxDOT of the architectural or engineering consultant's intent to submit a proposal shall be either hand delivered to TxDOT, General Services Division, 150 East Riverside Drive, Suite 406N, Austin, Texas, or mailed to 125 East 11th Street, Austin, Texas 78701-2483, until 5:00 p.m. on Monday, November 7, 1994. Proposals will be accepted until 5:00 p.m. on Friday, November 18, 1994.

Agency Contact: Requests for additional information regarding the request for proposals should be directed to Ralph Hanson or Stephanie Kleiber at (512) 416-3048 or fax (512) 416-3072.

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

TRD-9450216 Diane L. Northam
Legal Executive Assistant
Texas Department of Transportation

Filed: October 28, 1994

Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Alamo Council of Governments, 118 Broadway, Suite 400, San Antonio, Texas 78205, received September 14, 1994, applications for planning grants in the amounts of \$34,375 and \$27,500 from the Research and Planning Fund.

Nueces River Authority, P.O. Box 349, Uvalde, Texas 78802-0349, received September 14, 1994, application for planning grant in the amount of \$75,000 from the Research and Planning Fund.

Guadalupe-Blanco River Authority, P.O. Box 271, Seguin, Texas 78156-0271, received September 14, 1994, applications for planning grants in the amounts of \$22,000,

\$20,230, and \$43,785 from the Research and Planning Fund.

Shelby County, in care of Paxton Water Supply Corporation, 200 San Augustine Street, Center, Texas 75930, received September 14, 1994, application for planning grant in the amount of \$40,000 from the Research and Planning Fund.

City of Weslaco, 500 South Kansas, Weslaco, Texas 78596, received September 14, 1994, application for planning grant in the amount of \$26,800 from the Research and Planning Fund.

City of Clifton, P.O. Box 231, Clifton, Texas 76634 and City of Meridian, P. O. Box 205, Meridian, Texas 76665, received September 14, 1994, application for planning grant in the amount of \$25,000 from the Research and Planning Fund.

Sulphur Springs River Basin Authority of Texas, P.O. Box 274, Sulphur Springs, Texas 75482, received September 14, 1994, application for planning grant in an amount of \$50,000 from the Research and Planning Fund.

Dallas County Utility and Reclamation District, P.O. Box 140035, Irving, Texas 75014-0035, received September 14, 1994, application for planning grant in the amount of \$25,000 from the Research and Planning Fund.

Barton Springs/Edwards Aquifer Conservation District, 1124A Regal Row, Austin, Texas 78748, received September 14, 1994, application for planning grant in the amount of \$32,761.50 and \$27,000 from the Research and Planning Fund.

Harris-Galveston Coastal Subsidence District, 1660 West Bay Area Boulevard, Friendswood, Texas 77546-2640, received September 14, 1994, application for planning grant in the amount of \$150,000 from the Research and Planning Fund.

City of Brownwood, P.O. Box 1389, Brownwood, Texas 76804, received September 13, 1994, application for plan-

ning grant in the amount of \$168,750 from the Research and Planning Fund.

City of Katy, P.O. Box 617, Katy, Texas 77492, received September 14, 1994, application for planning grant in the amount of \$25,000 from the Research and Planning Fund.

City of McAllen, P.O. Box 220, McAllen, Texas 78505-0220 and City of Mission, 900 Doherty, Mission, Texas 78752, received September 14, 1994, application for planning grant in the amount of \$112,500 from the Research and Planning Fund.

City of San Antonio, Public Works Department, P.O. Box 839966, San Antonio, Texas 78283-3966, received September 14, 1994, application for planning grant in the amount of \$248,750 from the Research and Planning Fund.

City of Donna, 307 South 12th Street, Donna, Texas 78537, received September 14, 1994, application for planning grant in the amount of \$45,000 from the Research and Planning Fund.

Tarrant County WCID Number One, P.O. Box 4508, Fort Worth, Texas 76164-0508, application for planning grant in the amount of \$150,000 from the Research and Planning Fund.

City of Fredericksburg, P.O. Drawer 111, Fredericksburg, Texas 78624, application for planning grant in the amount of \$42,000 from the Research and Planning Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

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

TRD-9450102 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: October 26, 1994



TAC Titles Affected

The following is a list of the administrative rules that were published in the January thru October, 1994 issues.

Part V. General Services Commission

1 TAC §§115.1-115.7, 115.9-115.13	7967
1 TAC §§115.1-115.8	7967
1 TAC §§121.1-121.9	8541
1 TAC §§121.1-121.11	8291
1 TAC §121.5, §121.9	8291
1 TAC §§121.5-121.9	8539
1 TAC §123.23	8029

Part IX. State Aircraft Pooling Board

1 TAC §181.11	8541
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Part X. Department of Information Resources

1 TAC §201.15	7867
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Part XII. Advisory Commission on State Emergency Communications

1 TAC §251.3	8519, 8539
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TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §1.49, §1.50	8333
4 TAC §1.300	7897
4 TAC §3.80, §3.81	8443
4 TAC §§3.100-3.107	8107
4 TAC §§15.42-15.47, 15.49, 15.50, 15.53-15.55	8444
4 TAC §§15.171-15.183	8107
4 TAC §30.4	8446

Part II. Texas Animal Health Commission

4 TAC §35.6	7868
4 TAC §36.1, §36.2	7868
4 TAC §43.2	7968
4 TAC §§43.20-43.23	7969
4 TAC §59.5	7869
4 TAC §59.6	7869

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

10 TAC §§9.1-9.4, 9.6, 9.7, 9.9	8107
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Part VII. Texas Council on Workforce and Economic Competitiveness

10 TAC §251.1	8292
10 TAC §252.2	8292
10 TAC §252.3	8294

TITLE 13. CULTURAL RESOURCES

Part I. Railroad Commission of Texas

13 TAC §§6.1-6.10	8108
13 TAC §6.121	8030
13 TAC §7.123	8030
13 TAC §7.125	8030
13 TAC §7.126	8031
13 TAC §7.127	8032

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §3.8, §3.94	8273
16 TAC §3.36	8271
16 TAC §5.183	7897
16 TAC §5.217	7870
16 TAC §5.294	8294
16 TAC §5.503	7898
16 TAC §9.32	7898
16 TAC §9.33	7899
16 TAC §13.2001	7901
16 TAC §§20.101, 20.105, 20.110, 20.115, 20.120	8109

Part II. Public Utility Commission of Texas

16 TAC §23.23	7902
16 TAC §24.10	8278
16 TAC §§24.31-24.33	8278

Part III. Texas Alcoholic Beverage Commission

Part IV. Texas Department of Licensing and Regulation

16 TAC §72.80, §72.82	8521
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Part VI. Texas Motor Vehicle Commission

16 TAC §103.13	8333, 8441
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Part VIII. Texas Racing Commission

16 TAC §303.9	8109
16 TAC §303.83	8334
16 TAC §305.42	8334

16 TAC §305.62	8109
16 TAC §305.301	8109
16 TAC §309.53	8335
16 TAC §309.61	8335
16 TAC §309.63	8336
16 TAC §309.193	8336
16 TAC §309.200	8110
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