

# TEXAS REGISTER



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## How to Use the Texas Register

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

**Governor** - Appointments, executive orders, and proclamations.

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

**Secretary of State** - opinions based on the election laws.

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

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

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

**Open Meetings** - notices of open meetings

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

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

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

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

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

### Texas Administrative Code

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

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

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

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

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

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

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

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE  
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The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

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

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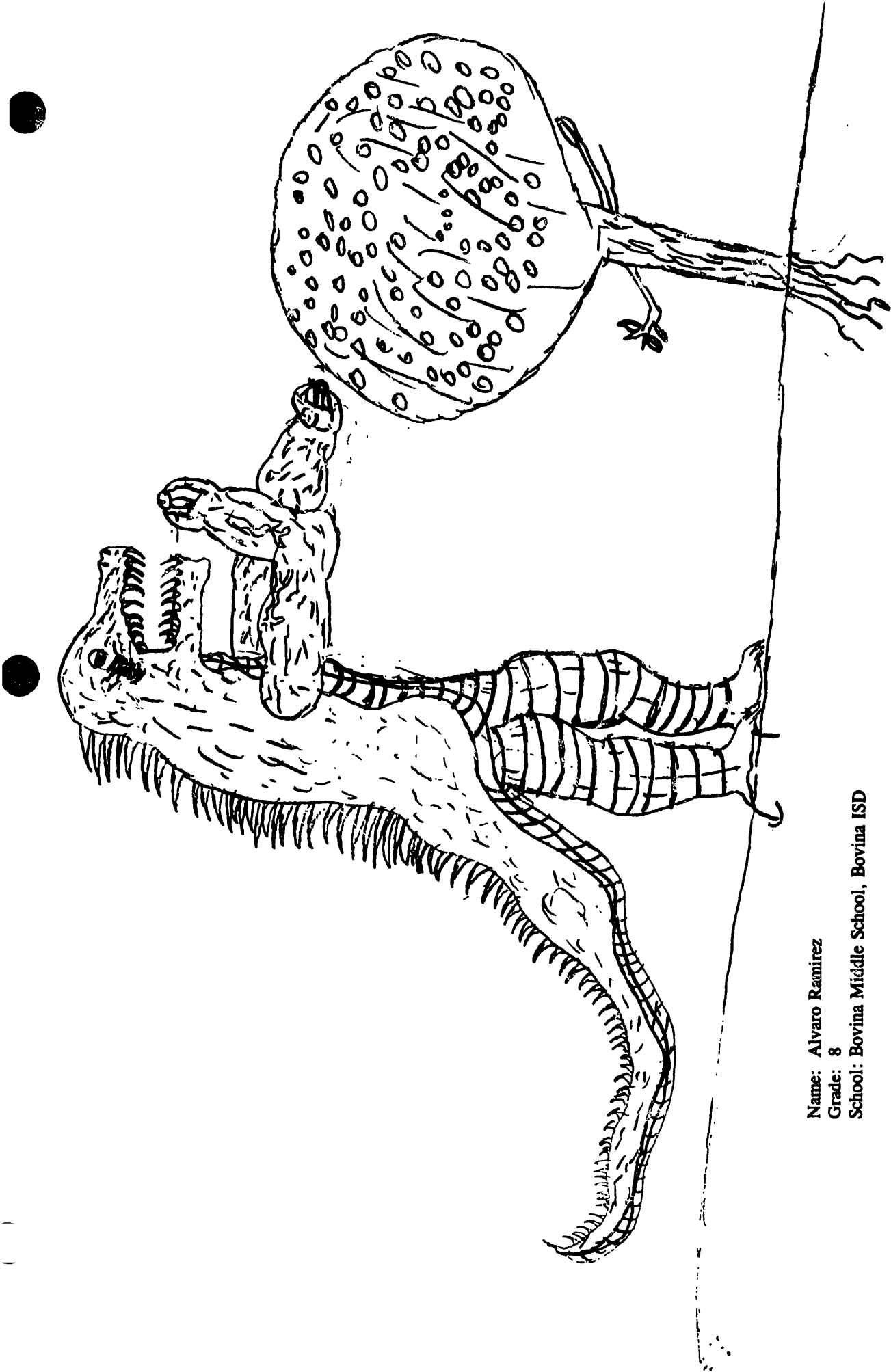
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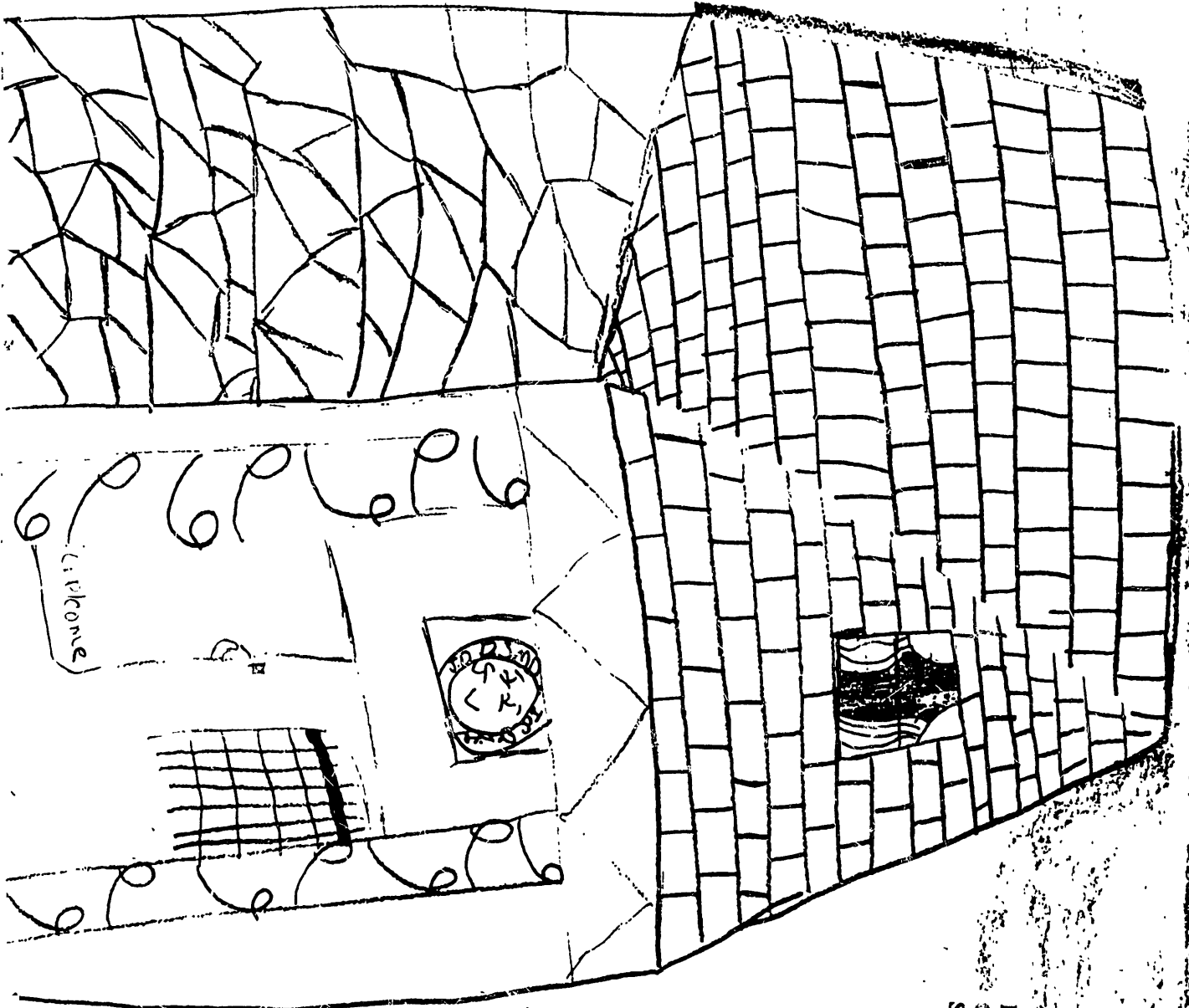
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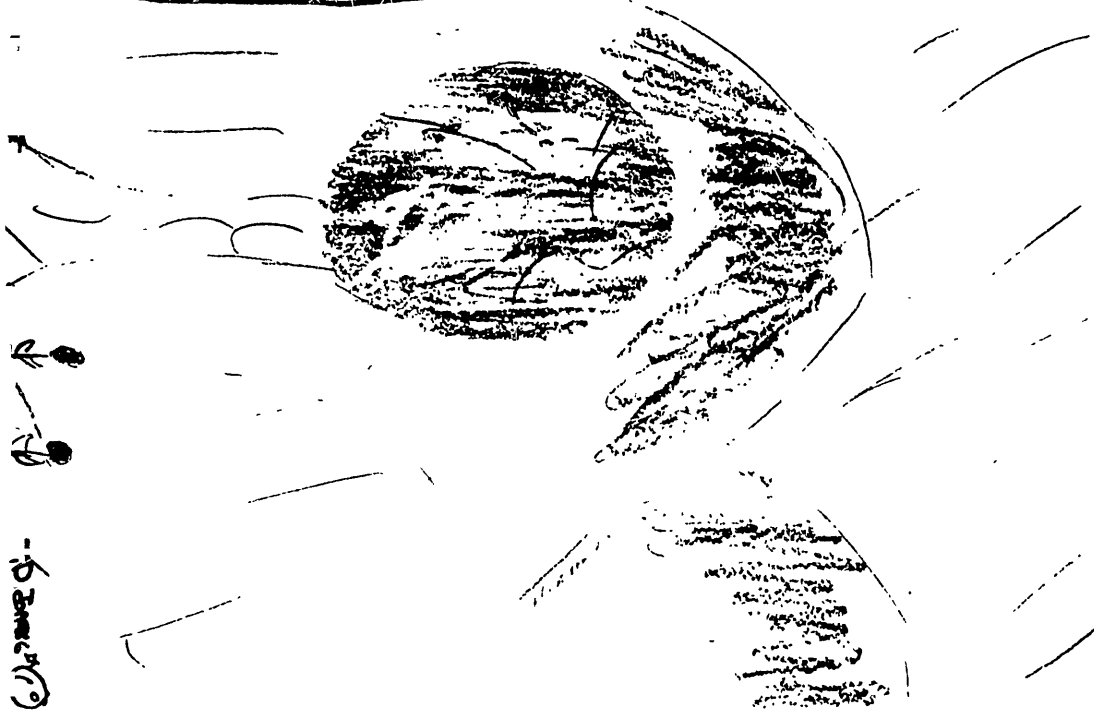
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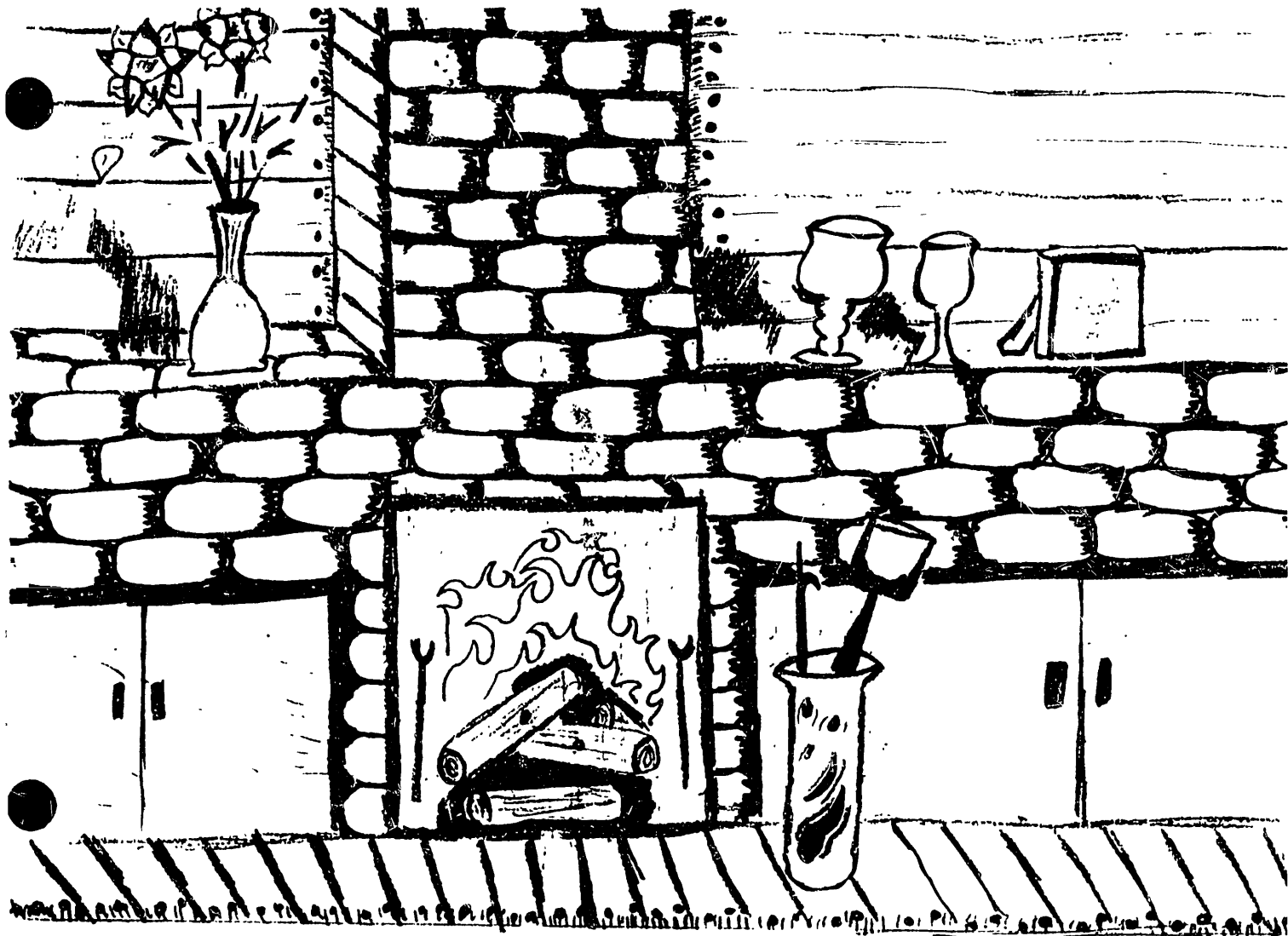
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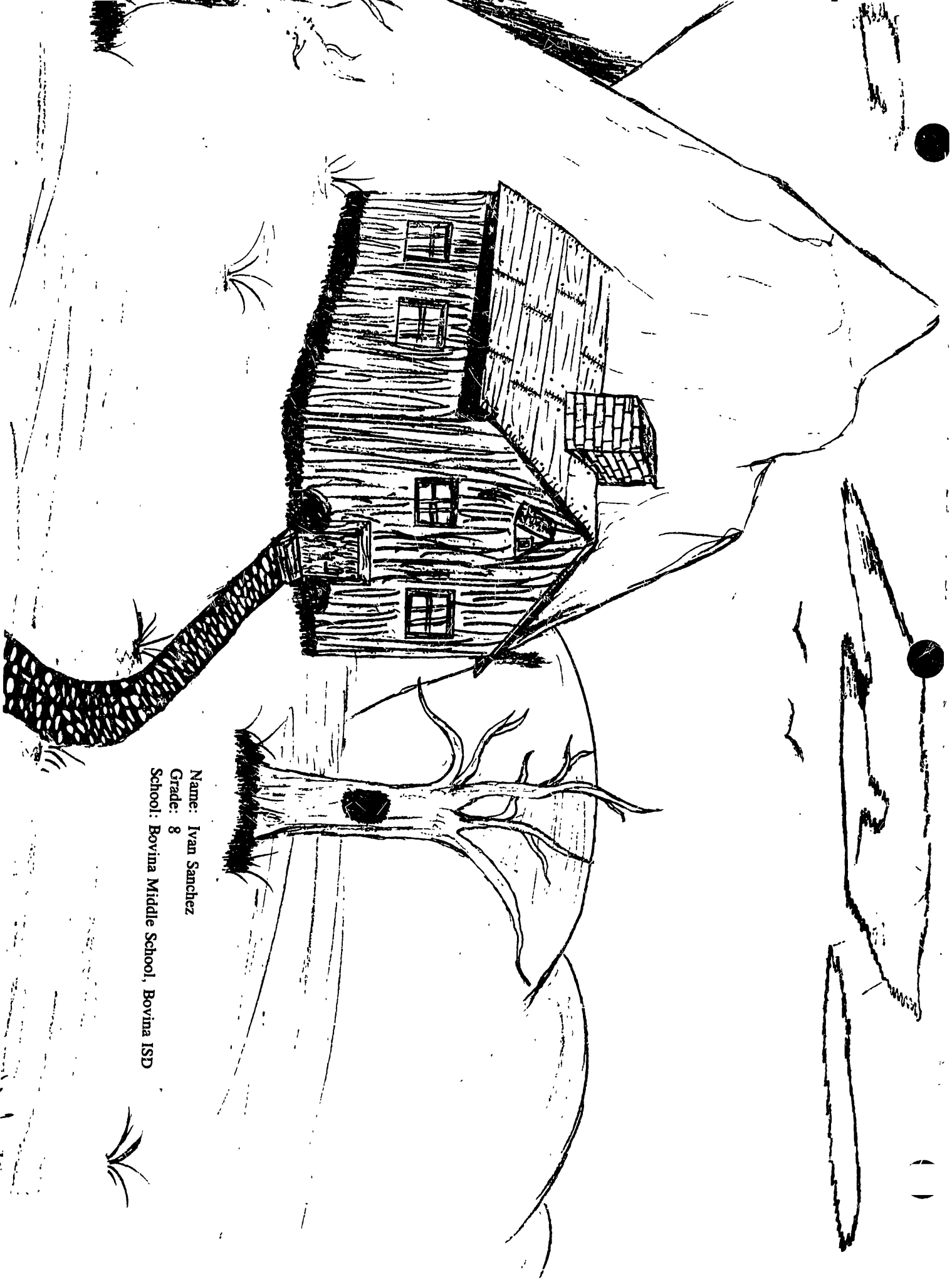
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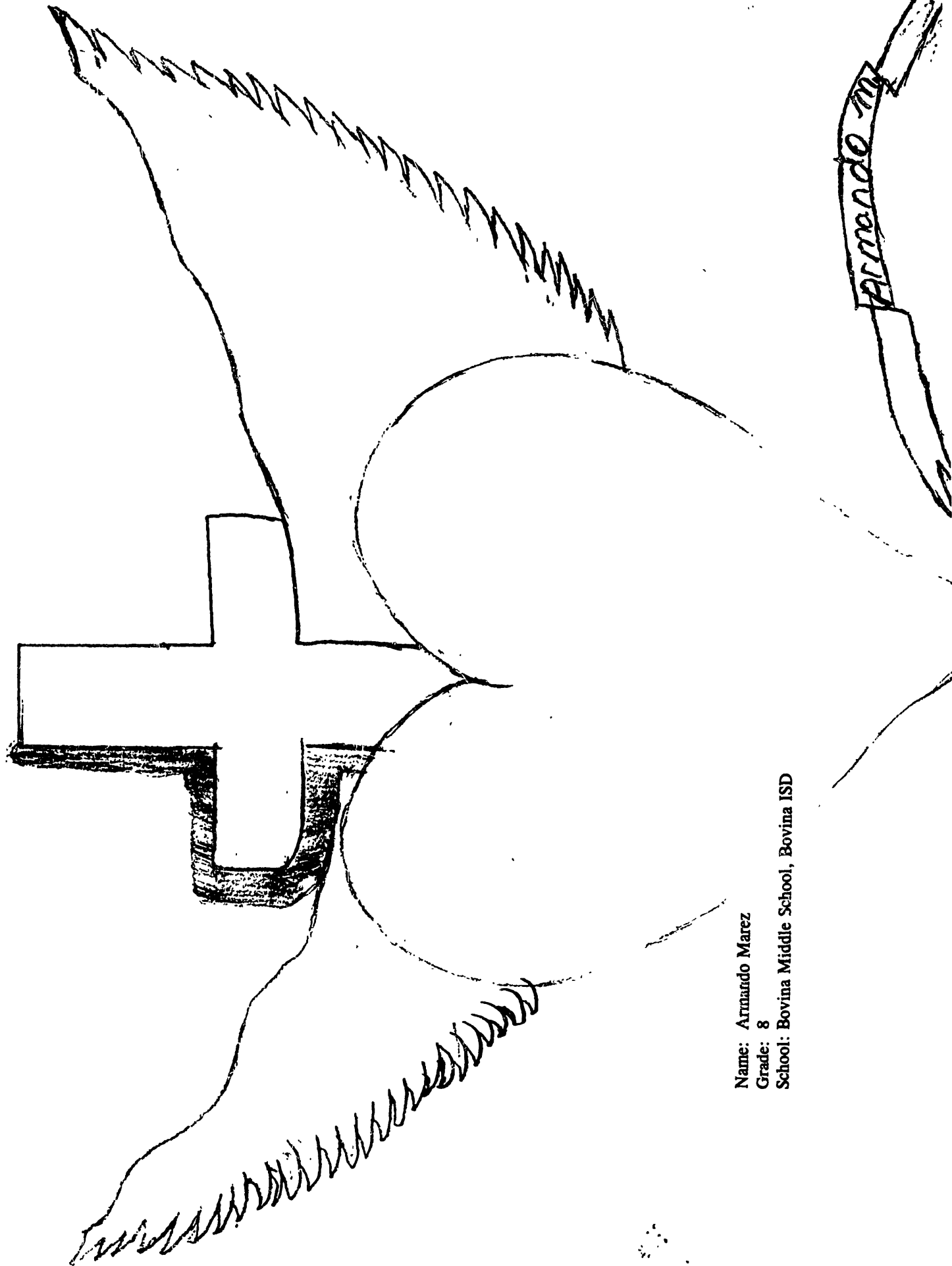


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# EMERGENCY RULES

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

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

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

##### Subchapter C. Texas HIV and Medication Program

##### General Provisions

##### • 25 TAC §98.104, §98.105

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

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

The amendments are adopted on an emergency basis under the Health and Safety Code, §85.063, which provides the board with

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

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

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

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

(18) Clarithromycin must be provided in increments of 60 not to exceed 60 tablets per month.

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

(20) Azithromycin must be provided in increments of 18 not to exceed 72 capsules per month.

(21) Ganciclovir must be provided in increments of 500 mg/10 ml vials not to exceed 26 vials for the first 31-day treatment period, and 16 vials per month thereafter.

(22) Megestrol Acetate suspension must be provided in increments of 40 mg/ml/8 oz. bottles not to exceed 3 bottles per month.

*§98.105. Drug specific eligibility criteria.* A person is eligible for:

(1)-(13) (No change.)

(14) Stavudine for the treatment of adults with advanced HIV infec-

tion who are unable to tolerate Zidovudine, Didanosine, or Zalcitabine or who have experienced significant clinical or immunologic deterioration while receiving these antiretrovirals or for whom such antiretrovirals are contraindicated.

(15) Clarithromycin and Ethambutol for the treatment and prophylaxis of Disseminated Mycobacterium Avium Complex (MAC).

(16) Azithromycin for the treatment and prophylaxis of Disseminated Mycobacterium avium Complex (MAC) for individuals who have failed therapy on, or are intolerant to, Clarithromycin.

(17) Ganciclovir for the treatment of Cytomegalovirus (CMV) disease to include retinitis and infections of major organs or organ systems, pending available funding.

(18) Megestrol Acetate suspension for cachectic and anorexic patients living with AIDS who are characterized by profound, involuntary, acute weight loss of greater than or equal to 10% of baseline body weight or chronic weight loss of greater than or equal to 20% of baseline body weight, pending available funding.

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

TRD-9451560

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: November 29, 1994

Expiration date: March 29, 1995

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

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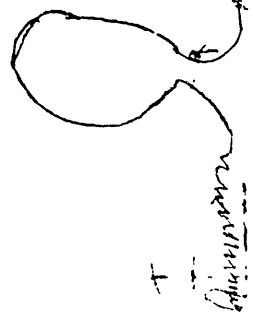
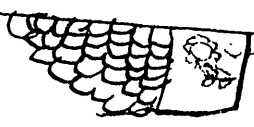
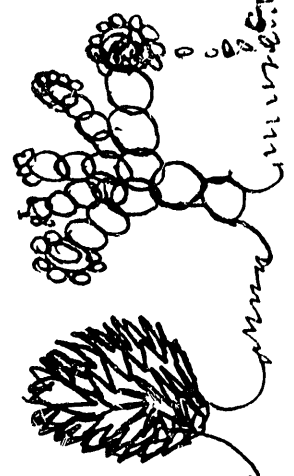
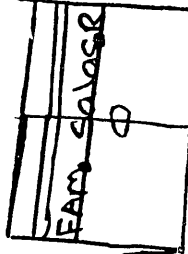
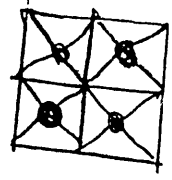
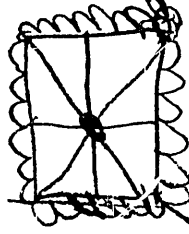
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# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

### Part I. Office of the Governor

#### Chapter 5. Budgeting and Planning

The Office of the Governor proposes the repeal of §§5.301-5.303, 5.401 and new §§5.301-5.303 and 5.401, concerning energy conservation design standards for new state buildings and for major renovations to state buildings (excepting historic buildings) and new §5.401, concerning the Texas LoanSTAR (Save Taxes and Resources) Program, a revolving loan program that provides for energy retrofits to publicly-owned buildings. The new sections reflect the interagency transfer of duties and responsibilities that were formerly assigned to the Energy Management Center of the Governor's Office of Budget and Planning (and later, to the Governor's Energy Office) to the General Services Commission/State Energy Conservation Office, revise references to model design standards for state-owned commercial and residential buildings and delete certain restrictions on eligibility for loans under the LoanSTAR program. New §§5.301-5.303 specifically adopt references to most recent commercial and residential design standards applicable to state buildings, i.e., the Council of American Building Officials (CABO) and the 1993 Texas Energy Conservation Design Standard for New (non-residential) State Buildings, respectively. In addition, new §5.401 deletes provisions which limit loan eligibility for state and local government entities by geographical area, by the percentage of buildings owned and by loan amount based on the borrower's status as a state or local unit of government. The new sections are proposed to conform with Chapters 447 and 2305 of the Texas Government Code, the interagency agreement between the Office of the Governor and the General Services Commission and the State Energy Conservation Plan (SECP) as approved by the United States Department of Energy on or about July 22, 1994.

David M. Talbot, General Counsel, Office of the Governor, has determined that for the first five-year period the rules are in effect there will be no new fiscal implications for state or

local governments as a result of enforcing or administering the sections.

Mr. Talbot 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 these sections is increased installation of energy conservation measures by state and local government entities which will result in reduced energy consumption and expenditures of public funds for government utility costs. The anticipated costs to government entities required to comply with these sections as proposed are not new and are negligible because loans are granted from non-tax dollars, specifically, federal oil overcharge resitulation funds, and the loan amount is repaid from saved utility appropriations.

Comments on the proposals may be submitted to David A. Talbot, General Counsel, Office of the Governor, P.O. Box 12428, Sam Houston Building, Austin, TX 78711-3047. Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

#### Subchapter C. Energy Conservation Design Standards

##### • 1 TAC §§5.301-5.303

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

The repeals are proposed under Texas Government Code, Chapter 447, §447.002, which provides that the energy management center may make rules relating to the adoption and implementation of energy conservation programs applicable to state buildings and facilities. The Government Code, §2305.011, further invests the Office of the Governor with authority to determine the supervising state agency for each competitive grant and direct grant program established by the governor. Except as expressly provided in Chapter 2305, the Governor has designated the General Services Commission/State Energy Conservation Office as the supervising state agency over the programs described in Chapters 447 and 2305, including the programs previously assigned to the Energy Management Center of the Office of the Governor and/or the Governor's Energy Office.

The Government Code, §447.002 is affected by these repeals.

§5.301. *Energy Conservation Design Standard for New State Buildings.*

§5.302. *Energy Conservation Design Standard for New Residential State Buildings.*

§5.303. *Energy Conservation Design Standard for Major Renovation Projects.*

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 November 30, 1994.

TRD-9451884

David Talbot  
General Counsel  
Office of the Governor

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-1788

The new sections are proposed under Texas Government Code, Chapter 447, §447.002, which provides that the energy management center may make rules relating to the adoption and implementation of energy conservation programs applicable to state buildings and facilities. Section 2305.011 of the Government Code further invests the Office of the Governor with authority to determine the supervising state agency for each competitive grant and direct grant program established by the governor. Except as expressly provided in Chapter 2305, the Governor has designated the General Services Commission/State Energy Conservation Office as the supervising state agency over the programs described in Chapters 447 and 2305, including the programs previously assigned to the Energy Management Center of the Office of the Governor and/or the Governor's Energy Office.

The Government Code, §447.002 is affected by these new rules.

§5.301. *Energy Conservation Design Standard for New State Buildings.*

(a) The State Energy Conservation Office/General Services Commission, acting as the designated successor to the Energy Management Center in the Governor's Office of Budget and Planning adopts by reference the energy conservation design standard entitled "Energy Conservation Design Standard for New State Buildings, Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings," Version 93/1, published by the General Services Commission/State Energy Conservation Office in February 1993. The purposes of the standard are to set minimum requirements and provide guidance for the energy efficient design of buildings and major renovation projects in order to minimize their energy use without constraining the building function nor the comfort or productivity of the occupants, and provide criteria for energy efficient building design and methods for determining if a new building design complies with these criteria. All new state buildings, and major renovation projects including buildings of state-supported institutions of higher education, are required to meet the minimum requirements unless specifically exempted by the standard.

(b) Copies of the standard are on file with the General Services Commission/State Energy Conservation Office, Insurance Annex Building, 221 East 11th Street, Austin, Texas 78711, and may be viewed during normal office hours. The final standard, including compliance software, may be obtained by contacting the State Energy Conservation Office at the cost of \$16.20 per copy.

**§5.302. Energy Conservation Design Standard for New Residential State Buildings.** The State Energy Conservation Office/General Services Commission, acting as the designated successor to the Energy Management Center in the Governor's Office of Budget and Planning adopts by reference the energy conservation design standard entitled "Model Energy Code, 1993 Edition" originally prepared and maintained by the Council of American Building Officials. Copies of the standard are on file with the General Services Commission/State Energy Conservation Office, Insurance Annex Building, 221 East 11th Street, Austin, Texas 78711, and may be viewed during normal office hours.

**§5.303. Energy Conservation Design Standard for Major Renovation Projects.**

(a) All major renovation, with the exception of historic buildings, is subject to compliance with the Energy Conservation Design Standard for New State Buildings, dated February 1, 1993. The State Energy Conservation Office, acting as the designated successor to the Energy Management Center in the Governor's Office of Budget and Planning, adopts the following definition: major renovation: a building renova-

tion or improvement valued in excess of \$600,000.

(1) The extent of compliance with the Energy Conservation Design Standard is determined by the replacement value of the building (replacement value is determined by the latest available Markel Appraisal Chart published by the Markel Appraisal Company, Incorporated).

(A) If the cost of the building renovation is less than 50% of the replacement value of the building, compliance with the Energy Conservation Design Standard is required only in the affected area(s).

(B) If the cost of the building renovation is more than 50% of the replacement value of the building, the entire building is subject to compliance with the Energy Conservation Design Standard.

(2) In no case should compliance with the Energy Conservation Design Standard require that the aggregate renovation investment in energy conservation pay back in more than four years, or more than eight years for a central plant renovation.

(b) To save tax dollars and promote energy efficiency, the State Energy Conservation Office, acting as the designated successor to the Energy Management Center in the Governor's Office of Budget and Planning, strongly recommends that building renovation and improvement projects of less than \$600,000, and historic buildings comply, on a limited basis, with the Energy Conservation Design Standard.

(1) If a renovation project requires the functional replacement of a component of a system covered by the Energy Conservation Design Standard, then compliance with the Energy Conservation Design Standard is recommended only for the affected system(s).

(2) The State Energy Conservation Office, acting as the designated successor to the Energy Management Center in the Governor's Office of Budget and Planning, recommends a simple payback of four years or less on renovation investments in energy conservation, and eight years for a central plant renovation.

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 December 2, 1994.

TRD-8451670

David Talbot  
General Counsel  
Office of the Governor

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-1788

## Subchapter D. Loan Program for Energy Retrofits

### • 1 TAC §5.401

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

The repeal is proposed under Texas Government Code, Chapter 447, §447.002, which provides that the energy management center may make rules relating to the adoption and implementation of energy conservation programs applicable to state buildings and facilities. Section 2305.011 of the Government Code further invests the Office of the Governor with authority to determine the supervising state agency for each competitive grant and direct grant program established by the governor. Except as expressly provided in Chapter 2305, the Governor has designated the General Services Commission/State Energy Conservation Office as the supervising state agency over the programs described in Chapters 447 and 2305, including the programs previously assigned to the Energy Management Center of the Office of the Governor and/or the Governor's Energy Office.

The Government Code, §447.002 is affected by this repeal.

**§5.401. Texas LoanSTAR (Save Taxes and Resources) Program for Public Sector Institutions.**

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 December 2, 1994.

TRD-8451787

David Talbot  
General Counsel  
Office of the Governor

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-1788

The new rule is proposed under Texas Government Code, Chapter 447, §447.002, which provides that the energy management center may make rules relating to the adoption and implementation of energy conservation programs applicable to state buildings and facilities. Section 2305.011 of the Government Code further invests the Office of the Governor with authority to determine the supervising state agency for each competitive grant and direct grant program established by the governor. Except as expressly provided in Chapter 2305, the Governor has designated the General Services Commission/State Energy Conservation Office as the supervising state agency over the programs described in Chapters 447 and 2305, including the programs previously assigned to the Energy Management Center of the Office of the Governor and/or the Governor's Energy Office.

The Government Code, §447.002 is affected by the new rule.

**§5401. Texas LoanSTAR (Save Taxes and Resources) Program for Public Sector Institutions.**

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

(1) Application cycle—The period of time each year, as determined by the LoanSTAR program acting on behalf of the governor's office, that the LoanSTAR program shall accept and process applications from public sector institutions seeking loan funds for energy savings capital retrofits.

(2) Estimated simple payback—The total energy conservation retrofit costs (including audit, metering, installation, equipment, and engineering design) divided by the annual estimated utility cost savings.

(3) Interest fee—The prepaid interest charge at a rate to be determined by the governor's office, sufficient to cover the costs of administering the program.

(4) Loan agreement—The written agreement between an applicant and the governor's office that details all terms and requirements under which the loan is issued, including the intended use of the loan proceeds.

(5) Project cost—All costs determined by the governor's office to be directly related to the identification, design, implementation, metering, and monitoring of an energy conservation measure.

(6) Promissory note—A document issued by the governor's office and agreed to by the applicant that describes the principal amount, repayment terms, and interest charges under which the revolving loan shall be made.

(7) Retrofit Demonstration Program—The overall state energy conservation retrofit program. It is comprised of five elements: energy audits, efficiency retrofits, a revolving loan financing mechanism, program monitoring and evaluation, and information transfer.

(8) Retrofit measure—A commercially available energy efficient device, technique, or technology, designed to reduce energy consumption, peak demand, and/or utility costs at an existing facility owned by a public sector institution.

(9) Retrofit project—The identification, design, acquisition, installation, monitoring, and evaluation of one or more energy efficient measures which are de-

signed to reduce energy consumption, peak demand, and/or utility cost.

(10) Public sector institution—Any state department, commission, board, office, institution, facility, or other agency, including a university system or an institution of higher education as defined in the Texas Education Code, §61.003, as amended. Also, units of local government including a county, city, town, or an independent school district.

(11) Building—A structure which consumes energy.

(12) Facility—Any major energy using group of buildings in geographic proximity and/or a major energy using system owned and occupied or operated by one or more public sector institutions.

(b) Eligibility. Projects proposed by loan candidates must fulfill the following program parameters and eligibility requirements.

(1) Experimental or research-related technologies are not eligible for funding. Retrofit measures which result from renewable energy resources shall not be considered experimental or research related if the measure is commercially available or has a demonstrated track record of its cost effectiveness.

(2) Eligible measures shall have a demonstrated track record of cost-effectiveness.

(3) Eligible measures shall be commercially available.

(4) Each retrofit measure must be unique in its application, location, building characteristics, and/or target audience.

(5) Eligible retrofit projects are:

(A) indoor and outdoor lighting projects;

(B) heating, ventilation, and air conditioning equipment;

(C) electrical distribution equipment;

(D) building shell improvements;

(E) energy management systems;

(F) boiler efficiency improvements;

(G) energy recovery systems, including on-site generation of electricity;

(H) alternate/renewable energy systems;

(I) load management devices;

(J) water and waste water systems; and

(K) other cost-effective retrofit, demand, or rate-based measures approved by the LoanSTAR program.

(6) unless this requirement is specifically waived, all eligible measures must be recommended in an engineering audit by a licensed professional engineer in a format acceptable to the LoanSTAR program.

(c) Application/selection.

(1) Each applicant shall submit a copy of its engineering audit report with a completed loan application to the LoanSTAR program during an application cycle at such times as determined by the LoanSTAR program.

(2) Loan applications will be evaluated by the LoanSTAR program on the basis of the following criteria:

(A) estimated simple payback period;

(B) ability to repay the loan through energy, demand savings;

(C) engineering assessment of the viability of the technology;

(D) likelihood of effective project monitoring; and

(E) ability to meet all state and federal program eligibility requirements.

(3) Loans will be approved by the governor's office or legally designated successor based on the LoanSTAR program staff recommendations and engineering evaluations of estimated paybacks and reliability.

(4) A public sector institution receiving a loan from the governor's office or legally designated successor will receive a loan agreement and promissory note that identifies the buildings to be modified, approved measures, rate of interest, loan amount, and loan terms and conditions.

(5) Institutions denied funding shall receive written notification that states the reasons for denial and possible actions for qualifying the rejected projects.

(d) Project funding and repayment.

(1) The term of the loan will be determined by the LoanSTAR program based upon anticipated energy savings and time needed to install the retrofit measure(s).

(2) An interest fee, sufficient to cover the cost of administering and operating the program, will be charged at a rate to be determined by the LoanSTAR program.

(3) All interest fees will be computed on an annual percentage rate basis.

(4) Loan proceeds may be used to pay for the entire cost of the retrofit project, including cost of the energy audit, engineering design, construction, equipment, acquisition and installation, maintenance, metering, and monitoring.

(5) Loan funds shall be disbursed to the borrower upon receipt of supporting documentation as required by the governor's office or legally designated successor.

(6) A state agency may use general revenue funds appropriated for utilities to make loan payments as stipulated in Chapter 2305, Texas Government Code.

(7) Loan repayment schedules shall be determined on the basis of expected payback and project installation time.

(8) Frequency of payments shall be no greater than quarterly.

(9) No loans will be forgiven.

(e) Loan recipient responsibilities (project monitoring and demonstration).

(1) Loan recipients shall provide the LoanSTAR program with the access and information necessary to monitor the performance of the retrofits, as stated in the loan agreement.

(2) Loan recipients shall be responsible for submitting all reports requested by LoanSTAR program as outlined in the loan agreement.

(3) Compliance with applicable local, state, and federal procurement guidelines and procedures is the responsibility of the loan recipient.

(f) Title to equipment.

(1) Title to all equipment acquired under this program will vest in the borrower, in accordance with applicable state statutes.

(2) Disposition and inventory of any equipment shall be done in accordance with state statutes and regulations.

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 December 2, 1994.

TRD-9451885

David Talbot  
General Counsel  
Office of the Governor

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-1788

◆ ◆ ◆  
**TITLE 7. BANKING AND SECURITIES**

**Part VI. Credit Union Department**

**Chapter 91. Chartering, Operations, Mergers, Liquidations**

**Reserves and Dividends**

• 7 TAC §91.901

The Credit Union Commission proposes an amendment to §91.901, concerning reserving requirements. The changes reflect consistency with the reserving requirements of the insurer of members' deposits in state chartered credit unions.

Robert W. Rogers, Commissioner, 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. Rogers also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that credit unions have one method for computing reserve transfers to satisfy the reserving requirements of the Department and the share insurer, the National Credit Union Share Insurance Fund. 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 will be submitted to Penny A. Black, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

The specific statute affected by this proposed amendment is Texas Civil Statutes, Article 2461-9.01(a), regarding Reserve Allocations.

§91.901. Reserve Requirements.

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

(c) For the purpose of establishing the reserves, all assets except the following shall be considered risk assets:

(1)-(14) (No change.)

(15) assets included in paragraphs (2), (3), (4), (5), (6), and (7) of this

subsection with maturities greater than five [three] years are exempt from risk assets if the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly;

(16) assets included in paragraphs (2), (3), (4), (5), (6), and (7) of this subsection with remaining maturities greater than five [three] years are exempt from risk assets provided they meet the following criteria, irrespective of whether or not the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly:

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

(17)-(18) (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 November 30, 1994.

TRD-9451715

Robert A. Black  
Commissioner  
Credit Union Department

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 837-9236

◆ ◆ ◆  
**TITLE 13. CULTURAL RESOURCES**

**Part II. Texas Historical Commission**

**Chapter 11. Administrative Department**

• 13 TAC §11.10

*(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 Historical Commission or in the Texas Register office, Room: 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Historical Commission proposes the repeal of §11.10, concerning charges for copies of public records. This section is being repealed in order to implement the provisions of House Bill 1009, Chapter 428, Acts, 73rd Legislature, Regular Session (1993), regarding the cost of providing public records and the charges that state agencies may set to recover the full cost of providing copies of, or access to, public records.

Comments may be submitted to Cindy Laguna Dally, Administrative Assistant, Texas Historical Commission, 1511 Colorado Street, or P.O. Box 12276, Austin, Texas 78711-2276.

The repeal is proposed under the Texas Government Code Chapter 4.42, Texas Government Code.



The Government Code, Chapter 442 is affected in this section.

*§11.10. Copies of Documents and Mailing Labels.*

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 December 1, 1994.

TRD-9451740  
Curtis Tunnell  
Executive Director  
Texas Historical  
Commission

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-5768

The Texas Historical Commission proposes new §11.10, concerning charges for copies of public records. This new section is being proposed to implement the provisions of House Bill 1009, Chapter 428, Acts, 73rd Legislature, Regular Session (1993), regarding the cost of providing public records and the charges that state agencies may set to recover the full cost of providing copies of, or access to, public records. The section is proposed to make Texas Historical Commission charges consistent with those of other state agencies.

Curtis Tunnell, executive director, has determined that for the first five-year period the rule is in effect there will not be fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Tunnell 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 the elimination of cost difference for copies of public records and will result in charges more consistent with those made by other state agencies. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the rule as proposed will be either the cost set forth for all agencies by the General Services Commission's rules or no cost.

Comments may be submitted to Cindy Laguna Dally, Administrative Assistant, Texas Historical Commission, 1511 Colorado Street, or P.O. Box 12276, Austin, Texas 78711-2276.

The new section is proposed under Texas Government Code, Chapter 442, §442.005(q), which provides the Texas Historical Commission the authority to promulgate rules it considers proper for the effective administration of Texas Government Code, Chapter 442.

The Government Code, Chapter 442 is affected by this new section.

*§11.10 Charges for Public Records.*

(a) The charge to any person requesting copies of public records of the

Texas Historical Commission will be the charges established by the General Services Commission codified at 1 TAC §§111.61-111.70 (effective April 22, 1994).

(b) The Texas Historical Commission may waive these charges if there is a public benefit. The Executive Director is authorized to determine whether a public benefit exists on a case by case basis.

(c) The following is a summary of the charges for copies of public information on file in the Texas Historical Commission.

(1) Standard size paper copy—\$.10 per page.

(2) Nonstandard-size copy:

(A) diskette—\$1.00 each;

(B) magnetic tape—\$10 each;

(C) VHS video cassette—\$2.50 each;

(D) audio cassette—\$1.00 each;

(E) paper copy—\$.50 each; and

(F) Other—actual cost.

(3) Personnel charge—\$15 per hour.

(4) Overhead charge—20% of personnel charge.

(5) Microfiche or microfilm charge:

(A) paper copy—\$.10;

(B) fiche or film copy—actual cost.

(6) Remote document retrieval charge—actual cost.

(7) Computer resource charge:

(A) mainframe—\$17.50 per minute;

(B) midsize—\$3.00 per minute;

(C) client/Server—\$1.00 per minute;

(D) PC or LAN—\$.50 per minute.

(8) Programming time charge \$26.00 per hour.

(9) Miscellaneous supplies—actual cost.

(10) Postage and shipping charge—actual cost.

(11) Fax charge:

(A) local—\$.10 per page;

(B) long distance, same area code—\$.50 per page;

(C) long distance, different area code—\$1.00 per page.

(12) Other costs—actual cost.

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 December 1, 1994.

TRD-9451739  
Curtis Tunnell  
Executive Director  
Texas Historical  
Commission

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-6108

**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 97. Communicable Diseases**

The Texas Department of Health (department) proposes amendments to §§97.61, 97.63, 97.66, 97.67, 97.71, 97.73, 97.75, 97.77; and the repeal of §97.64, concerning immunization requirements for all children and students in Texas enrolled in child-care facilities, elementary and secondary schools, and institutions of higher education; including children admitted, detained or committed in Texas Department of Criminal Justice, Texas Mental Health and Mental Retardation, and Texas Youth Commission facilities. Specifically the amended sections cover scope; exclusions from compliance; required immunizations; inactivated polio vaccine (IPV) and combined schedule of polio vaccines; verification of measles illness, rubella illness or mumps illness; provisional enrollment; acceptable documents of immunizations; assistance and review of records; and remarks and special recommendations. The amendments are being proposed to update and clarify or delete existing immunization requirements for vaccine-preventable diseases in Texas. For clarity, the requirements for boosters have been incorporated in the amended sections as appropriate; necessitating the repeal of §97.64. Many of the

changes, including the addition of a fourth dose of diphtheria-tetanus-pertussis (DTP) vaccine, bring the minimum school immunization requirements into closer agreement with the recommended medical optimum as outlined in the *General Recommendations on Immunization* as recommended by the Advisory Committee on Immunization Practices (ACIP) dated January 28, 1994.

Robert D. Crider, Jr., M.S., M.P.A., Director, Immunization Division, has determined that for the first five-year period the sections as proposed will be in effect, that no substantial fiscal impact on state government will be noted. Local governments, specifically local health entities, currently immunize children in accordance with the optimum recommended immunization schedule. These rules establish minimum mandatory requirements, as such no fiscal impact is noted. Local school districts currently monitor immunization records. The amendments and repeal, as proposed, will have no fiscal impact on local school districts.

Mr. Crider has also determined that for each year of the first five years that the amendments will be in effect the public health benefit anticipated as a result of enforcing and administering the sections will be clarification of immunization requirements ensuring an enhanced understanding and compliance with the rules. The rules, coupled with other department initiatives, will continue to reduce the overall incidence of vaccine-preventable diseases in Texas. There will be no significant effect on small business. There are no anticipated economic costs to persons who are required to comply with the rules as proposed. There will be no impact on local employment.

Comments on the proposed amendments and repeal may be submitted to Robert D. Crider, Jr., M.S., M.P.A., Director, Immunization Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3180, (512) 458-7284. Comments will be accepted for 30 days from the date of publication of the proposed rules in the *Texas Register*.

### Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education

• 25 TAC §§97.61, 97.63, 97.66, 97.67, 97.71, 97.73, 97.75, 97.77

The amendments are proposed under the Education Code, §2.09(b) and (e), which requires the department to develop rules relating to the admission of persons to elementary or secondary schools, §2.091(c), which requires the department to develop the form for a required annual report of the immunization status of students; Human Resources Code, §42.043(c), which requires the department to develop rules for the admission of children to child care facilities; Health and Safety Code, §161.005(b), which requires the board to develop rules for the admission of children to facilities of the Texas Department of Mental Health and Mental Retardation, Texas Department of Criminal Justice, and Texas

Youth Commission, §81.023(a) and §161.004(a), which requires the board to develop immunization requirements for all children, §81.004(b), which allows the board to adopt rules necessary to protect the public from communicable disease; and §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

The statutes affected by this proposal are Education Code, §2.09 and §2.091; Human Resources Code, §42.043; Health and Safety Code, §§81.007, 81.009, 81.021, 81.023, 81.081, 81.082, 161.004, and 161.005; and Health and Safety Code, Chapter 81, Subchapter 12.

#### §97.61. Children and Students Included in Requirements.

(a) At a minimum, the immunizations required in this section are required for all children in the State of Texas, including children admitted, detained, or committed in Texas Department of Criminal Justice, Texas Mental Health and Mental Retardation, and Texas Youth Commission facilities.

(b)[(a)] The immunization requirements also [are specified elsewhere in this policy statement and] apply to all children and students entering, attending, and/or transferring to child-care facilities, public schools, private schools, nonpublic schools, or parochial schools, for example:

(1) preschool programs and kindergartens associated with elementary schools;

(2) elementary schools, junior high or middle schools, and high schools;

(3) academies;

(4) colleges (for students pursuing a course of study in an animal or human health profession);

(5) universities (for students pursuing a course of study in an animal or human health profession); and

(6) schools for the blind, deaf, mentally ill, and mentally retarded.

(c) The immunization requirements are adopted as a statewide control measure for communicable disease as defined in Health and Safety Code, §81.081 and §81.082. The requirements are adopted as an instruction of the department as that term is used in the Texas Health and Safety Code, §81.007.

§97.62. Exclusions from Compliance. Exclusions from compliance are allowable on an individual basis for medical contraindications, religious conflicts, and active duty with the armed forces of the United States. Children and students in these categories

must submit evidence for exclusion from compliance as specified in Texas Education Code, §2.09 [§209] and the Human Resources Code, Chapter 42.

(1) Medical contraindications. The child or student must present an affidavit or certificate signed by a physician, duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of his or her family or household. Unless a lifelong condition is specified, the affidavit or certificate is valid for only one year from the date signed by the physician[,] and must be renewed every year for the exclusion to remain in effect.

(2) Religious conflicts. A signed affidavit must be presented by the child's parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or member; [The child or student must present an affidavit signed by the applicant, or if a minor, by his or her parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized church or religious denomination of which the applicant is an adherent or member; provided, however, that this] This exemption does not apply in times of emergency or outbreak declared by the commissioner of health or local health authority.

(3) (No change.)

#### §97.63. Required Immunizations.

(a) For further information see §97.71 of this title (relating to Provisional Enrollment)[:] and §97.77 of this title (relating to Remarks and Special Recommendations).

[(b)] The immunization of infants and young children often requires a larger number of doses of vaccine than does the immunization of older children and adults. This section establishes minimum requirements (three doses each) for immunization against diphtheria, tetanus, pertussis, and poliomyelitis for admission of specified students to schools and children to child-care facilities. These requirements should in no way be interpreted as contrary to standing recommendations by the Texas Department of Health (department) or by the Immunization Practices Advisory Committee and the American Academy of Pediatrics, which call for larger numbers of doses (four or five doses each of DTP and polio vaccines) to be employed in the immunization of infants and young children against these diseases.

(b)[(c)] Oral polio vaccine (OPV) is the usual vaccine of choice for preventing

polio; however, enhanced-potency [inactivated vaccine (eIPV) (IPV)] may be medically indicated for some children and students. [(Enhanced-potency IPV was first distributed in the United States in March 1988. Prior to this, conventional IPV was used.)] For further information see §97.66 of this title (relating to Inactivated Polio Vaccine eIPV/IPV [(IPV)] and Combined Schedule of Polio Vaccines).

(c)[(d)] The following immunizations are required in the respective age groupings.

(1) Children less than five years of age: [-] polio vaccine, diphtheria-tetanus-pertussis (DTP, DTaP)[DTP] vaccine, and measles, mumps, and rubella vaccine (MMR). For further information see §97.66 of this title (relating to Inactivated Polio Vaccine (eIPV/IPV) [(IPV)] and Combined Schedule of Polio Vaccines).

(A) Children less than two months old: no immunizations are required.

(B) Children two months of age, but not yet four months of age: one dose each of OPV [oral polio vaccine] and diphtheria-tetanus-pertussis (DTP) vaccine are required.

(C) Children four months of age, but not yet six months of age: two doses each of OPV [oral polio vaccine] and DTP vaccine are required.

(D) Children six months of age, but not yet 18 months of age: three [two] doses of OPV [oral polio vaccine] and three doses of DTP vaccine are required. Any combination of three doses of DTP/DTaP will meet the DTP portion of this requirement, provided that any DTaP doses were given as the 4th or 5th dose in the recommended series and on or after 15 months of age.

(E) Children 18 months of age, but not yet five years of age (18 months through four years of age): [;] three doses of OPV [oral polio vaccine]; a combination of four [three] doses of DTP vaccine. Any combination of four doses of DTP/DTaP will meet this requirement, provided that the DTaP doses were given as the 4th or 5th dose in the recommended series and on or after 15 months of age.

(F) Children 18 months of age, but not yet five years of age (18 months of age through four years of age): one dose of measles vaccine, one dose of mumps vaccine, and one dose of rubella vaccine are required.

(i) Beginning September 1, 1990, a dose of measles vaccine, mumps vaccine, and rubella vaccine (MMR) must have been received on or after the first birthday.

(ii) A physician-validated history of measles illness or serologic confirmation of measles disease will substitute for the measles vaccine requirement. A physician-validated history of mumps illness or serologic confirmation of mumps disease will substitute for the mumps vaccine requirement. Serologic confirmation of rubella disease will substitute for the rubella vaccine requirement. A physician-validated history of rubella illness will not substitute for the rubella vaccine requirement. For further information see §97.67 of this title (relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness).

(G)[(2)] Children less than five years of age: [-] *Haemophilus influenzae* [Type] type b conjugate vaccine (HibCV).

(i)[(A)] Beginning September 1, 1991, the following HibCV immunizations are required in addition to the immunization requirements in paragraph (1) of this subsection.

(I)[(i)] Children less than two months old: no immunizations required.

(II)[(ii)] Children two months of age, but not yet four months of age: one dose is required.

(III)[(iii)] Children four months of age, but not yet 15 months of age: two doses are required.

(IV)[(iv)] Children 15 months of age, but not yet five years of age: one dose on or after 15 months of age is required unless a schedule for a primary series and booster was completed prior to or at 15 months of age [met at 12 months of age].

(ii)[(B)] A physician-validated history of invasive *Haemophilus influenzae* type b [Type] disease, on or after the second birthday will substitute for the vaccine requirement for children two years of age through four years of age. [One dose *Haemophilus influenzae* type b polysaccharide vaccine administered on or after 24 months of age will meet the requirement of this paragraph.]

(2)[(3)] Children [enrolled in child-care facilities] and students five years of age or older [enrolled in elementary or secondary schools].

(A) Polio. At least three doses of oral polio vaccine (OPV) are required, provided at least one dose has been received on or after the fourth birthday. Polio vaccine is not required for persons 18 years of age or older. For further information see §97.65 of this title (relating to Pregnancy) and §97.66 of this title (relating to Inactivated Polio Vaccine (eIPV/IPV) [(IPV)] and Combined Schedule of Polio Vaccines); and §97.77(c) and (d) of this title. [(relating to Remarks and Special Recommendations.)]

(B) Tetanus/Diphtheria [Tetanus/diphtheria]. At least four [three] doses of DTP[,] or DTaP, DT, and/or Td vaccine are required, provided at least one dose has been received on or after the fourth birthday. Pertussis vaccine is not required for children/students who are five years of age and older. Any combination of four doses of DTP/DTaP will meet the DTP portion of this requirement, provided that any DTaP doses were given as the 4th or 5th dose in the recommended series and on or after 15 months of age. One dose of DTP, DTaP, DT or Td is required within the last 10 years. For further information see §97.64(b) of this title (relating to Boosters) and §97.77(c) and (d) of this title [(relating to Remarks and Special Recommendations)].

(C) Measles.

(i) Beginning September 1, 1990:

(I) all children and students must have received measles vaccine on or after their first birthday [, and since January 1, 1968;] or provide a physician-validated history of measles illness, et>[;] or serologic confirmation of measles immunity; and

(II) the requirement for measles vaccine administered on or after the first birthday will apply if a child's/student's immunization record is updated; a child/student enters a child-care facility or school for the first time; or a child/student transfers from another state into a Texas school or child-care facility.

(ii) Beginning January 1, 1991, children and students born on or after September 1, 1978 [whose 12th birthday is on or after September 1, 1990.] will be required to show proof of measles immunity or receipt of two doses of measles vaccine administered on or after the first birthday. This proof is not required until the child's 12th birthday. The two doses of measles vaccine must have been adminis-

tered at least 30 days apart. Children and students may have 30 days past their 12th birthday to be in compliance with this clause. For further information see §97.65 of this title [(relating to Pregnancy)] and §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(D) Rubella. Beginning September 1, 1991:

(i) all children and students must have received rubella vaccine on or after their first birthday or provide serologic confirmation of rubella immunity; and

(ii) the requirement for rubella vaccine administered on or after the first birthday will apply if a child's/student's immunization record is updated; a child/student enters a child-care facility or school for the first time; or a child/student transfers from another state into a Texas school or child-care facility. For further information see §97.65 of this title [(relating to Pregnancy)] and §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(E) Mumps. Beginning September 1, 1990:

(i) all children or students will be required to have received mumps vaccine administered on or after their first birthday[,] or provide a physician-validated history of mumps illness or serologic confirmation of mumps immunity; and

(ii) the requirement for mumps vaccine administered on or after the first birthday will apply if a child's/student's immunization record is updated[,] a child/student enters a child-care facility or school for the first time; or[,] a child/student transfers from another state into a Texas school or child-care facility. For further information see §97.65 of this title [(relating to Pregnancy)] and §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(3)[(4)] Students in institutions of higher education (colleges, universities, and other teaching facilities above the high school level).

(A) Applicability. This paragraph applies to all students enrolled in health-related courses which will involve direct patient contact in medical or dental care facilities. This includes all medical interns; residents; fellows; and others who are being trained in medical schools, hospitals, and health science centers listed in the Texas Higher Education Coordinating Board's list of higher education in Texas; and students attending two-year and four-year colleges whose course work involves

direct patient contact regardless of: number of courses taken; number of hours taken; and classification of student. Subparagraph (I) of this paragraph also applies to veterinary medical students whose course work involves direct contact with animals or animal remains regardless of number of courses taken; number of hours taken; and classification of student. The department will assist institutions of higher education to educate all students of the need for immunizations and will assist in the provision of vaccines as resources allow.

(B) Provisional enrollment. Students referenced in this paragraph may be provisionally enrolled for up to one semester or one quarter. The provisional enrollment will allow students to attend classes while obtaining the required immunizations and documentation (immunization records) of required immunizations. Student health care providers cannot be provisionally enrolled without receipt of at least one dose of MMR vaccine, if direct patient contact will occur during the provisional enrollment period. For further information see §97.62 of this title (relating to Exclusions from Compliance); §97.65 of this title [(relating to Pregnancy)]; §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)]; §97.73 of this title (relating to Acceptable Documents of Immunizations); and §97.77 of this title [(relating to Remarks and Special Recommendations)]. Other sections of this chapter regarding immunizations also affect college/university students and institutions of higher education.

(C) Polio. Polio vaccine is not required for any student. All students enrolled in health-related courses are encouraged to ascertain that they are immune to poliomyelitis.

(D) Tetanus/Diphtheria. [Tetanus/diphtheria]. Beginning January 1, 1992, tetanus/diphtheria [Tetanus/Diphtheria] toxoid (Td) is required for medical interns, residents, fellows, and students enrolled in health-related courses as defined in subparagraph (A) of this paragraph. Students enrolled in health-related courses must have received one dose of Td within the past 10 years. For recordkeeping, only one date (month, day, year) for Td must be recorded, [;] this dose is the Td dose administered within the past 10 years.

(E) Measles. Beginning January 1, 1992:

(i) all students defined previously in subparagraph (A) of this paragraph who were born on or after January 1, 1957, must show proof of either:

(I) two doses of measles vaccine administered since January 1, 1968 and on or after their first birthday and at least 30 days apart; or

(II) at least one dose of measles vaccine administered on or after their first birthday, which must be received by students enrolled in health-related courses prior to direct patient contact and completion of the measles requirement must be accomplished as rapidly as is medically feasible; or

(III) immunity to measles (physician-validated history or serologic confirmation); and

(ii) for further information see §97.65 of this title [(relating to Pregnancy)] and also §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(F) Rubella. Beginning January 1, 1992.

(i) all students enrolled in health-related courses defined previously in subparagraph (A) of this paragraph must show, prior to patient contact, proof of either:

(I) one dose of rubella vaccine administered on or after their first birthday; or

(II) serologic confirmation of rubella immunity; and

(ii) for further information see §97.65 of this title [(relating to Pregnancy)] and also §97.67 of this title [(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(G) Mumps. Beginning January 1, 1992:

(i) all students defined previously in subparagraph (A) of this paragraph who were born on or after January 1, 1957, must show, prior to patient contact, proof of either:

(I) one dose of mumps vaccine administered on or after their first birthday; or

(II) immunity to mumps (physician-validated history or serologic confirmation); and

(ii) for further information see §97.65 of this title [(referring to Pregnancy)] and also §97.67 of this title

[(relating to Verification of Measles Illness, Rubella Illness, or Mumps Illness)].

(H) Hepatitis B. Beginning January 1, 1992:

(i) all medical and dental students, residents, and interns shall receive a complete series of hepatitis B vaccine prior to the start of direct patient care[;] or show serologic confirmation of immunity to hepatitis B virus. All other students enrolled in health related courses are encouraged to receive the complete series of hepatitis B vaccine; and

(ii) all medical and dental interns and residents who are incompletely immunized to hepatitis B virus prior to the start of direct patient care shall complete the series as rapidly as is medically feasible[;] or show serologic confirmation of immunity to hepatitis B virus.

(I) Rabies. Beginning January 1, 1992:

(i) all students enrolled in schools of veterinary medicine shall receive a complete primary series of rabies vaccine prior to the start of contact with animals or their remains; and

(ii) a booster dose of rabies vaccine is to be obtained by the student every two years unless protective serum antibody levels are documented.

*§97.66. Enhanced-Potency Inactivated Polio Vaccine (eIPV/IPV) [IPV] And Combined Schedule of Polio Vaccines.*

eIPV/IPV [IPV] is the injectable type which is usually recorded as "IPV" or eIPV or "Salk vaccine" on immunization records. A few children or students may need this type of polio vaccine instead of oral polio vaccine (OPV) because of medical considerations. A child or student may be provisionally enrolled with a history of one dose of eIPV/IPV [IPV], provided two more doses of eIPV are received as rapidly as is medically feasible. A child or student will be in full compliance with the polio vaccine requirements whenever he or she has received four [three] IPV or three eIPV doses, and any recommended boosters. Four [Three] doses of IPV or 3 doses of eIPV are required for children and students with one dose administered since the fourth birthday. A combination of three doses of eIPV [enhanced-potency IPV] and OPV or four doses of conventional IPV and OPV constitute a primary series. In both cases, one dose must have been administered on or after the fourth birthday. For further information see §97.63 of this title (relating to Required Immunizations).

*§97.67. Verification of Measles Illness, Rubella Illness, or Mumps Illness.* Section 97.63 of this title (relating to Required Im-

munizations) states that physician-validated histories of measles or mumps illnesses are acceptable in lieu of vaccine. All histories of measles or mumps illnesses must be supported by a written statement from a physician licensed to practice medicine in the United States. The physician's statement should contain wording such as: "This is to verify that (name of child or student) had measles or mumps illnesses on or about (date) and does not need measles or mumps vaccine." A copy of the statement must be attached to the child's or student's immunization record, and the original should be returned to the student or the student's parent or guardian. If a child or student is unable to submit a physician's statement, then measles or mumps vaccine or serological proof of immunity is required. A physician's statement of rubella illness without serologic documentation will not substitute for rubella vaccine. All serologic evidence of measles, rubella, or mumps illnesses must consist of a written statement from a physician licensed to practice medicine in the United States or a laboratory report indicating confirmation of the disease (a confirmatory blood titer).

*§97.71. Provisional Enrollment.* The law requires that students be fully immunized against the specified diseases. [However a.] A student may, however, be admitted provisionally [admitted] if he or she has begun the required immunizations and if he or she continues to receive necessary immunizations as rapidly as is medically feasible. The school granting provisional enrollment must ensure that the required immunizations are received on schedule. If a student transfers from one school to another, a grace period of no more than 30 days may be allowed at the new school while awaiting the transfer of the immunization record, during which the student may be enrolled provisionally [enrolled].

*§97.73. Acceptable Documents of Immunizations.* Any validated document of immunization presented by a student is acceptable, provided it shows the [day,] the month, day, and [the] year when each immunization was received. The [day,] month, day, and year that the [of] vaccine was administered [administration] or history of disease must be recorded in all new school immunization records [was] created [initiated,] and in existing records updated after September 1, 1991. For the purposes of this section updating of a record will mean the creation of new immunization records or the entry onto an existing immunization record of doses administered on or after September 1, 1991. All new entries in immunization files must be based upon a certificate of immunization that [which] has been validated by, or for, a physician or public health personnel. All

immunization records created on or after September 1, 1995, must be a complete and accurate record of all validated immunization histories available for each child. These records must include all doses administered to the child, including all doses that exceed the minimum mandated requirements. The validated record should be returned to the student or the student's parent or guardian after the immunization history has been entered in school records. The Texas Department of Health and local health departments/districts will provide record-keeping cards free of charge for maintaining school immunization files. Commercially or locally produced immunization record cards may be used.

*§97.75. Assistance and Review of Records.* Representatives of the Texas Department of Health, and local health departments/districts will, upon request, advise and assist school administrators in meeting the requirements of the law. Representatives of the Texas Education Agency review immunization records when annual immunization reports are submitted[,] and again when schools are visited for accreditation purposes. Occasionally, periodic [Periodic] review of school immunization records is [occasionally] necessary in order to allow public health epidemiologists to obtain information required in preventing or controlling community outbreaks of vaccine-preventable diseases.

*§97.77. Remarks and Special Recommendations.*

(a) Immunization recommendations vary from state-to-state[,] and from physician to physician. The immunization requirements specified in this section will assure protection against the vaccine-preventable diseases for the majority of students. Some physicians and local health departments/districts adhere to an immunization schedule which may require more doses than other physicians; therefore, many students will have received more doses of vaccine than those specified in this chapter.

(b) (No change.)

(c) If a dose of polio vaccine or DTP/DTaP/DT/Td [DTP/DT/Td] vaccine is administered within the calendar month prior to, or of, the fourth birthday, it will satisfy the requirement for a dose on or after the fourth birthday.

(d) When a validated immunization record contains only one vaccine date for OPV, IPV or eIPV, or DTP/DTaP/DT/Td [DTP/DT/Td], and a "B" or the word "booster," or the words "series completed" (or similar wording) appears by the immunization date, assume that three doses of OPV, four doses of IPV or three doses of

eIPV [IPV (or four doses of conventional IPV)], or four doses of DTP/DTaP,DT,Td [DTP,DT,Td] have been administered. If the date is within the month prior to, or off, the fourth birthday, then the requirement for a dose on or after the fourth birth date is met under these circumstances. For further information see §97.73 of this title (relating to Acceptable Documents of Immunizations.)

(c) Authorities in child-care facilities, schools, and institutions of higher education are required by Health and Safety Code, Chapter 81, Subchapter C, to report, on the day of recognition, all suspected or known cases of vaccine-preventable diseases that [which] occur among students/children or staff, to the local health authority, the city or county health department/district, the city or county health officer, the public health regional office, or the Texas Department of Health in Austin, thus alerting health officials to possible outbreaks of these diseases.

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 December 2, 1994.

TRD-9451802

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 458-7284

◆ ◆ ◆  
• 25 TAC §97.64

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

The repeal is proposed under the Education Code, §2.09 (b) and (e) which require the department to develop rules relating to the admission of persons to elementary or secondary schools, §2.091(c) which require the department to develop the form for a required annual report of the immunization status of students; Human Resources Code, §42.043(c) which requires the department to develop rules for the admission of children to child care facilities; Health and Safety Code, §161.005(b) which requires the board to develop rules for the admission of children to facilities of the Texas Department of Mental Health and Mental Retardation, Texas Department of Criminal Justice, and Texas Youth Commission, §81.023(a) and §161.004(a) which requires the board to develop immunization requirements for all children, §81.004(b) which allows the board to adopt rules necessary to protect the public from communicable disease; and §12.001

which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

The statutes affected by this proposal are Education Code, §2.09 and §2.091; Human Resources Code, §42.043; Health and Safety Code, §§81.007, 81.009, 81.021, 81.023, 81.081, 81.082, 161.004, and 161.005; and Health and Safety Code, Chapter 81, Subchapter 12.

§97.64. Boosters.

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 December 2, 1994.

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Susan K. Steeg  
General Counsel  
Texas Department of  
Health

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For further information, please call: (512) 458-7284

◆ ◆ ◆  
Statewide Immunization of  
Children by Hospitals and  
Physicians

• 25 TAC §97.101, §97.102

The Texas Department of Health (department) proposes new §97.101 and §97.102, concerning the statewide immunization of children by hospitals and physicians. The new sections implement Health and Safety Code, Chapter 161, Public Health Provisions, Subchapter A, Immunizations. These sections require the department to establish rules by which hospitals and physicians will assess and review the immunization records of children and immunize or refer children as appropriate. The sections as proposed also require facility physicians with the Texas Department of Criminal Justice, Texas Department of Mental Health and Mental Retardation, and the Texas Youth Commission to review the immunization records and immunize as appropriate all children admitted, detained, or committed to those facilities.

Robert D. Crider, Jr., M.S., M.P.A., Director, Immunization Division, has determined that for the first five-year period these sections will be in effect there will be fiscal implications as a result of enforcing and administering the sections as proposed. The estimated costs to the state associated with the full implementation of these sections and Senate Bill 266 will be approximately \$17 million per year, primarily for the purchase and distribution of additional quantities of vaccines. Costs to the state and the public health care delivery system will be offset by saved costs resulting from an overall reduction in the incidence of vaccine-preventable diseases and an eventual decrease in the amount of vaccine re-

quired at school entry. Costs to local governments will be minimal. There will be no impact on local employment.

Mr. Crider has also determined that for each year of the first five years that the sections will be in effect, the public benefit anticipated as a result of enforcing the sections will be an expanded ability to age-appropriately immunize children, reduce the incidence of missed opportunities associated with age-appropriate immunizations, and reduce total incidence of vaccine-preventable disease morbidity and mortality throughout the state. There will be minimal impact on small business as a result of implementation of these sections, currently estimated at less than \$500 dollars per covered small business. The sections as proposed would place additional (minimal) recordkeeping requirements on most private physicians and hospitals throughout the state.

Comments on the proposal may be directed to Robert D. Crider, Jr., M.S., M. P.A., Division Director, Immunization Division, Texas Department of Health, 1100 West 49th Street, 78756-3180, (512) 458-7284. Comments will be accepted for 30 days from the date of publication of the proposed rules in the Texas Register.

The new sections are proposed under Health and Safety Code, §81.007, relating to "instructions of the department," §81.023(a) and §161.004(a) which require the board to develop immunization requirements for all children, §161.005(b) which requires the board to develop rules for the admission of children to facilities of the Texas Department of Mental Health and Mental Retardation, Texas Department of Criminal Justice, and the Texas Youth Commission; and §12.001 which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

The statutes affected by this proposal are Education Code, §2.09 and §2.091; Human Resources Code, §42.043; Health and Safety Code, §§12.001, 81.007, 81.023, 161.004, and 161.005.

§97.101. Statewide Immunization of Children.

(a) Every person less than 18 years old shall be immunized against vaccine-preventable diseases caused by infectious agents in accordance with the immunization schedule adopted by the Board of Health. The immunization requirements are also adopted as a statewide "control measure" for communicable diseases as that term is used in the Health and Safety Code, §81.081 and §81.082 and as an "instruction of the department" as that term is used in the Health and Safety Code §81.007.

(b) The required immunization schedule shall be based upon the immunization requirements for children and students as set out in §§97.61-97.77 of this title (relating to Immunization Requirements in Texas Elementary and Secondary Schools

and Institutions of Higher Education). Additional copies may be obtained from Literature and Forms, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3180, (512) 458-7284.

(c) All private and public hospitals in Texas that provide health care to children shall:

(1) administer age-appropriate vaccines or refer newborns for immunizations to other health care providers at the time of the newborn screening test;

(2) review the immunization history of every child admitted to the hospital, examined in the hospital's emergency room, or outpatient clinic; and

(3) administer the needed vaccines or refer the child to another health care provider for immunizations.

(d) All physicians who provide health care to children in Texas shall:

(1) review the immunization history of every child examined; and

(2) administer vaccine(s) or refer every child who needs immunizations to another health care provider.

(e) Hospitals and all physicians who provide health care to children in Texas must document in a newborn's or other child's hospital or medical record that the newborn or child has either received age-appropriate immunizations or has been referred for immunizations at the time of the newborn screening or upon a child's admission to the hospital, examination in a hospital emergency room or visit to an outpatient clinic. Hospitals and all physicians who provide health care to children in Texas must document in a newborn's or other child's hospital or medical record that the:

(1) newborn's or other child's immunization history has been reviewed; and

(2) that the newborn or child has been age-appropriately immunized or that the newborn has been referred to another health care provider for immunizations.

(f) If requested by the local health unit, local health department, public health district, or the department, the provider shall furnish identifying information on those children who have been immunized or referred for immunizations. The information must include at least the child's name, child's date of birth, child's address, a parent's name, a parent's telephone number, and if applicable, the name or type of vaccine administered, and the month, day, and year that the vaccine was administered.

(g) Children are exempt from immunizations if:

(1) immunization conflicts with the tenets of an organized religion to which parent, managing conservator or guardian belongs; or

(2) the immunization is medically contraindicated based on an examination of the child by a physician licensed to practice by any state in the United States.

*§97.102. Immunizations Required Upon Admission of a Child to the Texas Department of Criminal Justice, Texas Department of Mental Health and Mental Retardation, or the Texas Youth Commission.*

(a) On admission of a child to a facility of the Texas Department of Mental Health and Mental Retardation, the Texas Department of Criminal Justice, or the Texas Youth Commission, the facility physician shall review the immunization history of the child and administer any needed immunization(s) or refer the child for immunization(s) to another health care provider. Required immunizations are those set out in §97.63 of this title (relating to Required Immunizations). Copies may be obtained from: Literature and Forms, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3180, (512) 458-7284.

(b) The provisions of §97.62 of this title (relating to Exclusions of Compliance) and §97.71 of this title (relating to Provisional Enrollment) apply to this section.

(c) The facility covered by this section shall keep an individual's immunization record during the child's period of admission, detention, or commitment in the facility. The records shall be open to inspection at all reasonable times by a representative of the local health unit, local health department, public health district or the department. The immunization record will record the name or type of vaccine administered; and the month, day and year that the vaccine was administered.

(d) This section does not affect the requirements of the Education Code, §2.09 and §2.091 or the Human Resources Code, §42.043, or sections of this chapter written under their authority.

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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Susan K. Steeg  
General Counsel  
Texas Department of  
Health

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For further information, please call: (512) 458-7284

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 114. Control of Air Pollution From Motor Vehicles

##### • 30 TAC §114.7

The Texas Natural Resource Conservation Commission (TNRCC or Commission) proposes new §114.7, concerning fees for the Inspection and Maintenance (I/M) program. These fees are applicable in the following nonattainment areas: Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso.

On April 20, 1994, the Commission issued Resolution Number 94-07 establishing the amount of the vehicle emission inspection fees, and on November 30, 1994, the Commission issued Resolution Number 94-0748-RES establishing the amount of a waiver fee for I/M program waivers. The new rule sets forth these inspection and waiver fees, as well as the portion of the fees to be paid to the state's contractor for the I/M program, and sets forth certain procedures related to fees at inspection facilities.

Stephen Mirick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the rule is in effect there will be fiscal implications associated with the effect of enforcement and administration of the rule. The new rule establishes revenues to recover I/M program cost obligated in previous rulemaking and to compensate the state's contractors for the program. Section 114.3, Vehicle Emissions Inspection and Maintenance Program, was proposed in the July 27, 1993, issue of the *Texas Register* (18 TexReg 4939), and was adopted as published in the November 23, 1993, issue of the *Texas Register* (18 TexReg 8689). Revenues to the state will be an anticipated \$7,674,426 in 1995, increasing to an expected \$11,168,205 in 1999, based on the projected number of vehicles to be tested, retested, and applying for waivers.

No new costs are added as a result of this rule. The fiscal implications of anticipated cost for state and local government agencies owning exempt title fleets does not change. Inspecting these fleets will cost state and local agencies approximately \$986,400 in 1995 and \$619,800 in each of the years 1996-1999.

The rule does not change the requirements of the I/M program for small businesses. The July 1993 proposal of §114.3 had estimated that the cost to small businesses and individuals for the biennial emissions inspection would be less than \$25 per vehicle to register in each of the I/M program areas. The fees for businesses and individuals owning vehicles in the affected nonattainment areas will be less than previously anticipated, ranging from \$15-\$23, and will be directly proportional

to the number of subject vehicles owned and operated. This fiscal effect will vary with the rate applicable to the program area and with the number of vehicles to be tested. In addition, the new rule includes fees established in previous rulemaking, as published in the October 14, 1994, issue of the *Texas Register* (19 TexReg 8117), regarding testing at fleet facilities and dealerships. The rules set forth fees under the current statute that allows fleet facilities and dealerships the option of vehicle emissions testing at their facilities at a fee equal to twice the standard test fee that is applicable to the program area.

Mr. Minick also has determined that for each year of the first five years the new rule is in effect the public benefit anticipated as a result of enforcement of and compliance with the new rule will be receipt of funds by the contractor sufficient to support the I/M program in the nonattainment areas under provisions of the I/M State Implementation Plan, compliance with the provisions of the Federal Clean Air Act, and improvement in air quality and protection of human health and safety. There is no anticipated economic cost to persons who are required to comply with the new rule as proposed, other than those costs previously identified.

A public hearing on the proposal will be held on December 29, 1994 at 10:00 a.m. in Room 365 of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through December 29, 1994. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on December 29, 1994 will be considered by the Commission prior to any final action on the proposal. Please mail written comments to the attention of Lisa Martin, Office of Policy and Regulatory Development, P.O. Box 13087, Austin, Texas 78711-3087. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, contact Sherry Bryan at (512) 239-1994.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1457. Requests should be made as far in advance as possible.

The new rule is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The new rule implements TCAA, §382.037 and §382.038, authorizing the Commission to

assess fees for vehicle emissions-related inspections, and Rider 23 of the 1993 Appropriations Bill, authorizing the TNRCC to expend the fees necessary to recover the administrative cost of the I/M program.

#### *§114.7. Inspection and Maintenance Fees.*

(a) The following fees must be paid prior to the emissions inspection of a vehicle at an inspection station. This fee shall include one free retest should the vehicle fail the emissions inspection, provided that the motorist submits, prior to the retest, a properly completed Vehicle Emissions Repair Report showing that emission-related repairs were performed.

(1) For the Houston/Galveston Inspection and Maintenance (I/M) program area (Harris, Brazoria, Fort Bend, Waller, Liberty, Chambers, Galveston, and Montgomery Counties)-\$23. The Managing Contractor shall retain \$20.45 of this fee.

(2) For the Beaumont/Port Arthur I/M program area (Jefferson and Orange Counties)-\$15. The Managing Contractor shall retain \$13.57 of this fee.

(3) For the Dallas/Fort Worth I/M program area (Dallas, Tarrant, Denton, and Collin Counties)-\$21. The Managing Contractor shall retain \$18.02 of this fee.

(4) For the El Paso I/M program area (El Paso County) -\$22. The Managing Contractor shall retain \$19.38 of this fee.

(b) The per-vehicle fee and the amount of the fee retained by the Managing Contractor for a challenge test at a referee inspection facility shall be the same as the amounts set forth in subsection (a) of this section. The challenge fee shall be refunded if the vehicle passes the challenge test.

(c) The per-vehicle fee and the amount of the fee retained by the Managing Contractor for establishing an alternative schedule pursuant to §114.3(c)(2) (C) of this title (relating to Vehicle Emissions Inspection and Maintenance Program) shall be the same as the amounts set forth in subsection (a) of this section. This per-vehicle fee shall satisfy the fee requirement in subsection (a) of this section when the vehicle is submitted for an inspection at an inspection station pursuant to the alternative schedule.

(d) A \$5.00 fee shall be assessed for establishing reciprocal compliance at a referee inspection facility pursuant to §114.3(c)(2)(B) of this title.

(e) The processing fee for applications for Time-Extension, Minimum Expenditure, and Executive Director waivers, identified in §114.3(l) and (m) of this title, shall be \$5.00. No fee shall be assessed for applications for Hardship Extension Waivers.

(f) The per-vehicle fee for the performance of testing at a fleet facility or

dealership, identified in §114.3(u) of this title, shall equal twice the test fee set forth in subsection (a) of this section.

(g) A \$5.00 fee shall be assessed for the replacement of a Vehicle Emissions Certificate (VEC) that is lost, destroyed, or stolen. In addition to payment of the fee, the vehicle must pass a visual anti-tampering check of the catalytic converter before a replacement VEC will be issued. The Managing Contractor shall retain all of this \$5.00 fee.

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 December 2, 1994.

TRD-9451844

Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: January 11, 1995

For further information, please call: (512) 239-1966

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. State Sales And Use Tax

##### • 34 TAC §3.323

The Comptroller of Public Accounts proposes an amendment to §3.323, concerning imports and exports. Changes to the Tax Code, §151.307, added the definitions of "air forwarder" and "ocean forwarder." The amendment adds these definitions to the rule. The amendment references an exemption for automotive audio equipment installed in Texas, according to new Texas Tax Code, §151.3071. The amendment deletes a restriction that required a retailer to receive proof of export documentation only from the original purchaser. The changes to the Tax Code became effective June 19, 1993.

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 tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of 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 Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

The amendment implements the Tax Code, §§151.157, 151.158, 151.160, 151.307, 151.3071, and 151.330.

### §3.323. Imports and Exports.

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

(1) Air forwarder—A licensed International Air Transportation Association freight forwarder.

(2)[(1)] Consignee—The person [Person] named in a bill of lading to whom or to whose order the bill promises delivery.

(3)[(2)] Consignor—The person [Person] named in a [the] bill of lading as the person from whom the goods have been received for shipment.

(4)[(3)] Licensed and certificated carrier—A person authorized by the appropriate United States agency or by the appropriate state agency within the United States to operate an aircraft, vessel, train, motor vehicle, or pipeline as a common or contract carrier. Certificates of inspection or airworthiness certificates are not the appropriate documents for authorizing a person to operate as a common or contract carrier. These documents relate to the carrier device itself rather than a person's right to operate a carrier business.

(5) [(4)] Licensed customs broker—A person who is licensed by the United States Customs Service to act as a custom house broker and who holds a Texas Customs Broker's License issued by [registered with] the comptroller as provided in [Comptroller of Public Accounts according to the terms of] §3.360 of this title (relating to Customs Brokers).

(6) Ocean forwarder—A licensed Federal Maritime Commission freight forwarder.

(b) (No change.)

(c) Exports.

(1) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(A) a copy of a bill of lading issued by a licensed and certificated carrier of persons or property that [as defined by

subsection (a)(3) of this section which] shows the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(B) documentation that is valid under [the terms of] §3.360 of this title (relating to Customs Brokers) provided by a licensed [United States] customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C) (No change.)

(D) a copy of the original airway, ocean, or railroad bill of lading issued by a licensed and certificated carrier that [as defined in subsection (a)(3) of this section which] describes the property [items] being exported and a copy of the air forwarder's, ocean forwarder's, or rail freight forwarder's receipt if an air, ocean, or rail [the] freight forwarder takes possession of the property in Texas; or

(E) a maquiladora exemption certificate issued by an organization of the type defined in §3.358 of this title (relating to Maquiladoras). The maquiladora must also provide a copy of its maquiladora export permit issued by the comptroller [Comptroller of Public Accounts].

(2) the retailer is responsible for obtaining proof of exportation. Only one type of proof relating to a particular piece of property is necessary. For example, a furniture store sells a table and collects sales tax. The purchaser returns to the store a week later with a valid *pedimento de importaciones* showing that the table was imported into Mexico. The retailer may accept the *pedimento*, alone, as proof of export and refund the tax. It is not necessary for the retailer to also obtain an export certification form issued by a licensed customs broker. Except as provided in §3.358 of this title (relating to Maquiladoras), exemption certificates, affidavits, or statements from the purchaser that the property [goods] will be or has [have] been exported are not sufficient to exempt the sale as an export. The Texas proof of export form is no longer acceptable as proof of export. A passport number taken by a seller from a passport issued by a foreign country is not acceptable as proof of export.

(3) Storing property in Texas by the owner prior to exportation is a use of that property in Texas. Property stored or otherwise used or consumed in Texas by the owner loses its exemption as an export. For example, clothing or jewelry actually worn by the purchaser in Texas is used in Texas; automotive parts (not including electronic audio equipment) installed on the purchas-

er's motor vehicle in Texas are used in Texas if the vehicle is subsequently driven in Texas; and food ready for immediate consumption that is purchased in Texas is presumed to be used in Texas. By law, electronic audio equipment retains the exemption even if installed in a motor vehicle that is driven in Texas prior to export. Sufficient time will be allowed to arrange for shipping. Property in Texas longer than 30 days from date of purchase will be presumed to have been stored. Any use of the property in Texas by the owner prior to export also causes the loss of the export exemption. Property in the hands of a freight forwarder is not covered by this provision.

(4) (No change.)

(5) If a seller delivers property to a purchaser in Texas, the seller must collect tax at the time of sale. The tax may not be refunded until the property has actually been exported from the territorial limits of the United States and the seller has received valid proof of export as described in this subsection. There is a rebuttable presumption that an export certification form [a certificate] issued by a licensed [registered] customs broker who complies with §3.360 of this title (relating to Customs Brokers) is valid. Tax not collected will be assessed against the seller. This paragraph does not apply when proof of export is provided to the seller at the time of sale by a maquiladora according to the terms of paragraph (1)(E) of this subsection.

(d) (No change.)

(e) Refunds.

(1) A retailer who collects sales tax on tangible personal property that [a taxable item which] qualifies for exemption under subsection (b) of this section may refund the tax to the original purchaser or the original purchaser's assignee [the sales tax collected] upon receipt [presentation by the original purchaser] of export documentation as required by subsection (c) of this section. [Documentation of exportation provided to the seller by a person other than the original purchaser listed on the seller's records is not acceptable proof of export, even if such documentation otherwise meets the requirements of this subsection. A refund issued to a person other than the original purchaser will be assessed against the seller.]

(2) The refund may be made by certified check, company check, money order, credit memo, or cash. If the refund is made in cash, the retailer must receive [from the purchaser of the exported item] at the time the refund is made a receipt showing a description of the property [item] purchased, the amount and date of the refund, and the name, address, and signature of the purchaser and, if applicable, the purchas-

er's assignee. A retailer who issues a tax refund to the purchaser's assignee must also receive a copy of the purchaser's written assignment of the right to a refund.

(3) A copy of the certified check, company check, money order, credit memo, or signed cash receipt and a copy of the written assignment of the purchaser's right to a refund, if applicable, must be attached to the original export documents and maintained in the seller's files.

(4) (No change.)

(f) (No change.)

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

Issued in Austin, Texas, on December 2, 1994.

TRD-9451779      Martin Cherry  
                         Chief, General Law  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 463-1028

◆      ◆      ◆  
• 34 TAC §3.360

*(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 Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §3.360, concerning customs brokers. Due to extensive changes and additions to Tax Code, Chapter 151, effective June 19, 1993, it has become necessary to repeal the rule now in effect and to propose a new rule. The changes to Chapter 151 set out the proper procedures for customs brokers certifying exports of tangible personal property to foreign countries and give the comptroller the authority to collect fees for customs brokers' licenses and export stamps, and to impose civil penalties for violations by customs brokers, retailers, and purchasers. The new rule will address all the Tax Code changes as well as prohibited acts by customs brokers. All this information is not covered in the current rule.

Mike Reissig, chief revenue estimator, has determined that repeal of the rule will not result in any fiscal implications to the state or to units of local government.

Mr. Reissig also has determined that repeal of the rule will benefit the public by providing them with new information regarding their tax responsibilities. This repeal is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeal may be submitted to Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed 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.

The repeal implements the Tax Code, §111.0043 and §151.307.

§3.360. Customs Brokers.

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 December 2, 1994.

TRD-9451781      Martin Cherry  
                         Chief, General Law  
                         Comptroller of Public  
                         Accounts

Earliest possible date of adoption: January 9, 1995

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

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The Comptroller of Public Accounts proposes new §3.360, concerning customs brokers. Due to changes and additions to Tax Code, Chapter 151, effective June 19, 1993, it has become necessary to repeal the rule now in effect and to propose a new rule. The changes to Chapter 151 set out the procedures for licensing customs brokers certifying exports of tangible personal property to foreign countries. The new rule also addresses customs brokers' responsibilities and prohibited acts by customs brokers.

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 tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The new rule is proposed 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.

The new rule implements the Tax Code, §§151.157, 151.158, and 151.307.

§3.360. Customs Brokers.

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

(1) Employee—A person who is authorized by his employer to perform customs transactions or related services on behalf of the employer, is compensated by the employer with a regular salary or wages, is under the direct control and supervision of the employer, and from whose salary or wages the employer is required to and actually does deduct and withhold a tax under federal law. This definition applies to employees of customs brokers and employees of verification contractors.

(2) Licensed customs broker—A person who is licensed by the United States Customs Service to act as a custom house broker and who holds a Texas Customs Broker's License issued by the comptroller: as provided for in this section.

(3) Verification contractor—An independent contractor who, for consideration and under a written contract with a licensed customs broker, facilitates the monitoring of exports to be certified by the broker. Unless the context clearly indicates otherwise, all references in this section to a verification contractor include an employee of a verification contractor.

(b) Certification of exports. Only a licensed customs broker or an employee of a licensed customs broker may fully or partially prepare, issue, and/or sign a valid export certification form as provided for in this section and in §3.323 of this title (relating to Imports and Exports).

(c) Texas Customs Broker's License; prerequisites. A person may apply to the comptroller for a Texas Customs Broker's License, which is a license to issue export certification forms for the purpose of claiming exemption from Texas sales and use taxes. To obtain a license, a person must:

(1) be currently licensed by the United States Customs Service to act as a custom house broker;

(2) submit an application in the form prescribed by the comptroller; and

(3) be current in payment of all taxes and fees administered by the comptroller.

(d) Form of application. The comptroller will prescribe an application form for a Texas Customs Broker's License, which must include or be accompanied by the following:

(1) a copy of the applicant's license to act as a custom house broker issued by the United States Customs Service;

(2) the applicant's name, mailing address, primary business address, business telephone number, home address, and home telephone number, and the names, home addresses, and home telephone numbers of all the general partners (if the applicant is a partnership), the charter number, charter date, federal employers identification number, and the names, home addresses, and home telephone numbers of the officers and directors (if the applicant is a corporation), or the names, home addresses, and home telephone numbers of the members (if the applicant is an association other than a partnership or corporation);

(3) the names, mailing addresses, primary business addresses, business telephone numbers, home addresses, and home telephone numbers of all verification contractors and all authorized employees of verification contractors, and the names, home addresses, and home telephone numbers of all the general partners (if the verification contractor is a partnership), the charter number, charter date, federal employers identification number, and the names, home addresses, and home telephone numbers of the officers and directors (if the verification contractor is a corporation), or the names, home addresses, and home telephone numbers of the members (if the verification contractor is an association other than a partnership or corporation), and the date of contract of all verification contractors;

(4) the names, home addresses, and home telephone numbers of all employees who are authorized to certify exports in the name of the applicant and the date of hire of all such employees;

(5) a copy of each employee's power of attorney to certify exports in the name of the applicant;

(6) the trade name of the applicant's business and the address of each location where export certifications are to be fully or partially prepared;

(7) the original signature or signatures of the applicant (if he is a sole proprietor), an officer or director (if the applicant is a corporation), all general partners (if the applicant is a partnership), or an authorized member (if the applicant is an association other than a corporation or partnership), and the original signatures of all employees of the broker;

(8) the social security number of each employee, verification contractor, authorized employee of a verification contractor, and the social security number of the applicant (if he is a sole proprietor), each general partner (if the applicant is a partnership), each officer and director (if the applicant is a corporation), or each member (if the applicant is an association other than a partnership or corporation); and

(9) any other information the comptroller requires.

(c) Duration of license. A license issued under this section continues in effect until canceled by the broker or suspended or revoked by the comptroller. All canceled, suspended, or revoked licenses must be immediately returned to the comptroller or they will be subject to confiscation.

(f) Display of license. An original Texas Customs Broker's License must be prominently displayed at each place of business of the broker where export certification forms are fully or partially prepared.

(g) Locations outside the United States. No Texas Customs Broker's Licenses will be issued for locations beyond the territorial limits of the United States.

(h) Verification contractors. A licensed customs broker may enter into a written contract with a verification contractor to facilitate the monitoring of exports certified by the broker. A verification contractor may authorize by power of attorney his full- or part-time employee to perform verification services on his behalf. A verification contractor may not fully or partially prepare, issue, and/or sign export certification forms and may not affix export certification stamps to export certification forms. A verification contractor's contract must be submitted to and approved by the comptroller, prior to which the verification contractor may not perform valid export verification services described in this subsection.

(i) Export certification stamps. The comptroller will produce or have produced export certification stamps to be affixed to export certification forms.

(1) The comptroller may change the design as often as necessary for the enforcement of this section. The design will be changed at least once each calendar quarter.

(2) Only a licensed customs broker or his authorized employee may receive stamps. A person obtaining stamps in person must present photographic identification.

(3) There is no fee for the stamps.

(4) The stamps are non-transferable. A stamp is void if transferred to a person other than the broker to whom the comptroller originally issued the stamp or to that broker's employee in the ordinary course of business. This subdivision does not apply to a stamp that is actually affixed to an export certification form that is transferred in compliance with this section.

(5) All unused, expired stamps must be returned to the comptroller within

ten working days of the end of each calendar quarter. All such stamps must be delivered to the comptroller on the same date, at the same time, and at the same location of the comptroller. Unused stamps must be immediately returned to the comptroller upon cancellation, suspension, or revocation of the broker's license or upon notification that the broker is out of business and may be confiscated if not returned. Unused, expired stamps may not be retained, destroyed, or disposed of except by the comptroller.

(6) As soon as practicable after discovery, a broker must report in writing to the comptroller the theft, destruction, or other loss of stamps issued to the broker, including the numbers assigned to the lost stamps (if the comptroller has numbered the stamps sequentially).

(7) A broker must notify the comptroller as soon as practicable in writing if the broker has no remaining inventory of stamps following use, theft, and/or other loss of the stamps.

(j) Records required. A licensed customs broker must maintain books and records that include, at a minimum, the following:

(1) an exact photographic image, including the exact photographic image of the export certification stamp, of each export certification form signed by the broker within the last two years (but not before January 1, 1993). Carbon copies and pages from multi-page forms are not acceptable because they do not contain an image of the export certification stamp;

(2) a ledger that:

(A) lists sequentially all export certification forms issued or voided within the last two years (but not before January 1, 1993);

(B) identifies the person or persons who fully or partially prepared, issued, and/or signed each form; and

(C) identifies the person's or persons' relationship to the licensed customs broker;

(3) an inventory of export certification stamps and records tracking transfers of stamps between the broker and his employees, identifying the recipients and showing the dates of transfer, quantities transferred, the sequential numbers of the transferred stamps (if the comptroller has numbered the stamps sequentially), and detailed records regarding stamps that have been lost, stolen, or are otherwise unaccounted for;

(4) a current list of all employees authorized to fully or partially prepare,

issue, and/or sign export certification forms and information relating to the hiring and termination of employees;

(5) all contracts executed between the broker and verification contractors and information relating to the termination or cancellation of such contracts;

(6) exact copies of all invoices, receipts, or other documents relating to property whose export the broker has certified;

(7) a copy of a certified check, company check, or money order made payable to the purchaser, or a credit memo or cash receipt signed by the purchaser, and the purchaser's written assignment of the right to a Texas sales or use tax refund for each instance in which the broker obtained a refund assignment from the purchaser; and

(8) information of the exact same type as required to be submitted with the application for a license as described in subsection (d) of this section, updated and kept current since the date of application.

(k) Examination of records. A licensed customs broker must maintain all required records available for examination by the comptroller. The comptroller will issue written notice of routine examination of records at least 15 days prior to the date of examination. No advance notice will be issued if the comptroller determines that notice could jeopardize the proper enforcement of the tax laws and the comptroller's rules. The examination will take place at the broker's principal place of business unless the comptroller agrees to examine the records at another location.

(l) Retention of records. A licensed customs broker must retain records for a period of at least two years from the date of the document, the date of completion (if the required record is a contract), or the date of final entry (if the required record is a list or ledger). Copies of export certification forms must be retained for at least two years after the date the broker or the broker's employee signs the form, regardless of the date of export. For other documents with multiple dates, the two-year period for retention begins on the latest date reflected on the document.

(m) Export certification form and contents. The export certification forms issued by a licensed customs broker must be substantially in the form recommended by the comptroller. A separate form must be completed for each seller. Multiple invoices from a single seller may be listed on a single export certification form only if all the listed items were exported at the same place, on the same date, and at the same time. The required information must be

completed in English on the face of the form, in addition to any other language in which the form is completed. The comptroller may immediately confiscate from any person an export certification form that is incomplete on its face, indecipherable, fraudulent, or otherwise in violation of this section. An export certification form must, at a minimum, reflect the following information:

(1) the name and address of the purchaser of the property, as shown on the invoice, receipt, or similar document;

(2) the name of the seller and the seller's location from which the property was sold;

(3) the name, address, and Texas Customs Broker's License number of the broker in whose name the export is being certified;

(4) the date of sale, date and time the property was exported, and exact location (e.g., the bridge or airport) where the property was exported;

(5) a description of the property, a list of Store Keeping Unit (SKU) or other product identification codes, or copies of invoices securely attached to the form and signed and dated individually by the broker, the broker's employee, or verification contractor;

(6) the invoice numbers (if any) and sales prices of the property;

(7) the original signature of the licensed customs broker or the broker's employee, together with a certification that the property has been exported;

(8) the name of the person who signed the form, typed or legibly printed near the signature;

(9) a valid export certification stamp whose expiration date falls within the same calendar quarter as the date of export (regardless of the date of sale); and

(10) a sequential export certification form number assigned by the licensed customs broker.

(n) License denial, suspension, and revocation. The comptroller may deny, suspend, or revoke a Texas Customs Broker's License for cause.

(1) Grounds for denying a person's application for a Texas Customs Broker's License include, but are not limited to:

(A) ineligibility for a license under subsection (c) of this section, including filing incomplete, false, or misleading information with the license application;

(B) disqualification for a license due to prior denial, suspension, or revocation, as provided in this subsection; or

(C) forfeiture of corporate privileges, certificate of authority, or charter, if the applicant is a corporation.

(2) A person whose application for a Texas Customs Broker's License has been denied may resubmit the application not sooner than 90 days after the date on which the comptroller's decision to deny the application becomes final. However, the comptroller may authorize re-application at an earlier date if he determines it is warranted under the circumstances.

(3) Acts or omissions of a licensed customs broker, his employee, his verification contractor, an officer or director, a general partner, or association member (as applicable) that constitute cause for suspension or revocation of a license under this section include, but are not limited to:

(A) cancellation, suspension, or revocation by the United States Customs Service of the broker's license to act as a custom house broker or cancellation of that license by the broker;

(B) violation of any provision of the Tax Code or the comptroller's rules;

(C) delivering to any person a signed and/or stamped export certification form if all or a portion of the property described thereon was not actually exported at the time and place and on the date reflected on the certification form;

(D) delivering to any person a signed and/or stamped export certification form based solely on:

(i) foreign import documents, bills of lading, freight forwarder's receipts, or other documents that constitute valid proof of export in and of themselves under §3.323 of this title (relating to Imports and Exports); or

(ii) proof of foreign citizenship;

(E) transferring an export certification stamp to a person other than the licensed customs broker or the broker's employee, except if, at the time of transfer, the stamp is affixed to an export certification form issued in compliance with this section;

(F) delivering to any person an export certification form with knowledge that the recipient intends to use the form to evade tax that is legally due or to assist another person in the evasion of tax that is legally due;

(G) soliciting, advertising, or promoting the unlawful evasion of tax through use of export certification forms;

(H) knowingly making a false verbal or written statement to the comptroller;

(I) fully or partially preparing export certification forms at a location for which no Texas Customs Broker's License has been issued;

(J) transferring signed and/or stamped export certification forms that are otherwise blank or incomplete at the time of transfer to a person other than the licensed customs broker or the broker's employee in the ordinary course of business;

(K) failing to exercise responsible supervision and control over the conduct of export certification business, including inadequate supervision of employees and verification contractors;

(L) failing to keep current in a correct, orderly, and itemized manner the records required under this section, failing to timely provide the comptroller with information required to be provided, or failing to account for all export certification stamps received from the comptroller;

(M) refusing the comptroller access to, concealing, removing, or destroying without the comptroller's prior, written consent, the whole or any part of a record required to be kept under this section, or refusing to cooperate with the comptroller's investigation;

(N) attempting to unduly influence the comptroller by the use of a threat, false accusation, duress, or the offer of any special inducement or promise of advantage, or by bestowing any gift, favor, or other thing of value;

(O) withholding information from or knowingly imparting false information to a client;

(P) failing to timely return to the comptroller unused, expired export certification stamps as required by this section, absent a showing and timely report to the comptroller of loss by theft or accident;

(Q) selling or buying export certification forms and/or export certification stamps except as consistent with this section;

(R) seeking and/or obtaining under false pretenses a tax refund from a seller, including giving a false refund assignment to the seller or otherwise representing that the broker has the authority to obtain a refund of tax paid by another person if the broker does not have such authority, in fact; or

(S) failing promptly to notify the seller, in writing, that an export certification form relating to that seller is for any reason incomplete, misleading, void, or otherwise invalid.

(4) After notice and hearing, the comptroller may suspend a license for no fewer than 60 days and no more than 120 days if the broker's license has not been previously suspended or revoked, for no fewer than 120 days and no more than 180 days if the broker's license has been previously suspended or revoked, or concurrently and for the same length of time as a suspension by the United States Customs Service of the broker's license to act as a custom house broker. The suspension becomes effective on the date the comptroller's decision to suspend the license becomes final. Suspension of a license applies to all locations of the broker.

(5) After notice and hearing, the comptroller may revoke a broker's license indefinitely if the broker's license has been suspended at least twice previously or has been previously revoked, or if the broker's license to act as a custom house broker has been revoked by the United States Customs Service. The revocation becomes effective on the date the comptroller's decision to revoke the license becomes final. Revocation of a license applies to all locations of the broker.

(6) A Texas Customs Broker's License that has been suspended is reinstated automatically upon the expiration of the period of suspension, unless the licensee notifies the comptroller in writing that the license should not be reinstated. Not sooner than one year after the effective date of revocation, a person whose Texas Customs Broker's License has been revoked may apply to the comptroller for reinstatement. The comptroller may reinstate the license if the person otherwise qualifies for a license as provided in this section and the comptroller is satisfied that the person has a good faith intent to comply with the tax laws and the comptroller's rules.

(7) For procedures relating to license denial, suspension, and revocation, see §3.361 of this title (relating to Practice and Procedure for Texas Customs Broker's License Denial, Suspension, and Revocation).

(o) Suggested form of certification. A suggested form for the Licensed Customs Broker's Export Certification is set out as follows.

Figure: 34 TAC §3.360(o)

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 December 2, 1994.

TRD-9451781

Martin Cherry  
Chief, General Law  
Comptroller of Public  
Accounts

Earliest possible date of adoption: January 9, 1995

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

◆ ◆ ◆  
• 34 TAC §3.361

The Comptroller of Public Accounts proposes new §3.361, concerning administrative practice and procedure for denying, suspending, or revoking Texas Customs Broker's Licenses. Due to additions to Tax Code, Chapter 151, effective June 19, 1993, it has become necessary to promulgate rules of procedure specific to customs brokers. The rule discusses contested cases, notice, and appeals.

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 tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The new rule is proposed 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.

The new rule implements the Tax Code, §151.157.

§3.361. Practice and Procedure for Texas Customs Broker's License Denial, Suspension, and Revocation.

(a) Applicability of rules of practice and procedure. The following rules of practice and procedure contained in Part I,

Chapter I, Subchapter A of this title (relating to Practice and Procedures) shall apply to hearings involving the denial, revocation, or suspension of a Texas Customs Broker's License: §§1.1, 1.2, 1.4, 1.8, 1.19, 1.21-1.27, 1.29-1.36, 1.38, 1.41, and 1.42. For information about licensing procedures and requirements, see §3.360 of this title (relating to Customs Brokers).

(b) Special rules governing hearings on the denial, revocation, or suspension of a Texas Customs Broker's License.

(1) Contested cases. A contested case is a proceeding in which the legal rights, duties, or privileges of an applicant or licensee are to be determined by the agency after an opportunity for adjudicative hearing. It includes a request for relief from actions initiated by the agency to deny, suspend, or revoke a Texas Customs Broker's License. Contested cases are within the jurisdiction of the administrative law judges.

(2) Initiation of an oral hearing.

(A) If the comptroller determines that an applicant is not eligible for a Texas Customs Broker's License, the applicant will be notified, in writing, by personal service, or by registered or certified mail, return receipt requested, that the application has been denied. The notice will state the reasons for the denial. The applicant may, within 15 days of the date of the notice of denial, make a written request for an oral hearing to contest the denial. If the applicant does not request a hearing within 15 days of the date of the notice of denial, the hearing is waived and a final decision will be issued.

(B) If the comptroller determines that a Texas Customs Broker's License should be suspended or revoked, the comptroller will notify the licensee, in writing, by personal service or by registered or certified mail, return receipt requested, that the license will be suspended or revoked and will state the reasons for the action. The licensee may, within 15 days of the date of the notice of suspension or revocation, make a written request for an oral hearing to contest the action. If the licensee does not request a hearing within 15 days of the date of the notice of suspension or revocation, the hearing is waived and a final decision will be issued.

(3) Content of request for an oral hearing.

(A) A request for an oral hearing must contain the reasons the applicant or licensee disagrees with the action of the agency. The applicant or licensee must list and number the factual and legal

grounds why the action of the agency should be reversed. Legal authority must be cited if the applicant or licensee disagrees with the agency's interpretation of the law.

(B) Evidence regarding issues raised in the request for hearing may be obtained through:

(i) a preliminary conference; and

(ii) discovery.

(C) Time limits on discovery or preliminary conferences will be set by the assigned administrative law judge if the parties cannot reach agreement.

(D) A request for hearing may be amended up to ten days prior to the time that the hearing date is set, and not later, unless by permission of the assigned administrative law judge, and unless all evidence upon which the applicant or licensee intends to rely and that was not previously filed is filed with the amended request for hearing.

(4) Extensions of time.

(A) A motion for extension of the due date for submitting a request for hearing on the denial of an application or on the proposed suspension or revocation of a license may be granted in case of emergency or extraordinary circumstances. A motion for extension will not be routinely granted and each request will be closely scrutinized to ensure that the applicant or licensee has made every effort to comply with the original deadline. A motion filed after the expiration of the original due date will not be considered. A motion must be directed to the chief administrative law judge or his designee, who will grant or deny the motion.

(B) A motion for an extension of any other deadline will not be granted unless good cause is established and the need for the extension is not due to the moving party's neglect, indifference, or lack of diligence. A motion must be made in writing at least seven days prior to the deadline. In the event of an emergency, a motion may be accepted if it is postmarked, sent by facsimile transmission, or deposited with a private mail or courier service, postage or delivery charges paid, not later than the date of the original deadline.

(5) Motion to dismiss; request for extended hearing.

(A) The agency may move to dismiss the hearing on the ground that the request for hearing was not timely filed or

failed to state a claim upon which relief could be granted as required by subsection (b)(3) of this section.

(B) An applicant or licensee who believes it will require more than two hours for a hearing must file a written request for an extended hearing at the time the request for hearing is filed, and state the reasons why more time will be required; however, any party may later request an extended hearing for good cause shown.

(6) Notice of setting. Upon receipt of a timely and sufficient request for hearing, the assigned administrative law judge will send a notice to the parties giving:

(A) the date, time, place, and nature of the oral hearing;

(B) the legal authority and jurisdiction under which the hearing is to be held;

(C) a reference to the particular statutes and rules involved; and

(D) upon request, briefing and evidentiary prefiling dates, and other appropriate orders.

(7) Administrative law judge to hear case. Hearings will be conducted by an assigned administrative law judge who has authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence. The administrative law judge has the authority to continue or recess any hearing, to control the record, and to propose decisions to the comptroller. If for any reason the assigned administrative law judge cannot continue on a contested case, another administrative law judge will become familiar with the record and perform any functions remaining to be performed without the necessity of repeating any previous proceedings in the case.

(8) Filing of documents. All documents submitted after the notice of setting has been issued must be filed with the assigned administrative law judge with a copy to each party. In addition to any other order by the assigned administrative law judge, the time limit for filing documents with the administrative law judge and an opposing party shall be not later than ten days prior to the hearing.

(9) Continuances (postponement of hearing). A motion for continuance of a contested case set for oral hearing must be in writing and filed with the assigned administrative law judge at least seven days prior to the date that the matter is to be heard. If an emergency occurs less than

seven days prior to the hearing date, a motion for continuance may be filed. The motion must show that there is good cause for the continuance and that the need is not caused by neglect, indifference, or lack of diligence. A copy of the motion must be served upon all other parties of record at the time of filing.

(10) Comptroller's decision  
The proposed decision of the assigned administrative law judge must be approved by the Comptroller of Public Accounts before it is given effect. The comptroller's decision will be sent to the applicant or licensee and any authorized representative. The decision is final 20 days from the date mailed, unless a motion for rehearing is filed at or before midnight of the 20th day. If the motion for rehearing is granted, the decision is vacated pending a subsequent decision upon rehearing. If the motion for rehearing is overruled, whether by order or operation of law, the decision is final on the date the motion is overruled. A final decision of the comptroller to deny, suspend, or revoke a Texas Customs Broker's License is subject to judicial review by trial de novo in the district courts of Travis County.

(11) Joint hearings  
An applicant, licensee, or the agency may file a written motion to have two or more cases involving only that applicant or licensee joined for purposes of hearing; or the assigned administrative law judge, acting independently, may join two or more such cases.

(12) Dismissal of case.

(A) If a motion to dismiss is filed upon agreement between the applicant or licensee and the agency, or upon the applicant's or licensee's decision to abandon the case, a decision will be issued that conforms with such disposition

(B) The agency may move to dismiss a case based upon agreement reached between the applicant or licensee and the agency, for failure to state a claim upon which relief can be granted as required by subsection (b)(3) of this section, or for want of prosecution. The motion must be served on the applicant or licensee and its authorized representative at its last address of record. If there is no reply from the applicant or licensee to the agency's motion to dismiss within 15 days, a decision will be issued denying the relief sought by the applicant or licensee.

(C) All motions to dismiss that are based upon a representation that both parties have agreed to dismiss a contested case on the basis that all issues have been settled shall be in writing and signed by both parties or their authorized representatives.

(13) Burden of proof. In all contested cases the agency has the burden of proving a prima facie case; the burden of proof then shifts to the applicant or licensee, with the standard of proof being by a preponderance of the evidence.

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 December 2, 1994.

TRD-9451782

Martin Grarry  
Chief, General Law  
Comptroller of Public  
Accounts

Earliest possible date of adoption: January 9, 1995

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

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

**Part XIII. Texas  
Commission on Fire  
Protection**

**Chapter 531. Fire Alarm Rules**

- 37 TAC §§531.7, 531.10, 531.11, 531.13, 531.14, 531.16, 531.18-531.23

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

The Texas Commission on Fire Protection proposes the repeal of §§531.7, 531.10, 531.11, 531.13, 531.14, 531.16, and 531.18-531.23, concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems.

The repeals are necessary to enable the Commission to adopt a new §531.18 and to renumber the previous §531.18 and successive rules accordingly, and to provide for more efficient regulation of businesses, with a resulting improvement in the quality of protection afforded property and lives by fire alarm equipment.

Ron Hyde, Chairman of the Fire Alarm Advisory Council, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals

Mr Hyde also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be more efficient

regulation of these businesses, with a resulting improvement in the quality of protection afforded property and lives by fire alarm equipment.

Comments on the proposed repealed sections may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under Article 5.43-2, §§4, 4A, and 6, which provide the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal, for the protection and preservation of life and property.

§531.7. *Adopted Standards.*

§531.10. *Certificate of Registration.*

§531.11. *Licenses.*

§531.13. *Applications.*

§531.14. *Fees.*

§531.16. *Sales, Installation, and Service.*

§531.18. *Fire Alarm and Detection System Plans.*

§531.19. *Installation and Service Labels.*

§531.20. *Yellow Labels.*

§531.21. *Red Labels*

§531.22. *Enforcement.*

§531.23. *Severability.*

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

Issued in Austin, Texas, on November 29, 1994

TRD-9451843

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 918-7184

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• 37 TAC §§531.7, 531.10, 531.11, 531.13, 531.14, 531.16, 531.18-531.24

The Texas Commission on Fire Protection proposes new §§531.7, 531.10, 531.11,

531.13, 531.14, 531.16, and 531.18-531.24, concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems. The new §531.7 updates NFPA Standard 12A to 1992 and NFPA Standards 12, 70, 72, and 90A to 1993; and adopts UL 827 (1989), Standard for Central Stations for watchmen, fire alarm, and supervisory services; and deletes NFPA Standards 71, 72E, 72G, 72H, and 74; it also reflects the addition of the reference to NFPA 72, 1993, National Fire Alarm Code. The new §531.10 adds subsection (h)(4) regarding the employment of a technician licensee at each central station location; subsection (h)(5) regarding a registered firm's subcontracting of monitoring services to another registered firm; and subsection (h)(6) regarding duties of a registered firm reporting alarm or supervisory signals to emergency services. The new §531.11 adds the word monitoring to paragraphs (1), (3), and (4). The new §531.13 changes the reference to NFPA 71 to NFPA 72 in subsection (a)(5)(A). The new §531.14 makes the initial examination and reexamination fees non-refundable and non-transferable. The new §531.16 reflects the deletion, in subsection (b)(2) of the words inspection, or servicing; it also adds a new subsection (b)(3) regarding maintenance and servicing of fire detection and alarm devices to be performed by or under direct on-site supervision of a licensed fire alarm technician or a fire alarm planning superintendent. Section 531.18 is a new section requiring inspections to be performed and documented by a licensed fire alarm technician or planner at certain times; it also adds a new form, the Fire Alarm System Installation Inspection Form. The new §531.19 rennumbers the previous §531.18 and also reflects a change to subsection (c) that states at least one plan copy must bear the name, original signature, and business phone number of the licensed fire alarm planning superintendent or a Texas registered professional engineer; it also reflects the deletion of the words "and the" after completion date; it also adds a new subsection (e) that states fire alarm plans, manuals, and documents shall not be stored inside fire alarm panels. The new §531.20 rennumbers the previous §531.19 and also reflects the deletion of reference to designation by the property owner; it also adds language that states on new installations, installation labels shall not be used in conjunction with yellow, green, or red labels, and further states if the installation is deficient in any respect that might otherwise require a yellow or red service tag, the installation is considered incomplete and no installation label should be affixed prior to correction of all deficiencies. Additionally, subsection (c) reflects the deletion of the words "designated by the property owner"; and a new subsection (e)(7) to provide for the last date of sensitivity testing, if known; subsection (f) is revised to reflect this additional language to the actual label. Subsection (g) is changed to reflect that if a system does not comply with standards adopted at the time the system was installed, or has a fault condition, or is impaired from normal operation, that the owner or his representative must be notified by the registered firm. This subsection

is further changed to reflect that the registered firm must send a copy of the notice to the local authority having jurisdiction; it also changes the referenced rule numbers accordingly. The new §531.21 rennumbers the previous §531.20 and reflects changes to subsection (a) that state if a system does not comply with standards adopted at the time the system was installed, a completed yellow label must be attached to the outside of the control panel or, if there is no panel, in a permanently visible location. The reference to a location designated by the property owner is deleted. Subsection (d)(1) is changed to delete AND/OR HAS A FAULT CONDITION; subsection (d)(6) is changed to delete and/or fault; subsection (f) reflects the change to the actual label deleting AND/OR HAS A FAULT CONDITION. A new subsection (g) is added that states a contractor is to comply with provisions of §531.20(g). The new §531.22 rennumbers the previous §531.21 and also reflects changes to subsection (a) that state if a system is inoperable, or has a fault condition, or is impaired from normal operation, a completed red label must be attached to the outside of the control panel or, if there is no panel, in a permanently visible location. The references to a location designated by the property owner and system replacement are deleted. Subsection (e)(1) is changed to reflect removal of the word INOPERABLE and the addition of HAS A FAULT CONDITION OR IS IMPAIRED FROM NORMAL OPERATION. Additionally, subsection (g) reflects the change to the actual label removing the word INOPERABLE and adding HAS A FAULT CONDITION OR IS IMPAIRED FROM NORMAL OPERATION. The new §531.23 rennumbers the previous §531.22 and adopts the previous text without change. The new §531.24 rennumbers the previous §531.23 and adopts the previous text without change.

Ron Hyde, Chairman of the Fire Alarm Advisory Council, has determined that there will be no fiscal implications for local governments for the first five years as a result of enforcing or administering the new §§531.7, 531.10, 531.11, 531.13, 531.14, 531.16, and 531.18-531.24, and a cost to state government, for the expense of mailing new rules encompassing the proposed changes to registrants, in the approximate amount of \$650 in the first year, and no fiscal implications to state government thereafter.

Mr. Hyde also has determined that for each year of the first five years the sections proposed are in effect that there will be an improvement in the quality of protection afforded property and lives by fire alarm equipment. The economic costs of compliance with the amended sections for individuals and firms will be approximately \$300 to \$600 per additional licensed employee for time and expenses incurred in obtaining licensing for additional technicians for monitoring and service work required by the amended sections. The costs of compliance per employee will be the same for small and large businesses.

Comments on the new sections may be submitted to Michael E. Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are adopted under Article 5.43-2, §§4, 4A, and 6, which provide the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal for the protection and preservation of life and property in controlling the requirements for planning, certifying, leasing, selling, servicing, installing, monitoring, or maintaining of fire alarms or fire detection devices or systems.

The Statute affected by these rules is Texas Insurance Code, Article 5.43-2.

#### §531.7. Adopted Standards.

(a) The commission adopts by reference those sections of the following copyrighted minimum standards, recommendations, and appendices concerning fire alarm, fire detection, or supervisory services or systems, except to the extent they are at variance to sections of this chapter, the Texas Insurance Code, Article 5.43-2, or other statutes. The standards are published by and are available from the National Fire Protection Association, Quincy, Massachusetts.

(1) NFPA 11-1988, Standard on Low Expansion Foam and Combined Agent Systems.

(2) NFPA 11A-1988, Standard for Medium- and High-Expansion Foam Systems.

(3) NFPA 12-1993, Standard for Carbon Dioxide Extinguishing Systems.

(4) NFPA 12A-1992, Standard on Halon 1301 Fire Extinguishing Systems.

(5) NFPA 12B-1990, Standard on Halon 1211 Fire Extinguishing Systems.

(6) NFPA 13-1991, Standard for the Installation of Sprinkler Systems.

(7) NFPA 13A-1987, Recommended Practice for the Inspection, Testing, and Maintenance of Sprinkler Systems.

(8) NFPA 13D-1991, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes.

(9) NFPA 13R-1991, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height.

(10) NFPA 15-1990, Standard for Water Spray Fixed Systems for Fire Protection.

(11) NFPA 16-1991, Standard on Deluge Foam-Water Sprinkler and Foam-Water Spray Systems.

(12) NFPA 17-1990, Standard for Dry Chemical Extinguishing Systems.

(13) NFPA 17A-1990, Standard on Wet Chemical Extinguishing Systems.



(14) NFPA 25-1992, Standard for Inspection, Testing and Maintenance of Water Based Extinguishing Systems.

(15) NFPA 70-1993, National Electrical Code.

(16) NFPA 72-1993, National Fire Alarm Code.

(17) NFPA 90A-1993, Standard for the Installation of Air Conditioning and Ventilating Systems.

(18) NFPA 101-1985 and later editions, Code for Safety to Life from Fire in Buildings and Structures (Life Safety Code), or a local jurisdiction may adopt one set of the model codes listed in subsection (b) of this section in lieu of NFPA 101.

(19) UL 827 (1989), as amended through October 14, 1993, Standard for Central Stations for watchmen, fire alarm, and supervisory services.

(b) The acceptable alternative model code sets are:

(1) the Uniform Building Code-1985 and later editions, and the Uniform Fire Code-1985 and later editions; or

(2) the SBCCI Building Code-1985 and later editions, and the SBCCI Fire Code-1985 and later editions; or

(3) the BOCA Building Code-1985 and later editions, and the BOCA Fire Code-1985 and later editions.

#### §531.10. Certificate of Registration.

(a) Business location. A specific business location must be maintained by each registered firm. The location must be indicated on the certificate.

(b) Posting. Each certificate must be posted conspicuously for public view at the business location.

(c) Business vehicles. All vehicles regularly used in installation, service, maintenance, testing, or certification activities must prominently display the company name, telephone number, and certificate number. The numbers and letters must be at least one inch high and permanently affixed or magnetically attached to each side of the vehicle in a color contrasting with the background color of the vehicle. The certificate number must be designated in the following format: TX ACR-(number).

(d) Change of ownership.

(1) The total change of a firm's ownership invalidates the current certificate. To assure continuance of the business, a complete application for a new certificate must be submitted to the state fire marshal at least 14 days prior to such change.

(2) A partial change in a firm's ownership requires a revised certificate if it affects the firm's name, location, or mailing address.

(e) Change of corporate officers. Any change of corporate officers must be reported in writing to the state fire marshal within 14 days. This change does not require a revised certificate.

(f) Duplicate certificates. A duplicate certificate must be obtained from the state fire marshal to replace a lost or destroyed certificate. The certificate holder must submit written notification of the loss or destruction without delay, accompanied by the required fee.

(g) Revised certificates. The change of a firm's name, location, or mailing address requires a revised certificate. Within 14 days after the change requiring the revision, the certificate holder must submit written notification of the necessary change accompanied by the required fee.

(h) Monitoring requirements.

(1) A registered firm may not monitor a fire alarm system located in the State of Texas for an unregistered firm.

(2) A registered firm may not connect a fire alarm system to a monitoring service unless the monitoring service is registered under or is exempt from the licensing requirements of the Insurance Code, Article 5.43-2, so long as the monitoring equipment being used is in compliance with Article 5. 43-2, §9.

(3) A registered firm currently engaged in monitoring must submit a monitoring information form within 90 days of the effective date of this chapter, as amended. The information form must be accompanied by either:

(A) evidence of listing or certification as a central or remote station by a testing laboratory approved by the Texas Commission on Fire Protection; or

(B) evidence that such listing or certification has been applied for, provided that such listing or certification is obtained by December 31, 1994; however, if an applicant provides evidence of a lease for the central or remote station premises operated by the applicant that was signed before June 4, 1993, then such listing or certification requirement is extended to six months from the expiration of that lease, but in no event later than June 30, 1996.

(4) A registered firm must employ at least one technician licensee at each central station location. Each dispatcher at the central station is not required to be a fire alarm technician licensee.

(5) A registered firm subcontracting monitoring services to another registered firm must advise the monitoring services subscriber of the identity and loca-

tion of the registered firm actually providing such services unless the registered firm's contract with the subscriber contains a clause giving the registered firm the right, at the registered firm's sole discretion, to subcontract any or all of the work or service

(6) A registered firm reporting alarm or supervisory signals to emergency services shall provide their licensed company name and the following information: type of alarm, address of alarm, name of subscriber, dispatcher's identification, and call back phone number.

#### §531.11. Licenses.

(a) Types of licenses.

(1) Fire alarm technician license-For installing, inspecting, servicing, testing, maintaining, monitoring, and certifying fire alarm or fire detection devices and systems.

(2) Residential fire alarm superintendent single station license-For planning, installing, certifying, inspecting, testing, servicing, and maintaining to single station smoke or heat detectors which are not a part of or connected to any other detection device or system in single-family or two-family residences.

(3) Residential fire alarm superintendent license-For planning, installing, certifying, inspecting, testing, servicing, monitoring, and maintaining fire alarm or fire detection devices and systems in single-family or two-family residences.

(4) Fire alarm planning superintendent license-For planning, installing, certifying, inspecting, testing, servicing, monitoring, and maintaining fire alarm or fire detection devices.

(b) Posting. Wall licenses must be posted conspicuously for public view at the firm's business location.

(c) Pocket license. A licensee must carry a pocket license for identification while engaged in the activities of the business.

(d) Duplicate license. A duplicate license must be obtained from the state fire marshal to replace a lost or destroyed license. The license holder or registered firm must submit written notification of the loss or destruction without delay, accompanied by the required fee.

(e) Revised licenses. The change of a licensee's registered firm or mailing address requires a revised license. Within 14 days after the change requiring the revision, the license holder or registered firm must submit written notification of the necessary change accompanied by the required fee.

(f) Restrictions.

(1) A licensee must not engage in any act of the business unless employed by or as an agent of a registered firm.

(2) A registered firm must notify the state fire marshal within 14 days after termination of employment of a licensee.

(3) Each person who engages in the activities of the business must have the appropriate license issued by the state fire marshal unless excepted from the licensing provisions by the Insurance Code, Article 5.43-2, §3(b).

#### §531.13. Applications.

##### (a) Certificates of registration.

(1) Applications for certificates and branch office certificates must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sections of this chapter. An application will not be deemed complete until all required forms, fees, and documents have been received in the State Fire Marshal's office.

(2) Applications must be signed by the sole proprietor, or by each partner of a partnership, or by an officer of a corporation. For applicants using an assumed name, the application must also be accompanied by evidence of compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code, Chapter 36. The application must also include written authorization by the applicant permitting the state fire marshal or his representative to enter, examine, and inspect any premises, building, room, or establishment used by the applicant while engaged in the business to determine compliance with the provisions of the Insurance Code, Article 5.43-2, and the sections of this chapter.

(3) For corporations, the application must also include the name of each shareholder owning more than 25% of the shares issued by the corporation, the corporate taxpayer identification number, the charter number, a copy of the corporate charter of a Texas corporation, or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business, and a copy of the corporation's current franchise tax certificate of good standing issued by the State Comptroller's office.

##### (4) Insurance required.

(A) The state fire marshal will not issue a certificate of registration under these sections unless the applicant files with the State Fire Marshal's office evidence of an acceptable general liability insurance policy.

(B) Each registered firm must maintain in force and on file in the

State Fire Marshal's office a certificate of insurance identifying the insured and the exact nature of the business insured. In identifying the named insured, the certificate of insurance must include either an assumed name or the name of the corporation, partners, if any, or sole proprietor, if applicable.

(5) Applicants for a certificate of registration who engage in monitoring must provide the specific business location(s) where monitoring will take place and the name and license number of the fire alarm licensee(s) at each business location. In addition the applicants must:

(A) for a central station: provide evidence of listing or certification as a central station by a testing laboratory approved by the Texas Commission on Fire Protection and a statement that the monitoring service is in compliance with adopted NFPA 72; or

(B) for a remote station: provide evidence of listing or certification as a remote station by a testing laboratory approved by the Texas Commission on Fire Protection, and a statement that the monitoring service is in compliance with adopted NFPA 72.

##### (b) Fire alarm licenses.

(1) In order to be complete, applications for a fire alarm technician, residential fire alarm superintendent (single station), residential fire alarm superintendent, or fire alarm planning superintendent license from an employee or agent of a registered firm must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sections of this chapter. Applications must be signed by the applicant and by a person authorized to sign on behalf of the registered firm. All applicants for any type of license must successfully complete a qualifying examination regarding Insurance Code, Article 5.43-2, and the Fire Alarm Rules to be conducted by the State Fire Marshal's office.

(2) Applicants for fire alarm technician licenses must:

(A) furnish notification from NICET confirming the applicant's successful completion of the examination requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(3) Applicants for a residential fire alarm superintendent (single station) license must successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(4) Applicants for a residential fire alarm superintendent license must:

(A) furnish notification from NICET confirming the applicant's successful completion of the examination requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(5) Applications for a fire alarm planning superintendent license must be accompanied by one of the following documents as evidence of technical qualifications for a license:

(A) proof of registration in Texas as a professional engineer; or

(B) a copy of NICET's notification letter confirming the applicant's successful completion of the examination requirements for certification at Level II for fire alarm systems.

(6) Individuals applying for a fire alarm planning superintendent license on or before September 1, 1989, without completing the NICET examination requirements may be issued a license for one year. At the time of renewal of such license, the applicant must attach to the application a copy of NICET's notification letter confirming the applicant's successful completion of the examination requirements for certification at Level II for fire alarm systems.

##### (c) Renewal Applications.

(1) In order to be complete, renewal applications for certificates and licenses must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sections of this chapter. A complete renewal application deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a postmark date which is before the expiration of the certificate or license being renewed.

(2) A license may not be renewed if the applicant is not currently an employee or an agent of a registered firm.

**§531.14. Fees.**

(a) Every fee required in accordance with the provisions of the Insurance Code, Article 5.43-2, and the sections of this chapter must be paid by cash, money order, or check. Money orders and checks must be made payable to the Texas Commission on Fire Protection.

(b) Fees must be paid at the Office of the State Fire Marshal in Austin, Texas, or mailed to an address specified by the State Fire Marshal.

(c) Fees are as follows.

(1) Fire Alarm Certificate of Registration:

(A) initial fee—\$500;

(B) renewal fee (for two years)—\$1,000;

(C) branch office initial fee—\$150; and

(D) renewal fee (for two years)—\$300.

(2) Fire alarm technician license:

(A) initial fee—\$100; and

(B) renewal fee (for two years)—\$200.

(3) Residential fire alarm superintendent (single station) license:

(A) initial fee—\$100; and

(B) renewal fee (for two years)—\$200.

(4) Residential fire alarm superintendent license:

(A) initial fee—\$100; and

(B) renewal fee (for two years)—\$200.

(5) Fire alarm planning superintendent license:

(A) initial fee—\$100; and

(B) renewal fee (for two years)—\$200.

(6) Duplicate or revised certificates or licenses or other requested changes to certificates or licenses—\$20.

(7) Examination fee—\$20 (non-refundable/non-transferable). The fee is forfeited if the applicant does not appear for the scheduled examination.

(8) Reexamination fee—\$20 (non-refundable/non-transferable). The fee is forfeited if the applicant does not appear for the scheduled examination.

(d) Late fees are required of all certificates or license holders who fail to submit complete renewal applications before the expiration of the certificate or license except as provided in the Insurance Code, Article 5.43-2, §5C(c).

(e) Fees for certificates and licenses which have been expired for less than two years include both renewal and late fees and must be determined in accordance with the following schedule.

Figure 1: 37 TAC §531.14(e)

**§531.16. Sales, Installation, and Service.**

(a) Residential alarms (single station).

(1) Registered firms may employ persons exempt from the licensing provisions of the Insurance Code, Article 5.43-2, §3(b)(10) to sell, install, and service residential, single station alarms. Exempted persons must be under the supervision of a residential fire alarm superintendent (single station), residential fire alarm superintendent, or fire alarm planning superintendent.

(2) Each registered firm that employs persons exempt from licensing provisions of the Insurance Code, Article 5.43-2, §3(b)(10) is required to maintain documentation to include lesson plans and annual test results demonstrating competency of said employees regarding the provisions of Article 5.43-2, adopted standards, and this chapter applicable to single station devices.

(b) Fire detection and fire alarm devices or systems other than residential single station.

(1) The sale or lease of fire alarm devices or systems must be performed under the direct supervision of a licensed residential fire alarm superintendent or fire alarm planning superintendent.

(2) The installation of all fire detection and fire alarm devices or systems, including monitoring equipment, subject to the Insurance Code, Article 5.43-2 must be performed by or under the direct supervision of a licensed fire alarm technician, residential fire alarm superintendent, or a fire alarm planning superintendent. The certifying licensee must be present for the final test prior to certification.

(3) The maintenance or servicing of all fire detection and fire alarm devices or systems must be performed by or under the direct on-site supervision of a licensed fire alarm technician or a fire alarm planning superintendent.

(4) If the installation or servicing of a fire alarm system also includes installation or servicing of any part of a fire protection sprinkler system and/or a fire extinguisher system other than inspection and testing of detection or supervisory devices, the licensing requirements of the appropriate Insurance Code, Article 5.43-1 or 5.43-3 must be satisfied.

(5) Installation of fire detection or fire alarm devices or systems, including monitoring equipment, must be in accordance with standards adopted in §531.7 of this title (relating to Adopted Standards) except:

(A) that a fire alarm system installed in compliance with NFPA 74 may be utilize a single non-dedicated telephone line to transmit the system signals to a registered monitoring firm; or

(B) when the installation complies with a more recent edition of an adopted standard or a Tentative Interim Amendment published as effective by the NFPA.

**§531.18. Installation Inspections.** The following inspections shall be performed by the licensed firm in order to assure proper installation techniques are followed:

(1) At the completion of the device back-box installation but prior to the start of cable installation;

(2) At the completion of cable installation but prior to the start of device installation; and

(3) At the completion of device installation but prior to activating the fire alarm system. The above-referenced inspections shall be performed by a licensed fire alarm technician or planner and be documented on the inspection form. The registered firm shall notify the authority having jurisdiction if initiation of corrective action does not take place within ten calendar days. The completed form shall be kept on file at the licensed firm's office for a period of five years from the date of system certification. (See the following Fire Alarm System Installation Inspection Form.)  
Figure 2: 37 TAC §531.18(3)

**§531.19. Fire Alarm and Detection System Plans.**

(a) Each fire alarm system or modification to an existing system must be planned by a person holding a fire alarm planning superintendent license or a Texas registered professional engineer.

(b) Plans showing details of system wiring, control panel terminal identification, and device location, with functional infor-

mation and instructions on system operation, must be provided to the building owner or his representative. Subsequent modifications, additions, or alterations must be legibly noted on updated plans and provided to the owner or his representative.

(c) At least one plan copy must bear the name, original signature, business phone number, and license number of the licensed fire alarm planning superintendent or a Texas registered professional engineer, the completion date, name, address, and certificate number of the registered firm.

(d) A rubber stamp may be used by a licensed fire alarm planning superintendent to supply the information required by subsection (c) of this section, except that a stamped signature is prohibited. If a rubber stamp is used, it must produce an imprint at least two inches wide by one inch high, all in bold type and capital letters, and in the following format:

Figure 3: 37 TAC §531.19(d)

(e) Fire alarm plans, manuals, and documents shall not be stored inside fire alarm panels.

#### §531.20. *Installation and Service Labels.*

(a) After an installation or modification has been completed, an installation label must be affixed to the inside of the control panel cover or, if the system has no panel, in a permanently visible location. On new installations, installation labels shall not be used in conjunction with yellow, green, or red labels. Green labels are intended to denote subsequent inspection or service. If the installation is deficient in any respect that might otherwise require a yellow or red service tag, the installation shall be deemed incomplete and no installation label shall be affixed until all deficiencies are corrected. Installation labels must be four inches in height and four inches in width and must be of the gummed label type. Installation labels must be white with black lettering. Installation labels must contain the following information in the format of the label shown in subsection (b) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-FIRE ALARM INSTALLATION RECORD" (all in capital letters, at least 10-point bold face type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) if required, the name and license number of the planning superintendent

or Texas registered professional engineer; and

(6) the date of installation.

(b) Installation label:

Figure 4: 37 TAC §531.20(b)

(c) After any service, including testing in connection with initial installation, a fire alarm service label must be completed in detail and affixed to the inside of the control panel cover or, if the system has no panel, in a permanently visible location. The signature of the licensee on the service label certifies that the service performed complies with requirements of law.

(d) A new service label must be affixed each time service is performed and must be green in color with black lettering.

(e) The label must be at least three inches in height and three inches in width and must be of the gummed label type that allows for label removal. Service labels must contain the following information in the format of the service label shown in subsection (f) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SERVICE RECORD" (all in capital letters, at least 10-point bold face type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date of service performed;

(6) the type of service performed; and

(7) last date of sensitivity testing, if known.

(f) Service label:

Figure 5: 37 TAC §531.20(f)

(g) If a system does not comply with applicable standards adopted at the time the system was installed, has a fault condition, or is impaired from normal operation, the owner or his representative must be notified in writing by the registered firm. The registered firm must send a copy of this notice to the local authority having jurisdiction and must comply with the requirements of §531.21 (relating to Yellow Labels) or §531.22 (relating to Red Labels) of this title.

#### §531.21. *Yellow Labels.*

(a) If a system does not comply with applicable standards adopted at the time the system was installed, a completed

yellow label must be attached to the outside of the control panel cover or, if the system has no panel, in a permanently visible location to indicate that corrective action is necessary.

(b) The signature of the licensee on a yellow label certifies that the conditions listed on the label cause the system to be out of compliance with applicable standards.

(c) Yellow labels must be at least three inches in height and three inches in width and be of a gummed label type that allows for label removal. Labels must be printed with black lettering.

(d) Yellow labels must bear the following information in the format of the label shown in subsection (f) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM DOES NOT COMPLY WITH APPLICABLE STANDARDS" (all in capital letters, at least 10-point bold face type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date the label is affixed; and

(6) a list of the non-complying conditions.

(e) A yellow label may be removed only by a licensed employee or agent of a registered firm that has corrected the conditions and certified the service.

(f) Yellow label:

Figure 6: 37 TAC §531.21(f)

(g) A contractor shall comply with the provisions specified in §531.20(g).

#### §531.22. *Red Labels.*

(a) If a system or any part thereof is inoperable, has a fault condition, or is impaired from normal operation, a completed red label must be attached to the outside of the control panel cover or, if the system has no panel, in a permanently visible location to indicate that corrective action is necessary.

(b) The signature of the licensee on a red label certifies that the conditions listed on the label have caused the system to be inoperable.

(c) A completed service label must not be attached to the system by the licensee until the conditions are corrected and the fire alarm system:

(1) is reinspected;

(2) is in compliance with applicable standards adopted at the time of installation; and

(3) is in good operating condition.

(d) Red labels must be at least three inches in height and three inches in width and be of a gummed label type that allows for label removal. Labels must be printed with black lettering.

(e) Red labels must bear the following information in the format of the label shown in subsection (g) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM HAS A FAULT CONDITION OR IS IMPAIRED FROM NORMAL OPERATION" (all in capital letters, at least 10-point bold face type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date the label is affixed; and

(6) the list of conditions.

(f) A red label may be removed only by a licensed employee or agent of a registered firm who has corrected the conditions and certified the service.

(g) Red label:  
Figure 7: 37 TAC §531.22(g)

#### §531.23. Enforcement.

(a) The State Fire Marshal, or his representative, may conduct investigations of registered firms to determine compliance with the Insurance Code, Article 5.43-2 and this chapter. An investigation may be initiated on the written complaint of any party or by the Texas Commission on Fire Protection on its own motion.

(b) When an investigation reveals non-compliance, the firm and any licensee responsible for the work shall be notified in writing of the non-compliance upon completion of the investigation report.

(c) The Texas Commission on Fire Protection, in its discretion, may require correction of the violations found, or it may initiate agency proceedings seeking appropriate sanctions pursuant to the Insurance Code, Article 1.10, §7(a) and Article 5.43-2, §10(b).

§531.24. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of this chapter which can be given effect without the invalid provisions or application. To this end all provisions of the sections of this chapter are declared to be severable.

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

Issued in Austin, Texas, on November 29, 1994.

TRD-9451842

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: January 9, 1995

For further information, please call: (512) 918-7184

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 2. Environmental Policy

##### Subchapter A. Comprehensive Policy on the Environment

###### • 43 TAC §§2.1-2.4

The Texas Department of Transportation proposes new §§2.1-2.4, concerning comprehensive policy on the environment.

The sections are proposed to extend the principles of the department's environmental policy to all transportation modes and the department's commitment to environmental protection to all phases of its operations.

The legislature, by Chapter 492, Acts of the 72nd Legislature, 1991, stated that it was its intent that the department balance social, environmental, and economic concerns consistent with proper engineering principles, mitigate any adverse impact on the environment directly resulting from the construction or improvement of the state highway system to the extent feasible and to enhance the environment when practicable.

Section 2.1 sets forth the comprehensive environmental policy. Section 2.2 provides that the department protect, preserve, and when practicable, enhance the environment. Section 2.3 defines terms used in these sections. Section 2.4 provides policy direction and guidelines concerning communication, systems planning, project development, protection and enhancement, and administration.

Dianna Noble, Director of Environmental Affairs, has determined that for the first five years the sections are in effect, there will not

be fiscal implications for state or local government as a result of enforcing or administering the sections.

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

Ms. Noble also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be the protection of the state's physical, natural and cultural resources. 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 Dianna Noble, Director of Environmental Affairs, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of written comments will be at 5:00 p.m. on January 9, 1995.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed sections. The public hearing will be held at 9:00 a.m., on Monday, December 19, 1994, in Room 221, Anson Jones Building, 410 East Fifth Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangement can be made.

The new sections are 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.

No statutes or rules will be affected by the new sections.

**§2.1. Purpose.** This subchapter sets forth the comprehensive environmental policy established by the Texas Transportation Commission and the Texas Department of Transportation and identifies specific areas of policy direction with implementation guidelines applicable to all department operations, roles, and missions.

**§2.2. Environmental Policy Statement.** The commission and the department will protect, preserve and, when practicable, enhance the environment. Particular emphasis will be placed on avoidance, minimization, and compensation for adverse environmental impacts while balancing social and environmental concerns with economic growth. Environmental considerations will be fully integrated into department policies, procedures, and decision-making practices in a systematic, interdisciplinary manner. In implementing this policy, the department recognizes the need for effective communication and encourages coordination with the public, environmental or transportation interest groups, environmental agencies, resource agencies, businesses, communities, and similar entities in the transportation policy setting, planning, and development processes.

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

**Commission**—The Texas Transportation Commission. **Corridor preservation**—The protection of a corridor utilizing the coordinated efforts of the involved governmental entities to obtain jurisdiction of or otherwise protect the right-of-way for a planned transportation facility identified through an established planning process.

**Department**—The Texas Department of Transportation. Department's activities Planning, designing, constructing, maintaining, and operating transportation systems as defined by federal and state statutes, and the administration and support required to ensure that systems are safe, environmentally sound, economical, efficient, aesthetic, user friendly and, where appropriate, multimodal.

**Documentation**—The information contained in the environmental assessment or environmental impact statement.

**Environment**—The human environment that includes the earth's system, which consists of water, air, land, plants, people, and animals and the interrelationships that exist among these, including ecological, socio-economic, and archaeological/cultural resources.

**Environmental assessment**—A concise public disclosure document that briefly provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of

no significant impact, and that answers such questions as the need for the project, any alternatives considered, and the extent of environmental impact.

**Environmental consideration**—Investigation, evaluation, and disposition of environmental issues.

**Environmental impact statement**—A detailed public disclosure document prepared for projects having significant impacts on the environment and that answers such questions as the environmental impact of the project, any unavoidable adverse environmental impacts and associated measures to minimize harm, alternatives to the project, any irreversible and irretrievable commitments of resources involved if the project is implemented, and a listing of agencies and resource persons contacted.

**Interdisciplinary approach**—An approach which will ensure the integrated use of the natural and social sciences in planning and decision-making which may have an impact on the environment, with the end result being that environmental amenities and values are given consideration in decision-making along with social, economic, and technical considerations.

**Multimodal**—The integration of two or more transportation modes to provide for optimization of resources and adequate consumer alternatives.

**Traffic operations**—A diverse set of activities used singularly or in concert to improve traffic flow, navigation, and safety on transportation corridors. Examples include high occupancy vehicle lanes, metered freeway ramp entrances, changeable message signs, rural navigational aids, collision avoidance, altered traffic peak demand, and integration or improvement of public transportation services.

**Transportation planning**—A continuing comprehensive plan to guide the development of transportation facilities that will meet the needs of the traveling public.

**§2.4. Policy Direction and Guidelines.** Implementation of policies specified in §2.2 of this title (relating to Environmental Policy Statement) will be consistent with the following guidelines.

(1) Communication. The department will:

(A) provide an interdisciplinary approach to the department's work through communication, which includes public information and education; early notice to the public; memorandum of understanding; and consultation and coordination with environmental and transportation interest groups, environmental agencies, resource agencies, businesses, communities, and other similar entities;

(B) coordinate with a broad range of federal and state environmental,

natural resource, and transportation agencies and organizations to accurately assess the current environment and potential environmental issues; and

(C) heighten the awareness of all employees toward environmental issues, policy, preservation, and enhancement of the environment through training and similar means.

(2) Systems planning. The department will encourage:

(A) use of transportation management systems, multimodal systems, interagency activities, and public/private partnerships to achieve innovative, environmentally sensitive solutions to transportation problems;

(B) the metropolitan planning organizations and local government to:

(i) promote the integration of land use, transportation, and environmental planning; and

(ii) take a leadership role in the identification and consideration of environmental concerns during the development of regional transportation plans;

(C) the input of environmental/resource agencies, groups, and the public throughout the systems planning stage to ensure full consideration of environmental issues in the development of transportation plans and improvement programs and to allow for environmental enhancement, when practicable; and

(D) transportation corridor preservation in order to avoid or minimize future negative social, economic, and environmental impacts.

(3) Project development. The department will:

(A) take into account all applicable environmental requirements of law and policy in reaching conclusions that reflect the public interest;

(B) ensure that a systematic, interdisciplinary, and public approach is used to evaluate social, economic, and environmental impacts, both direct and indirect, associated with the department's transportation projects in accordance with all applicable laws, rules and regulations, including Texas Civil Statutes, Article 6673g, as added by Acts 1991, 72nd Legislature, Chapter 551, §17;

(C) develop comprehensive environmental documents which address balancing social and other environmental concerns with economic issues;

(D) develop comprehensive environmental documents that address measures and techniques to avoid, minimize, or mitigate for adverse environmental impacts and, when practicable, measures and techniques to enhance the environment;

(E) objectively evaluate the full range of reasonable transportation alternatives that address existing and projected transportation needs including, but not limited to, the no-build option, traffic operations options, improvements to the existing system, and new construction;

(F) individually customize each environmental assessment or environmental impact statement to appropriately address the nature, scope, and complexity of the transportation project; and

(G) consolidate environmental considerations into the department's work and improve procedures for thorough and expeditious environmental review and timely decisions on transportation projects.

(4) Protection and enhancement. In the planning, design, construction, maintenance, and operation of transportation facilities, the department will:

(A) proactively address environmental issues;

(B) develop plans, to the extent possible, that consider the transportation system as a whole from an aesthetic perspective;

(C) be a leader in identifying and implementing measures to avoid, minimize, or compensate for adverse environmental impacts with emphasis placed on environmental preservation and enhancement;

(D) strive to preserve significant historic, archaeological, and natural resources and implement all practicable measures to minimize unavoidable adverse effects; and

(E) ensure the use of all reasonable and feasible mitigation measures, state-of-the-art analysis, and technology to minimize noise impacts in accordance with established noise abatement requirements and technology.

(5) Administration. The department will:

(A) implement a construction phase field study of projects to evaluate the accuracy of the environmental documenta-

tion and to address any newly discovered impacts;

(B) ensure that environmental commitments made during the planning, location, design, and environmental and public involvement phases of project development are implemented during project construction, maintenance, and operation;

(C) support coordinated environmental research and conduct a program of related environmental information dissemination;

(D) ensure that all necessary actions are taken to avoid, minimize, or mitigate the adverse effects that may result when the department handles, maintains, uses, stores, safeguards, or transports dangerous chemicals or hazardous materials; and

(E) support, when practicable, the implementation of federal and state environmental programs, such as the recycling programs applicable to all department operations, roles, and missions.

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 December 2, 1994.

TRD-9451831

Diane L. Northam  
Legal Executive Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: January 9, 1995

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

### Subchapter C. Environmental Review and Public Involvement for Transportation Projects

#### • 43 TAC §§2.40-2.50

The Texas Department of Transportation proposes new §§2.40-2.50, concerning environmental review and public involvement for transportation projects.

Currently, §§11.80-11.90, which are being contemporaneously proposed for repeal, provide for environmental and public involvement for highway improvement projects. Texas Civil Statutes, Article 6673g, as added by §17, Chapter 551, Acts of the 72nd Legislature, 1991, require the commission to adopt rules to provide for the environmental review and public involvement of transportation projects not covered under the National Environmental Policy Act. Adoption of §§2.40-2.50 is necessary to comply with this legislation and to provide environmental review and public involvement for projects concerning aviation,

public transportation, the Gulf Intracoastal Waterway, and maintenance of state highways.

Section 2.40 prescribes the environmental review and public involvement procedures of the Texas Department of Transportation for federal, state, local and privately funded projects in all transportation modes regulated by the department, and for departmental programs and operations as well. It is the goal of the department to develop and construct projects which fulfill the public transportation needs while being environmentally sound.

Section 2.41 defines terms used in these sections.

Section 2.42 provides that environmental studies for highway construction projects which utilize federal aid highway funds will be in accordance with applicable state and federal requirements; and establishes that public involvement for highway construction projects which utilize federal aid highway funds will be consistent with §2.43.

Section 2.43 provides that environmental studies for highway construction projects which utilize state highway funds will be in accordance with applicable state and federal law; establishes early coordination with resource agencies, local government, and the public in project planning and environmental development; provides that public involvement will be encouraged as a part of project planning by the districts maintaining a list of individuals and groups interested in project development, and establishing a procedure for public involvement, including informal meetings to formal presentations; provides that environmental documents prepared for highway projects will range from categorical exclusions, in which no significant environmental impacts are anticipated, to environmental impact statements, where significant impacts are anticipated and that each project developed will receive the appropriate level of social, economic and environmental analysis.

Section 2.44 provides that public transportation projects will be developed in accordance with applicable state and federal law and §2.42 and §2.43 and that local transit operators will be responsible for the development of environmental documents and public involvement.

Section 2.45 outlines the department's roles as the nonfederal sponsor of the Gulf Intracoastal Waterway and the developer of proposals for disposal plans to include substantial interagency coordination through the Gulf Intracoastal Waterway Advisory Committee; and provides that the U. S. Army Corps of Engineers will be responsible for the development of environmental documents.

Section 2.46 provides that for federal aid aviation projects, the department will provide for environmental reviews in accordance with Federal Aviation Administration (FAA) procedures, and with other applicable state and federal laws; and for state funded aviation projects, the department will provide for environmental review.

Section 2.47 concerns routine maintenance programs, bridge maintenance, customer service, debris and spills, ferry maintenance, maintenance enhancement, pavement maintenance, roadside appurtenances, traffic

pavement markings, and vegetation management which are not covered under the National Environmental Policy Act; establishes environmental reviews for each maintenance program, including a description of the maintenance program and the activities in each, the department's evaluation of direct and indirect effects of each maintenance program, the department's analysis of program alternatives, and a description of the department's best management practices and mitigation plans for each maintenance program; and provides for evaluation of the environmental reviews at least every five years and for interagency coordination and public hearings.

Section 2.48 provides for projects which occur because of emergency circumstances such as flooding, hurricanes, earthquakes, or other catastrophic failures.

Section 2.49 provides for the special consideration of public parks, recreation areas, wildlife refuge, historic, or scientific site, pursuant to the Texas Parks and Wildlife Code

Section 2.50 establishes the effective date of this new subchapter

Ms. Dianna Noble, Director of Environmental Affairs, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five years the sections will be in effect will be an estimated additional cost of \$30,00 for fiscal year 1996 and no additional cost for each of the four following fiscal years. There will be no effect on local government as a result of enforcing or administering the sections.

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

Ms. Noble also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be a clearer understanding of the department's environmental review and public involvement process for projects concerning aviation, public transportation, the Gulf Intracoastal Waterway, and maintenance of state highways, and enhanced protection of the state's physical natural, and cultural resources. 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 Dianna Noble, Director of Environmental Affairs, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of written comments will be at 5:00 p.m. on January 9, 1995

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed sections. The public hearing will be held at 9:00 a.m., on Monday, December 19, 1994, in Room 221, Anson Jones Building, 410 East Fifth Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer com-

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

The new sections are 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 by Texas Civil Statutes, Article 6673g, which require the commission to adopt rules to provide for the environmental review and public involvement of transportation projects not covered under the National Environmental Policy Act.

Texas Civil Statutes, Article 6673g is affected by the proposed new sections.

*§240 Purpose* The sections under this subchapter prescribe the environmental review and public involvement procedures of the department for federal, state, local, and privately funded projects in all transportation modes for which the department has funding, construction, or maintenance responsibilities. They are provided in order to comply with the spirit of the National Environmental Policy Act, 42 United States Code, §§4321 et seq., 23 United States Code, §109(h), and Texas Civil Statutes, Article 6673g. These procedures are intended to ensure the adequate consideration of environmental impacts related to transportation systems development, and to ensure that environmental impacts are mitigated where feasible. It is the goal of the department to develop and construct projects which fulfill the transportation needs of the public while being environmentally sound.

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

*Action*—A state project which may be regulated by another state or federal agency by law, rules, or regulations.

*Affected local government*—The governing body of a county or municipality in which a project is located.

*Affected public official*—An elected official of a county or municipality in which a project is located, or a member of the United States Congress or the Texas Legislature in whose district a project is located.

*Agency*—A state or federal governmental body having jurisdiction over environmental issues related to transportation facility development.

*Aviation project*—The construction, enlargement, repair or planning of an airport or air navigational facility as part of the aviation facilities development program.

*Best management practices*—A practice or combination of practices that are determined to be the most effective and practicable (including technological, economic, and institutional considerations) means of controlling point and nonpoint pollutants at levels compatible with environmental quality goals.

*Commission*—The Texas Transportation Commission.

*Department*—The Texas Department of Transportation.

*Disposal plan*—An operationally suitable method for the placement of dredged material which avoids or minimizes adverse environmental impacts.

*District office*—One of the 25 geographical districts into which the department is divided.

*Division*—The Environmental Affairs Division of the department.

*Environmental document*—A decision-making document which incorporates environmental studies, coordination, and consultation efforts, and engineering elements. Documents may include categorical exclusion assessments, environmental assessments, and environmental impact statements.

*Environmental studies*—The investigation of potential environmental impacts.

*Gulf Intracoastal Waterway (GIWW)*—The main channel, not including tributaries or branches, of the shallow draft navigation channel running from the Sabine River southward along the Texas coast to the Brownsville Ship Channel near Port Isabel.

*Gulf Intracoastal Waterway Advisory Committee (GIWAC)*—An interagency committee, made of members appointed by the department to represent state agencies having jurisdiction in the protection of the state's natural, historic, and economic resources. The GIWAC is created for the purpose of advising and assisting the department.

(A) in developing a unified method to address problems and recommend solutions for the needs of the GIWW,



for the protection of the environment and the state's natural and historic resources affected by the waterway, and for the promotion of the economic welfare of the state's interest in the GIWW;

(B) in developing proposals for an optimum disposal plan that will address dredged material disposal in an identified area of need; and

(C) on the acquisition of disposal sites in an environmentally sensitive and operationally suitable manner.

Highway construction project—A highway improvement project involving the construction or reconstruction of a segment of the state highway system, pursuant to Texas Civil Statutes, Article 6674a et. seq.

Human environment—Interpreted comprehensively to include the natural and physical environment, and the relationship of people with that environment.

Local transit operator—A public or private nonprofit entity providing public transportation within a given region.

Maintenance activity—A singular activity, performed by state or contract forces, to repair or perform work on a segment of the state highway system.

Maintenance program—A collection of maintenance activities performed singularly or collectively on the state highway system. The following categories have been established as maintenance programs:

(A) Bridge maintenance—All activities to repair or perform preventive maintenance work on bridges, culverts, retaining walls, and barrier walls.

(B) Customer service—All activities relating to providing the traveling public with services including, but not limited to, maintaining rest areas, picnic areas, and litter barrels.

(C) Debris and spills—All activities related to removing debris from the right-of-way including, but not limited to, litter, roadway debris, spills, and sweeping.

(D) Drainage—All activities related to maintaining the drainage systems, and slopes on the right-of-way including roadside ditches, slopes, channels, creeks, streams, and rivers. Such activities are also included in drainage easements outside the right-of-way.

(E) Ferry maintenance—The maintenance and operation of ferries pursuant to Texas Civil Statutes, Article 6812a.

(F) Maintenance enhancement—All small maintenance projects that

involve disturbance of soil beyond the original construction. This term includes, but is not limited to, the installation of cross overs, turn lanes, driveways, shoulders, and channels.

(G) Pavement maintenance—All activities to repair or perform preventive maintenance work on asphalt and portland cement concrete pavements including, but not limited to, work performed on the pavement surface, base, sub-base, sub-grade, and embankment.

(H) Roadside appurtenances—All activities related to fixtures along the roadways including, but not limited to, signs, delineators, mailboxes, guard rails, attenuators, illumination, and signals.

(I) Traffic pavement markings—All activities on the pavement relating to directing the traveling public including, but not limited to, installing, and removing striping, specialty marking, and pavement markings.

(J) Vegetation management—All activities performed to maintain the vegetative cover on state highway right-of-way including, but not limited to, mowing, pesticide applications, tree and brush trimming, and removal, and preservation of existing or installed vegetative features.

Mitigation—Includes avoiding the impact altogether by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the affected environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or compensating for the impact by replacing or providing substitute resources or environments.

Public hearing—Held after public notice to solicit public input in determining a preferred alternative for or with respect to any changes to a state project. (All testimony given at a public hearing will be made a part of the public hearing record.)

Public involvement—An ongoing phase of the project planning process which encourages and solicits public input, and provides the public the opportunity to become fully informed regarding project development.

Public meeting—Informal discussions, which may assist in the preparation of environmental documents, may be held with local public officials, interested citizens or the general public, and local, neighborhood, or special interest groups for the purpose of exchanging ideas, and collecting input on the need for, and possible alternatives to a given state project. (Notice of a public meeting will depend upon anticipated audience attendance.)

Public transportation project—A project which may involve either capital or operational funding for the purchase of rolling stock, capital improvements and facility renovations, and provision for general or specialized transit services in a defined geographic area, pursuant to Texas Civil Statutes, Articles 6663b and 6663c.

Significantly—Shall have the same meaning as the term is used, and has been interpreted under 42 United States Code, §4332 of the National Environmental Policy Act.

State project—A nonfederal aid transportation project sponsored and administered by the department, which will be completely funded with state, local, or private funds.

#### §2.42. Highway Construction Projects—Federal-Aid.

(a) Environmental studies for highway construction projects which utilize federal aid highway funds will be accomplished in accordance with applicable state and federal requirements and, in particular, 23 Code of Federal Regulations Part 771.

(b) Public involvement for highway improvement projects which utilize federal aid highway funds will be consistent with applicable state and federal law and §2.43(a) of this title (relating to Highway Construction Projects—State Funds).

#### §2.43. Highway Construction Projects—State Funds.

(a) Environmental studies. Environmental studies for highway improvement projects which utilize state highway funds will be accomplished in accordance with applicable state and federal law including, but not limited to, the Endangered Species Act of 1973 as amended, 16 United States Code, §§1531 et seq, the Rivers and Harbors Act of 1899 as amended, 42 United States Code, §§401 et seq, the Federal Water Pollution Act as amended, 33 United States Code, §§1251 et seq (commonly known as the Clean Water Act), 33 Code of Federal Regulations, Parts 114 through 115, the Safe Drinking Water Act as amended, 42 United States Code, 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 §§300f et seq, and the provisions under this subchapter.

(b) Early coordination and public involvement.

(1) Early coordination. Early coordination with appropriate agencies, local governmental entities, and the public shall play a vital role in project planning and

environmental development of state projects. District offices and the division shall be responsible for initiating early coordination, and the continuation of coordination with local governmental entities and applicable agencies throughout project planning.

(A) Early coordination shall be achieved through rules codified at 1 TAC Chapter 5, Subchapter B, concerning state and local review of federal and state assistance applications, also known as TRACS, which are intended, among other things, to foster intergovernmental cooperation and coordination.

(B) Coordination under TRACS shall be initiated with appropriate regional review agencies (RRA).

(C) Types of state projects which are exempt from RRA review include those which do not:

- (i) require additional right-of-way;
- (ii) change the layout or function of connecting roads or streets or of the facility being improved;
- (iii) adversely affect abutting real property; or
- (iv) otherwise have a substantial social, economic, or environmental impact

(D) The TRACS procedures shall supplement the department's traditional policy of direct coordination with other agencies and local governmental entities.

(E) During early coordination, district offices will be responsible for:

- (i) initiating a cooperative development process with local governmental entities in order to assist in the planning of state projects; and
- (ii) maintaining open lines of communication with local or area offices of applicable agencies

(F) During early coordination the division will be responsible for:

- (i) the environmental processing of the state project, including interagency contacts, coordination, consultation, and approvals; and
- (ii) providing state project data and analyses to applicable agencies, which shall include coordination of environmental reviews and mitigation proposals with the Texas Natural Resources Conservation Commission and the Texas Parks and Wildlife Department, prior to the written report explaining the department's decision regarding a project, thereby assist-

ing in the determination of state project impacts and mitigation plans.

(2) Public involvement. Public involvement shall be encouraged as an important element of project planning. It shall be initiated by the pertinent district office and will depend on and be consistent with the type and complexity of each state project. Districts shall also maintain a list of individuals and groups interested in state project development, and shall provide notification of public hearing activities to these individuals and groups.

(A) Meetings, as one form of public involvement, with affected property owners and residents will be held when state projects require:

- (i) detours and/or a minimal amount of right-of-way acquisition, or temporary construction easements; and
- (ii) a minor location or design revision after the environmental document has been approved and the public involvement requirements have been completed (if revisions are determined to be significant, the environmental document will be revised and an opportunity for public hearing shall be afforded to the public to address these revisions).

(B) Public meetings, as another form of public involvement will be held:

- (i) at any time during project planning and development in order to keep the public informed,
- (ii) during the drafting of the draft environmental impact statement, as discussed in §2. 43(e) of this title (relating to Highway Construction Projects—State Funds);
- (iii) to provide a free exchange of state project views and concerns;
- (iv) as early as the department determines feasible to assure public input into project planning; and
- (v) at a time and place convenient to the public in the vicinity of the state project

(C) An opportunity for public hearing, as another form of public involvement, shall be afforded for state projects in order to determine local interest for holding a public hearing, when required under Texas Civil Statutes, Article 6674w-1, or when the state project requires the acquisition of significant amounts of right-of-way; there is a substantial change in the layout or function of the connecting roadways or of the facility being improved; there is measurable adverse impact on abutting real property; or there is otherwise a substantial social, economic or environmental effect.

(i) An opportunity for public hearing will also be afforded for finding of no significant impact (FONSI) type state projects, as discussed in subsection (d) of this section, after the environmental assessment is considered technically complete and initially approved, by the division, to proceed with public involvement. (However, if deemed appropriate, the district office may decide to hold a public hearing and bypass affording a public hearing opportunity.)

(ii) Two notices of the opportunity for public hearing shall be published in local newspapers having general circulation. The first notice shall be published approximately 30 days in advance of the deadline date set by the district office for submission of written requests for holding a public hearing, and the second notice shall be published approximately ten days prior to the deadline date. (Where the population in the immediate vicinity of the state project is predominantly Spanish speaking, the notices must also be published in Spanish.)

(iii) Notices of the opportunity for public hearing shall also be mailed to landowners abutting the roadway as identified by tax rolls, and affected local governments and public officials.

(iv) No further action will be taken to hold a public hearing if at the end of the time set for affording an opportunity for a public hearing no requests are received. (However, the district office will be responsible for submitting a certified statement to this effect to the division.)

(D) A public hearing, as another form of public involvement, will be held: to present project alternatives; to encourage and solicit public comment; after location and design studies are developed, to the extent that the public can be given a feasible proposal with appropriate environmental studies; after the environmental document is considered technically complete; for projects with substantial public interest such as environmental impact statement (EIS) state projects or high-profile FONSI state projects, or when a request for hearing is received as discussed in subparagraph (C) of this paragraph; or when a state project requires the taking of public land designated as a park, recreation area, wildlife refuge, historic site or scientific area, as covered in the Parks and Wildlife Code, §§26.001 et seq. The hearing notice should contain at a minimum the following information:

- (i) time, date, and location of the hearing;
- (ii) description of the project termini, improvements, and right-of-way needs;

(iii) reference to maps, drawings, and environmental studies and/or documents, and any other information available about the state project that are available for public inspection at the designated departmental or other location;

(iv) reference to the potential for relocation or residences and businesses and the availability of relocation assistance for displacees;

(v) a statement that verbal and written comments may be presented for a period of ten days after the hearing;

(vi) the address where written comments may be submitted; and

(vii) the existence of any floodplain, wetland encroachment, or encroachment on a sole-source aquifer recharge zone by a state project.

(E) Except for state projects requiring the taking of public land designated as a park, recreation area, wildlife refuge, historic site, or scientific area, notice of the public hearing must be given by the publication of two notices in local newspapers having general circulation, with the first notice published approximately 30 days before the hearing, and the second notice, approximately ten days before the hearing. (Where the population in the immediate vicinity of the state project is predominantly Spanish speaking, the notices must also be published in Spanish.)

(F) Notices of the public hearing shall also be mailed to landowners abutting the roadway as identified by tax rolls, and affected local governments and public officials

(i) For state projects requiring the taking of public land designated as a park, recreation area, wildlife refuge, historic site, or scientific area, notice of the public hearing shall be given in accordance with the Texas Parks and Wildlife Code, §26.002

(ii) The hearing notices must also be published in Spanish, for state projects requiring the taking of public land designated as a park, recreation area, wildlife refuge, historic site, or scientific area, where the population in the immediate vicinity of the state project is predominately Spanish speaking.

(G) The public shall have ten days after the close of a public hearing to submit written comments to the district office regarding a proposed state project

(H) Public hearings shall be considered complete on the submission by the district office of a verbatim transcript and its certification to the division for review and approval.

(I) As another method of public involvement, there shall be published in local newspapers a notice of the availability of the environmental assessment in order to inform the public of its availability and advising where to obtain information concerning the state project, and that any written comments should be furnished within a 30 day period. (This notice shall be published only after the approval of the environmental assessment and only under very limited circumstances to take the place of affording an opportunity for a public hearing, and only with prior concurrence from the division.)

(3) Media releases. Following completion of the public involvement process, project specific planning and development decisions shall be publicized through press releases in order to keep the public informed of any new or public continuing issues. (Any changes to the state project may require additional public involvement.)

(4) Public involvement on projects where a public hearing is not required by law. For projects for which a public hearing is not required by law, the department will hold a public hearing in accordance with paragraph (2) of this subsection if at least ten individuals request a hearing.

(5) Public involvement following project approval. The department shall offer an additional opportunity for public hearing for projects which have already undergone public review and comment, and which involve either the addition of at least one travel lane or construction of a project on new location, and in which conditions relating to land use, traffic volumes, and traffic patterns have changed significantly from the time the project originally underwent public review and comment. The opportunity for public hearing will be afforded in accordance with paragraph (2) of this subsection.

(6) Notice of construction. The department will send notice of impending construction of a project which involves either the addition of at least one travel lane or construction of a project on new location to landowners abutting the roadway as identified by tax rolls, and affected local governments and public officials.

(c) Categorical exclusions (CE).

(1) A state project will be classified as a categorical exclusion (CE) if it does not:

(A) involve significant environmental impacts;

(B) induce significant impacts to planned growth or land use of the state project area;

(C) require the relocation of significant numbers of people;

(D) have a significant impact on any natural, cultural, recreational, historic, or other resource;

(E) involve significant air, noise, or water quality impacts;

(F) significantly impact travel patterns; or

(G) either individually or cumulatively, have any significant environmental impacts.

(2) If a state project involves any of the following the department will conduct appropriate environmental studies to determine if the CE classification is proper:

(A) substantial environmental impacts, and/or

(B) substantial controversy on environmental grounds.

(3) The following actions are examples of state projects which meet the criteria of a CE as found in paragraph (1) of this subsection and will not in most cases require review or approval by the division:

(A) do not involve or lead directly to construction, such as planning and technical studies, grants or training and research programs, engineering feasibility studies that either define the elements of a proposed state project or identify alternatives so that social, economic, and environmental effects can be assessed for potential impact;

(B) approval of utility installations along or across a transportation facility;

(C) construction of bicycle and pedestrian lanes, paths, and facilities;

(D) landscaping;

(E) installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices when no substantial land acquisition or traffic disruption will occur;

(F) emergency repairs as defined in 23 United States Code, §125;

(G) acquisition of scenic easement;

(H) improvements to existing rest areas and truck weigh stations;

(I) ridesharing activities; and

(J) alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(4) Any other actions meeting the criteria for a CE as found in paragraph (1) of this subsection will require division review and approval.

(A) Departmental approval will be based on the appropriate office submitting documentation in the form of a descriptive letter or brief environmental assessment which demonstrates that the specific conditions or criteria for classification of a CE as found in paragraph (1) of this subsection is satisfied and that significant environmental impacts will not result, including the results of any coordination effected with resource agencies.

(B) Examples may include, but are not limited to, the following:

(i) modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes such as parking, weaving, turning, climbing, and correcting substandard curves and intersections with only minor amounts of additional right-of-way required;

(ii) highway safety or traffic operation improvement projects including the installation of ramp metering control devices and lighting;

(iii) bridge rehabilitation, reconstruction, or replacement, or the construction of grade separation to replace existing at-grade railroad crossings (CE classification may not be applicable when the proposed project requires acquisition of more than minor amounts of right-of-way, since in such cases the preparation of an environmental assessment may be appropriate);

(iv) addition of travel lanes to rural roadways within existing right-of-way or with minimal right-of-way required;

(v) transportation corridor fringe parking facilities;

(vi) construction of new truck weigh stations or rest areas;

(vii) approvals for changes in access control;

(viii) approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts; and

(ix) acquisition of land for hardship or protective purposes (hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels; this type of right-of-way acquisition will qualify for a CE classification only when the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects; no project development on such land may proceed until the environmental review process has been completed).

(5) The department may classify other state projects as a CE if, from the documentation required to be submitted, a determination is made that the state project meets the CE classification.

(d) Environmental assessments (EA).

(1) Preparation. For state projects in which the extent of impacts is not readily discerned, an EA will be prepared to determine the nature and extent of environmental impacts, with either a finding of no significant impact anticipated or an environmental impact statement required.

(2) Coordination and consultation. For state projects that require an EA, the department will, at the earliest appropriate time, begin coordination and consultation with interested agencies, local political subdivisions and others to achieve the following objectives:

(A) definition of the scope of the project;

(B) identification of any alternatives to the proposed actions;

(C) determination as to which aspects of the proposed actions have potential for environmental impact;

(D) identification of measures and alternatives which might mitigate adverse environmental impacts; and

(E) identification of other environmental review and consultation requirements which should be prepared concurrently (districts will be responsible for accomplishing this through an early coordination process; a summary of the contacts and comments received will be included in the EA).

(3) Notice. As required in subsection (b)(2)(D) of this section, the notice of the public hearing will announce the availability of the EA and where it may be obtained or reviewed.

(4) Division determination. If, at any point in the EA process, the division determines that the state project may have a

significant impact on the environment, the preparation of an Environmental Impact Statement (EIS) as discussed in subsection (e) of this section, will be required.

(5) Finding of no significant impact. The department, after its review of the EA, proposed mitigation measures, and any public hearing statement or comments received regarding the EA, and if in agreement with the district office recommendations, will make a separate written finding of no significant impact (FONSI), incorporating the EA and any other appropriate environmental documents and agency consultations and coordinations. The FONSI completes the environmental and public involvement process for a state project as found in subsection (b) of this section.

(6) Notification of FONSI. After issuance of the FONSI, a notice of the availability of the FONSI shall be furnished by the department to state clearinghouses. Notification will also be given to the local media through a press release.

(e) Environmental impact statements (EIS).

(1) Required. An EIS will be required for state projects in which there are likely to be significant environmental impacts. The preparation of the EIS will occur in two stages:

(A) the draft EIS or DEIS; and

(B) the final EIS or FEIS. (A supplemental EIS may be required in some cases.)

(2) Not required. If the analyses or agency review comments indicate that significant impacts to the human environment will not occur, an EIS should not be prepared.

(3) Notice of intent. As a preliminary to the preparation of an EIS there shall be prepared a notice of intent (NOI) to prepare an EIS. The initiation of the NOI will begin during the early coordination process with agencies, as described in subsection (b)(1) of this section, prior to the preparation of an EIS.

(A) The NOI should:

(i) briefly detail the state project;

(ii) identify significant impacts on the human environment; and

(iii) identify any preliminary alternatives under consideration by the department.

(B) After review and approval of the NOI by the division, it shall be sent to applicable agencies for their early review and comment. Any comments received will be used as the basis for the

DEIS, as described in paragraph 4 of this subsection.

(C) A summary of the NOI shall also be published in the *Texas Register*, and in local newspapers.

(4) Draft environmental impact statement. The draft environmental impact statement (DEIS) shall identify and evaluate all reasonable alternatives to the state project; discuss the elimination of other alternatives, if applicable; summarize the studies, reviews, consultations, and coordination required by law to the extent appropriate; and designate a preferred alternative if appropriate.

(A) When the division determines that the DEIS complies with these and other requirements, the DEIS will be approved for circulation by signing and dating the cover sheet, and shall be printed in sufficient number to provide review copies.

(B) The DEIS will be circulated for comment after a notice is published in the *Texas Register* and in local newspapers which describes a circulation and comment period of no less than 45 days, and identifies where comments are to be sent.

(C) The DEIS shall be transmitted at no charge to state agencies through the TRACS system, and directly to applicable federal agencies.

(D) The DEIS will be made available to interested public officials, interest groups, and members of the public at the request of any such group or individuals.

(E) A fee which is not more than the actual cost of reproduction of the DEIS may be charged for any written request received for a copy of the DEIS.

(F) The DEIS may also be reviewed at designated public locations.

(G) Either an opportunity for public hearing shall be afforded or a public hearing shall be held for a DEIS state project. (Notice of such public hearing shall be in accordance with subsection (b) of this section.)

(H) The DEIS will be made available at the district for the general public at a minimum of 15 days in advance of the public hearing for state projects.

(5) Final Environmental Impact Statement. After the DEIS is circulated and comments reviewed, a final environmental impact statement (FEIS) shall be prepared by the department.

(A) The FEIS shall:

(i) identify the preferred alternative and evaluate all reasonable alternatives considered;

(ii) discuss substantive comments received on the DEIS and responses to those comments;

(iii) summarize public involvement and describe the mitigation measures that are to be incorporated into the state project;

(iv) document compliance, to the extent possible, with all applicable environmental laws, or provide reasonable assurance that requirements can be met; and

(v) identify those issues and the consultations and other efforts made to resolve interagency disagreements. (Every reasonable effort shall be made to resolve interagency disagreements.)

(B) The division will indicate approval of the FEIS by signing and dating the cover page.

(C) The initial printing of the FEIS shall be in sufficient quantities to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals.

(D) A fee which is not more than the actual cost of reproduction of the FEIS may be charged for purchase of the document.

(E) Copies of the FEIS may also be placed in appropriate designated public locations, such as local governmental offices, libraries, or other public institutions.

(F) Notice detailing the availability of the FEIS shall be published in the *Texas Register* and in local newspapers.

(i) The notice shall include information on obtaining copies.

(ii) The public and interested organizations will have 30 days following publication of the notice in the *Texas Register* to submit comments.

(G) Following the approval of the FEIS, it will be made available to agencies which made substantive comments on the DEIS; however, in the event the FEIS is voluminous, the department may provide for alternative circulation such as notifying agencies of the availability of the FEIS, and by providing a method for these agencies to request a copy.

(H) The department will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the availability of the FEIS notice in the *Texas Register*. Until any required ROD has been signed, no further approvals may be taken except for administrative activities taken to secure further project funding. The ROD will:

(i) present the basis for the decision and summarize any mitigation measures; and

(ii) be published in the *Texas Register*.

(6) Re-evaluations. An evaluation to determine whether a supplement to the DEIS or a new DEIS is needed shall be prepared by the department if an acceptable FEIS is not submitted within three years from the date of circulation of the DEIS. The re-evaluation will:

(A) not be circulated for agency review, although resource agency coordination may be required;

(B) be required before further approvals may be granted if major steps to advance the action such as authority to undertake final design or acquire significant portions of right-of-way, or approval of the plans, specifications, and estimates have not occurred within three years after the approval of the FEIS, supplemental FEIS, or the last major departmental approval.

(7) Supplemental environmental impact statements. A DEIS or FEIS may be supplemented at any time.

(A) An EIS will be supplemented whenever the department determines that:

(i) changes to the state project would result in significant environmental impacts that were not evaluated in the EIS; or

(ii) new information or circumstances relevant to environmental concerns bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(B) A supplemental EIS will not be necessary when:

(i) changes to the state project, new information, or new circumstances result in a lessening of adverse impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or

(ii) the department decides to approve an alternative fully evaluated in the approved FEIS but not identified as the preferred alternative (in such cases, a

revised ROD shall be prepared and published in the *Texas Register*).

(C) When there is an uncertainty of the significance of new impacts, the department will develop appropriate environmental studies, or if deemed appropriate, an EA to assess the impacts of the changes, new information, or new circumstances.

(D) If the department determines, based on studies, that a supplemental EIS is not necessary, it shall so indicate in the project record.

(E) A supplemental EIS shall be developed using the same process and format as an original EIS, except that early coordination shall not be required.

(F) A supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation, or the evaluation of location or design variations for a limited portion of an overall state project. In this situation the preparation of the supplemental EIS shall not necessarily:

- (i) prevent the granting of new approvals;
- (ii) require the withdrawal of previous approvals; or
- (iii) require the suspension of project activities for any activity not directly affected by the supplement. (If changes at issue are of such magnitude as to require a reassessment of the entire action, or more than a limited portion of the overall action, the department shall suspend any activities which would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.)

#### *§2.44. Public Transportation Projects.*

(a) Environmental studies. Environmental studies for public transportation projects will be accomplished in accordance with applicable state and federal law as listed in §2.42 of this title (relating to Highway Construction Projects-Federal-Aid) and §2.43 of this title (relating to Highway Construction Projects-State Funds).

(b) Early coordination and public involvement. Early coordination and public involvement for public transportation projects will be in accordance with §2.43(b) of this title (relating to Highway Construction Projects-State Funds), with the following exceptions.

(1) Local transit operators are responsible for early coordination and pub-

lic involvement activities, including media releases, with assistance from the department as necessary.

(2) The provisions of §2.43(b)(5) of this title (relating to Highway Construction Projects-State Funds) do not apply to public transportation projects.

(c) Categorical exclusions. Environmental studies for public transportation projects will be completed in accordance with §2.43(c) of this title (relating to Highway Construction Projects-State Funds), with the following exceptions:

(1) the local transit operator is responsible for conducting any studies to document CE status, with assistance from the department as necessary; and

(2) public transportation projects shall be submitted to the department by the local transit operator.

(d) Environmental assessments. Environmental assessments (EA) submitted to districts for public transportation projects shall conform to the requirements of §2.43(d) of this title, (relating to Highway Construction Projects-State Funds) with the exception that local transit operators are responsible for the preparation of environmental studies and documents.

(e) Environmental impact statements.

(1) Environmental impact statements (EIS) submitted to districts for public transportation projects shall conform to the requirements of §2.43(e) of this title, (relating to Highway Construction Projects-State Funds), with the exception that local transit operators are responsible for the preparation of the EIS, including draft, final, or supplemental versions.

(2) The local transit operator is responsible for publishing the notice of intent pursuant to §2.43(e)(3) of this title (relating to Highway Construction Projects-State Funds), in local newspapers.

(3) The local transit operator is responsible for soliciting and responding to comments received on a DEIS and an FEIS, including notices in local newspapers. The department will assist the local transit operator as necessary.

#### *§2.45. Gulf Intracoastal Waterway Projects.*

(a) Non-federal sponsorship. The commission, pursuant to Texas Civil Statutes, Article 5415e-2, is charged with the responsibility of administering the state's nonfederal sponsorship of the Gulf Intracoastal Waterway (GIWW), including coordination with the U. S. Army Corps of Engineers, all other appropriate federal and state agencies, navigation districts and port authorities, counties, and other appropriate

persons to determine specifically what must be done by the state to satisfy requirements relating to the nonfederal sponsorship of the GIWW in a manner consistent with the policy of the state, as described in Texas Civil Statutes, Article 5415e-2.

(b) Early coordination. Early coordination with appropriate state and federal agencies will be conducted by the department to develop a proposal for an optimum disposal plan in an identified area of need. Any proposed plan shall address the dredged material disposal needs of maintaining the GIWW in Texas. The department is responsible for initiating and overseeing early coordination.

(c) Investigation of disposal alternatives.

(1) The department will appoint a task force of the GIWAC to investigate disposal alternatives in the identified area of need and ascertain the environmental and operational suitability of each. The task force will include representatives from state and federal agencies having jurisdiction in the protection of the state's natural, historic, and economic resources.

(2) The department will lead any field investigations. The task force agencies will be requested to participate in field investigations and to provide to the department written evaluations of the disposal alternatives investigated.

(3) The GIWAC will review the investigations and discuss any proposed optimum disposal plans for the identified area of need with the department.

(d) Federal coordination.

(1) After review by the GIWAC, the department will request the U. S. Army Corps of Engineers to coordinate the environmental analysis pursuant to 42 United States Code, §§4321 et seq.

(2) If the U. S. Army Corps of Engineers' environmental analysis determines a finding of no significant impact for the proposed disposal plan, the division will then review the environmental document and findings. If the division determines that the proposed disposal plan can be accomplished in an environmentally acceptable manner, the department will then proceed with public involvement.

(e) Public involvement.

(1) Public involvement will be accomplished primarily through the U. S. Army Corps of Engineers' environmental and public involvement procedures; however, the department will conduct its own public involvement process.

(A) The department will notify a landowner of a parcel's environmental

and operational suitability for the proposed disposal plan, and offer to meet with the landowner to answer any questions about the proposed disposal plan.

(B) The department will also notify the landowner of any public meeting or public hearing on the proposed disposal plan.

(C) Meetings, as one form of public involvement, with affected property owners and residents will be held under the following conditions, and pursuant to §2.43(b)(2)(A) of this title (relating to Highway Construction Projects-State Funds):

(i) when the proposed disposal plan does not involve any adjacent landowners; and

(ii) when the landowner requests a meeting.

(D) Public meetings, as another form of public involvement may be held pursuant to §2.43(b)(2)(B) of this title (relating to Highway Construction Projects-State Funds). Public meetings will be advertised through legal notices published once a week for three successive weeks in a newspaper of general circulation, published in the county seat of each county in which any such proposed dredge material disposal plan is located.

(E) A public hearing will be conducted by the commission as required by Texas Civil Statutes, Article 5415e-2.

(i) Prior to the hearing, the commission shall publish notice of a public hearing, indicating date, time, and place of such hearing, at least once a week for three successive weeks in a newspaper of general circulation published in the county seat of each county in which any such proposed dredged material disposal plan is located.

(ii) The commission shall also publish notice of such hearing in at least one edition of the *Texas Register*.

(iii) The U. S. Army Corps of Engineers' environmental documents and findings will be on display at the public hearing.

(iv) Comments, testimony, or evidence shall be given in person or in writing during the public hearing or may be submitted in writing to the commission during the prescribed public comment period.

(f) Commission action.

(1) After the public hearing and receipt of all evidence and testimony, the

commission will determine whether such proposed dredged material disposal plan can be accomplished without unjustifiable waste of publicly or privately owned natural resources and without permanent substantial adverse impact on the environment, wildlife, or fisheries.

(2) If the commission determines that the proposed plan meets the criteria described in paragraph (1) of this subsection, it will authorize the department to proceed with the necessary actions to accomplish the disposal plan.

#### §2.46. Aviation Projects.

(a) Federal-Aid projects. The department will provide for environmental reviews of aviation projects in accordance with Federal Aviation Administration (FAA) procedures established to comply with 42 United States Code, §§4321 et seq.

(b) State projects. For state aviation projects, the department will provide for the following.

(1) Early coordination and public involvement.

(A) Early coordination. The department will conduct early coordination with appropriate agencies, pursuant to §2.43(b)(1) of this title (relating to Highway Construction Projects-State Funds).

(B) Public involvement. Public involvement for state aviation projects shall be conducted pursuant to §2.43(b)(2) of this title (relating to Highway Construction Projects-State Funds), with the exception that a public hearing will be held for any aviation project requiring a residential or commercial relocation.

(2) Categorical exclusions (no further action). The following actions are examples of state projects which meet the criteria of a categorical exclusions (CEs) as found in §2.43(c)(1) of this title (relating to Highway Construction Projects-State Funds):

(A) renovation or rehabilitation of runways where no additional right-of-way is required, and where existing rights-of-way have been previously disturbed;

(B) renovation or rehabilitation of airport facilities where no additional right-of-way is required, and where existing rights-of-way have been previously disturbed;

(C) installation or upgrading of airfield lighting systems, including runway end identification lights, visual approach aids, beacons and electrical distribution systems;

(D) installation of miscellaneous items including segmented circles, wind or landing direction indicators or measuring devices, or fencing;

(E) grading or removal of obstructions on airport property and erosion control actions with no off-airport impacts; or

(F) noise compatibility programs.

(3) Categorical exclusions (CE) (further action). The following actions are examples of state projects which may require the development of environmental studies and interagency consultations to make a CE designation:

(A) runway extensions requiring minor amounts of additional rights-of-way;

(B) expansion of airport facilities requiring minor amounts of additional rights-of-way; or

(C) any state projects listed in paragraph (2) of this subsection which, following interagency coordination, further analysis is warranted.

(4) For projects listed in paragraphs (2) and (3) of this subsection the department will provide a written CE designation following any interagency coordination, pursuant to §2.43(b)(1)(E) of this title (relating to Highway Construction Projects-State Funds).

(5) Environmental assessments (EA). For aviation projects in which the extent of impacts is not readily discerned, an EA will be prepared to determine the nature and extent of environmental impacts, with either a FONSI anticipated or an EIS required. The department will utilize the format and content requirements of FAA procedures established to comply with 42 United States Code, §§4321 et seq. The department will prepare an EA, including any reasonable and feasible mitigation. For aviation projects involving any residential or commercial relocations, an EA will be prepared.

(6) Finding of no significant impact (FONSI). The department, after its review of the EA, proposed mitigation measures, and any public hearing statement or concerns, will make a separate written FONSI, incorporating the EA and any other appropriate environmental documents and agency consultations and coordinations. The FONSI completes the environmental and public involvement process for an aviation project. Notice of the FONSI shall be furnished by the department to state clearing-

houses. Notification will also be given to the local media through a press release.

(7) Environmental impact statements (EIS). An EIS will be required for state projects in which there are likely to be significant environmental impacts. The department will utilize the format and content requirements of FAA procedures established to comply with 42 United States Code, §§4321 et seq. The department will comply with the requirements of §2.43(e) of this title (relating to Highway Construction Projects-State Funds) for the preparation and approval of an EIS prepared for an aviation project.

#### §2.47. Maintenance Programs.

(a) Procedures. Maintenance programs are a part of the department's mandate to develop and maintain a safe and efficient transportation system for Texas. The following procedures provide for the environmental review and public comment on department maintenance programs.

(b) Environmental review.

(1) The department shall conduct an environmental review of the following maintenance programs:

- (A) bridge maintenance;
- (B) customer service;
- (C) debris and spills;
- (D) drainage;
- (E) ferry maintenance;
- (F) maintenance enhancement;
- (G) pavement maintenance;
- (H) roadside appurtenances;
- (I) traffic pavement markings; and
- (J) vegetation management.

(2) The environmental review shall consist of:

(A) a description of the maintenance program and the activities in each;

(B) the department's evaluation of direct and indirect effects of each maintenance program;

(C) the department's analysis of program alternatives; and

(D) a description of the department's best management practices and mitigation plans for each maintenance program.

(3) The division will analyze and coordinate each review with state and federal environmental resource agencies and work with them to develop effective environmental protection measures.

(4) The department will review the environmental reviews at least every five years, making appropriate revisions and re-coordinating the reviews with resource agencies. The updated environmental reviews will serve as the basis for public hearings.

(c) Early coordination and public involvement.

(1) The department, pursuant to §2.43(b)(1) of this title (relating to Highway Construction Projects-State Funds), shall coordinate and consult with state and federal resource agencies on its maintenance programs. The department will work with resource agencies to ensure that natural, cultural, and physical resources are protected.

(2) Following the preparation and coordination of environmental reviews for each maintenance program, the department shall conduct one or more public hearing, to solicit comments from the public on maintenance programs. Such hearing will be conducted within six months of the approval of the environmental reviews prepared for each maintenance program.

(A) Public hearing notices will be published in at least one edition of the *Texas Register* and the hearings will be held pursuant to §1.5 of this title (relating to Public Hearings).

(B) The department will report to the commission the findings of both the environmental review and the public hearings for each maintenance program.

(C) Public hearings for all maintenance programs will be held once every five years, in order to determine that maintenance programs are current and environmentally sound. The department may elect to have one public hearing, or separate public hearings for one or more maintenance programs.

#### §2.48. Emergency Action Procedures and Compliance with Other Regulations.

(a) Any request for deviations from the procedures in this subchapter because of emergency circumstances shall be handled

on a state project by state project basis. Emergency circumstances shall include natural disasters, such as floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides; or catastrophic failures of any cause.

(b) The final environmental documentation should detail compliance with requirements of state law and regulations, and applicable federal law and regulations. If compliance cannot be completed within the environmental documentation, such documentation should indicate the coordination to date.

#### §2.49. Special Right-of-Way Takings.

(a) Approval by the department of the use of public land from a significant publicly owned park, recreation area, or wildlife refuge, historic site, or scientific area, or any significant historic site shall be given only when:

(1) there is no feasible or prudent alternative to the use of land from the property;

(2) the state project includes all possible planning to minimize harm to the property resulting from such use, including mitigation measures;

(3) supporting information demonstrates that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes; and

(4) supporting information documents that officials having jurisdiction over a taking have no jurisdictional opposition to the taking and that the proposed mitigation is acceptable to such jurisdictions.

(b) State projects which fall under subsection (a) of this section, will comply with all necessary environmental analysis, documentation, and interagency coordination as described in this subchapter.

(c) A public hearing should be held as described in §2.43(b)(2)(D) of this title (relating to Highway Construction Projects-State Funds) with appropriate notification.

#### §2.50. Effective Date.

(a) This subchapter shall not apply to, or alter, any approvals made by the department prior to the effective date of this subchapter. A state project, having completed environmental review, public involvement, and interagency coordination, and having received required approvals with an approved environmental document before the effective date of this subchapter shall be considered outside the scope of this subchapter.



(b) Environmental documents and public involvement processes accepted or prepared by the department after the effective date of this subchapter shall be subject to the provisions of this subchapter.

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 December 2, 1994

TRD-9451832

Diane L. Northam  
Legal Executive Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption January 9, 1995

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

## Chapter 11. Design

### Environmental and Public Involvement for Highway Improvement Projects

#### • 43 TAC §§11.80-11.90

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

The Texas Department of Transportation proposes the repeal of §§11.80-11.90, concerning environmental and public involvement for highway improvement projects.

The sections are proposed for repeal to provide ease of access to all rules relating to environmental policy. Repeal of these sections is necessary because the subject matter of these sections falls within Chapter 2, Environmental Policy. The subject matter will be reenacted in an amended form in new §§2.40-2.50, concerning environmental review and public involvement for transportation projects, which are being contemporaneously proposed for adoption.

Texas Civil Statutes, Article 6673g, as added by §17, Chapter 551, Acts of the 72nd Legislature, 1991, require the commission to adopt rules to provide for the environmental review and public involvement of transportation projects not covered under the National Environmental Policy Act.

Dianna Noble, Director of Environmental Affairs, has determined that for the first five years the repeals are in effect, there will not be fiscal implications for state or local government as a result of enforcing or administering the repeals.

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

Ms. Noble also has determined that for each year of the first five years the repeals are in effect the public benefits anticipated as a result of enforcing the repeals will be a clearer understanding of the department's environmental review and public involvement process for projects concerning aviation, public transportation, the Gulf Intracoastal Waterway, and maintenance of state highways, and enhanced protection of the state's physical natural, and cultural resources. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the provisions proposed for repeal.

Comments on the proposal may be submitted to Dianna Noble, Director of Environmental Affairs, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of written comments will be at 5:00 p.m. on January 9, 1994.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed repeals. The public hearing will be held at 9:00 a.m., on Monday, December 19, 1994, in Room 221, Anson Jones Building, 410 East Fifth Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior

to the meeting so that appropriate arrangement can be made.

The repeals are proposed under Texas Civil Statutes, Articles 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6673g which require the commission to adopt rules to provide for the environmental review and public involvement of transportation projects not covered under the National Environmental Policy Act.

Texas Civil Statutes, Article 6673g are affected by the proposed repeals.

§11.80. Policy.

§11.81. Purpose.

§11.82. Definitions.

§11.83. Federally Funded Projects.

§11.84. State Funded Projects.

§11.85. Early Coordination and Public Involvement.

§11.86. Categorical Exclusions (CE).

§11.87. Environmental Assessments (EA).

§11.88. Environmental Impact Statements (EIS).

§11.89. Emergency Action Procedures and Compliance with Other Regulations.

§11.90. Special Right-of-Way Takings.

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

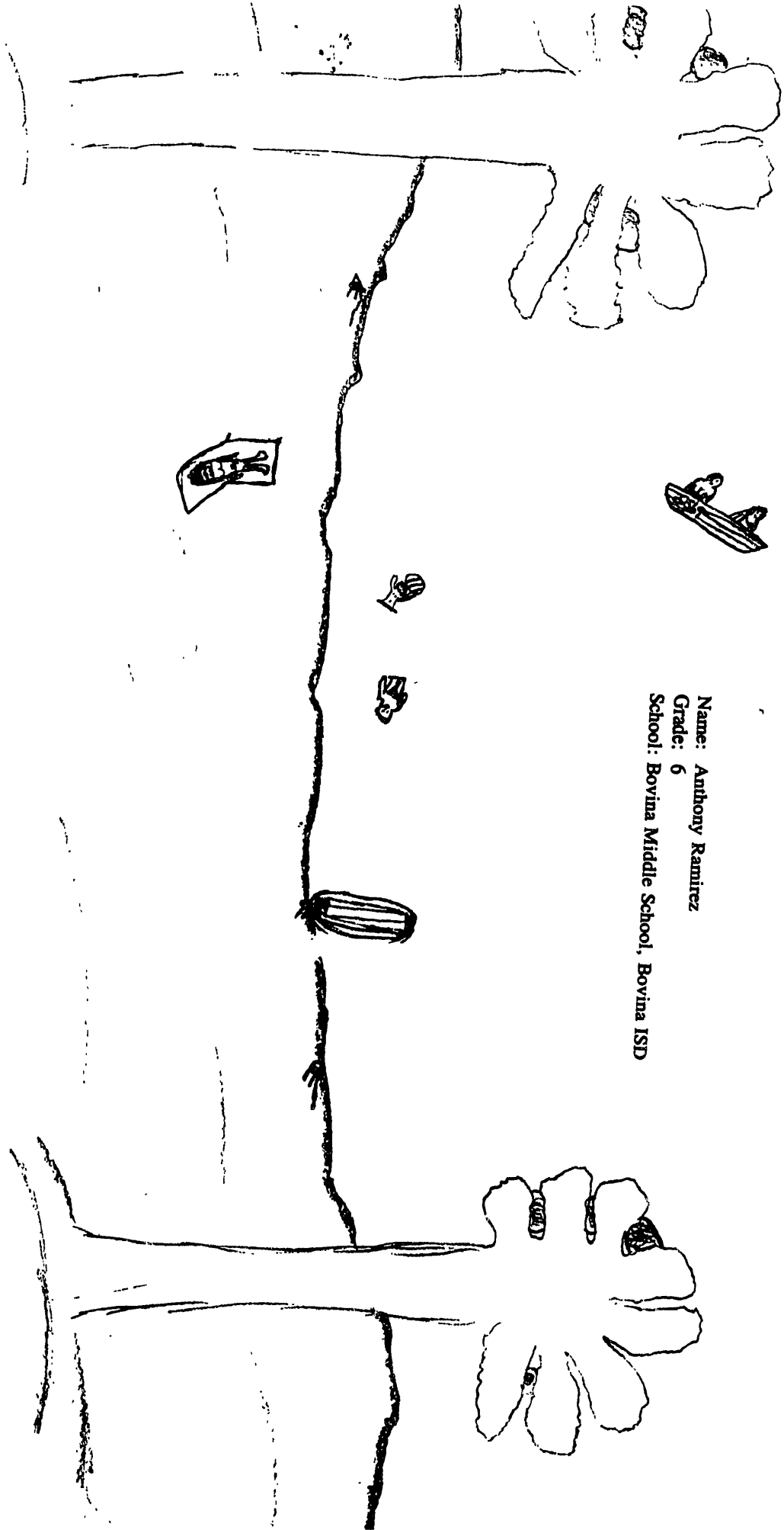
Issued in Austin, Texas, on December 2, 1994.

TRD-9451832

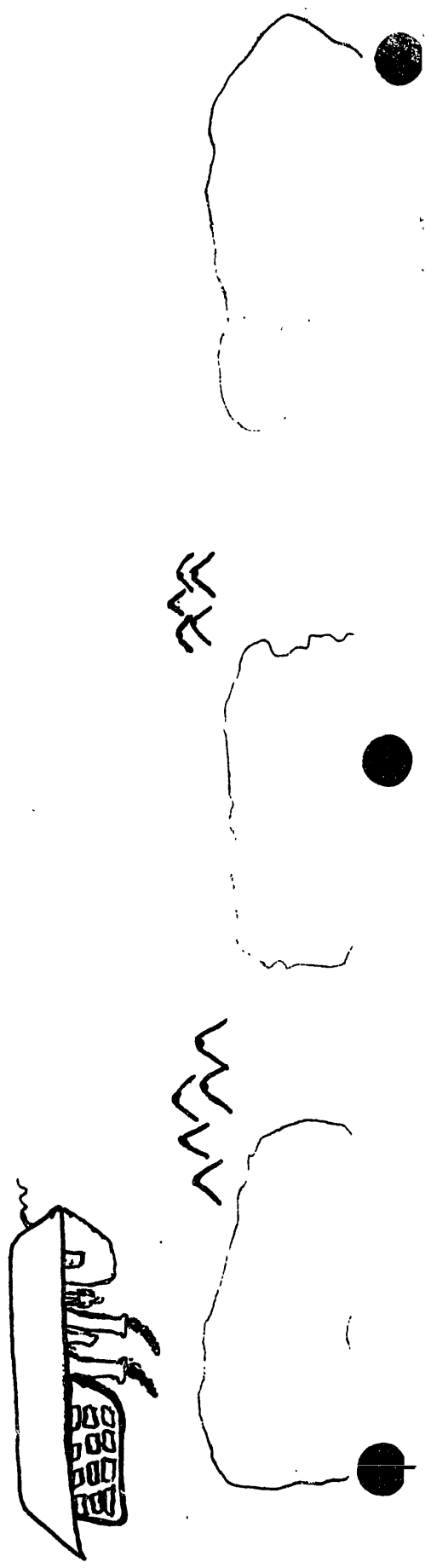
Diane L. Northam  
Legal Executive Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: January 9, 1995

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



Name: Anthony Ramirez  
Grade: 6  
School: Bovina Middle School, Bovina 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 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

##### Subchapter C. Texas HIV Medication Program

###### General Provisions

- 25 TAC §98.104, §98.105

The Texas Department of Health has withdrawn the emergency effectiveness of the amendments to §98.104 and §98.105. The text of the emergency amendments appeared

in the September 23, 1994, issue of the *Texas Register* (19 TexReg 7495). The effective date of this withdrawal is November 29, 1994.

Issued in Austin, Texas, on November 29, 1994.

TRD-9451564

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: November 29, 1994

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



The Texas Department of Health has withdrawn the emergency effectiveness of the amendments to §98.104 and §98.105. The

text of the emergency amendments appeared in the October 4, 1994, issue of the *Texas Register* (19 TexReg 7865). The effective date of this withdrawal is December 2, 1994.

Issued in Austin, Texas, on November 29, 1994.

TRD-9451563

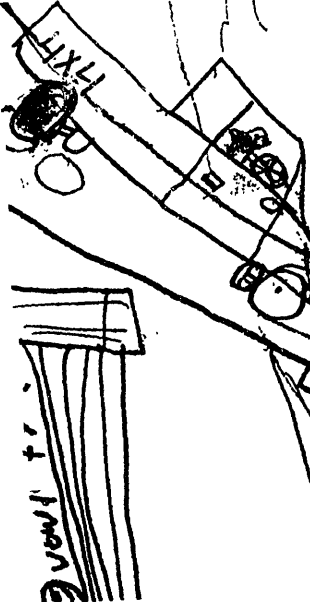
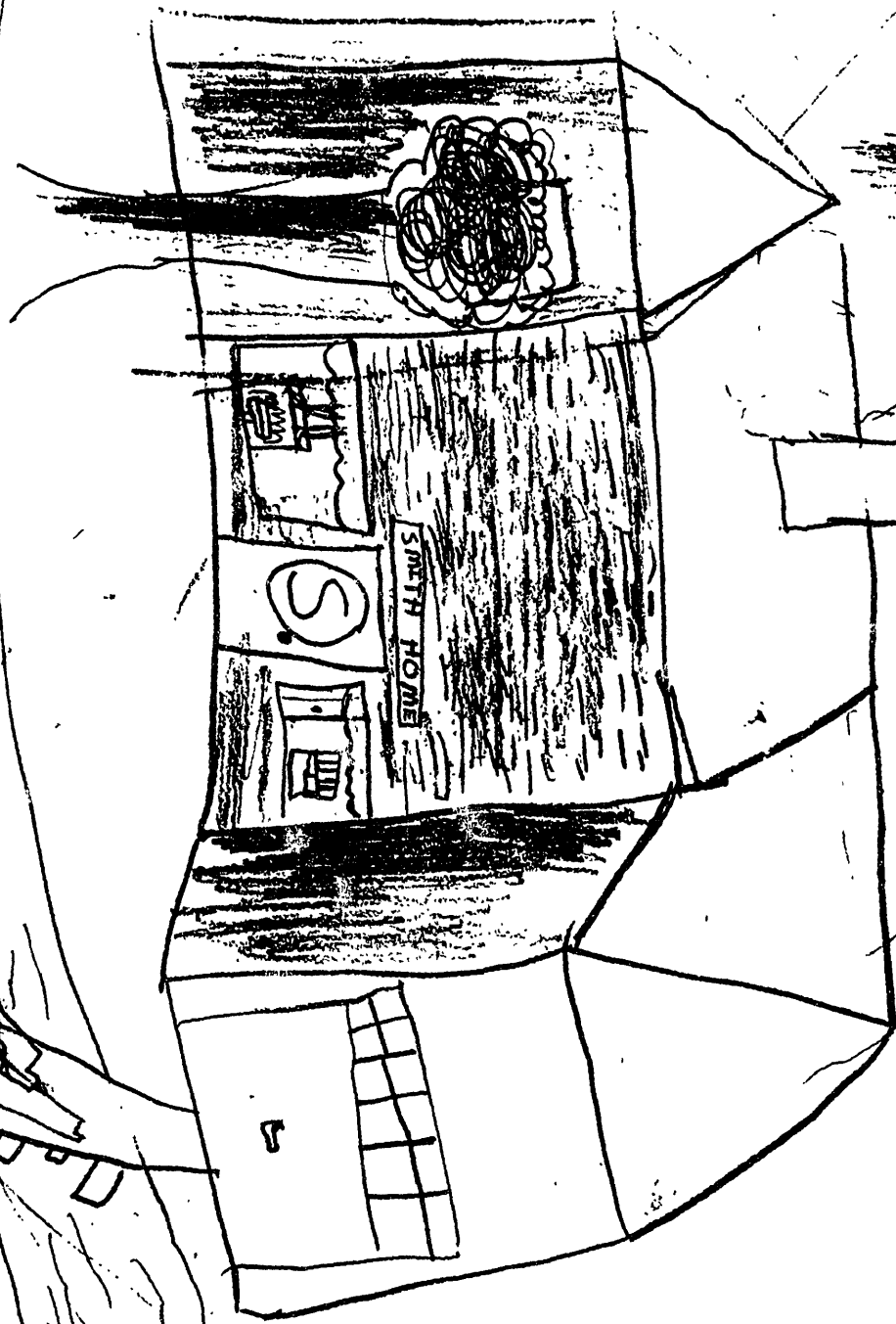
Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: December 2, 1994

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



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Grade: 6  
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# ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations

##### Loans

##### • 7 TAC §91.701

The Credit Union Commission adopts an amendment to §91.701, without changes to the proposed text as published in the August 26, 1994, issue of the *Texas Register* (19 TexReg 6692).

The rule is amended to clarify the requirements for interim construction loans, and to require a title opinion and an appraisal for a loan secured by a lien other than a first lien.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for administration of the Texas Credit Union Act.

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

Issued in Austin, Texas, on November 30, 1994.

TRD-9451716 Robert W. Rogers  
Commissioner  
Credit Union Department

Effective date: December 21, 1994

Proposal publication date: August 26, 1994

For further information, please call: (512) 837-9236



## TITLE 16. ECONOMIC REGULATION

### Part III. Texas Alcoholic Beverage Commission

#### Chapter 31. Administration Administrative Functions of the Commission

##### • 16 TAC §31.4

The Texas Alcoholic Beverage Commission adopts an amendment to §31.4, concerning Administrative Functions of the Commission, without changes to the proposed text as published in the October 28, 1994, issue of the *Texas Register* (19 TexReg 8578).

This amendment deals with the allowable size of information signs that are required to be placed on licensed premises selling or serving alcoholic beverages advising customers how and where they may file a complaint under the law.

The change allows the signs to be printed in a commonly used size and format so that the agency may have signs made up for purchase at a reasonable cost to persons who wish to obtain them.

No comments were received regarding adoption of the amendment and no one appeared either in support or against the passage of the rule amendment.

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 December 1, 1994.

TRD-9451742 Doyme Bailey  
Administrator  
Texas Alcoholic Beverage  
Commission

Effective date: December 22, 1994

Proposal publication date: October 28, 1994

For further information, please call: (512) 206-3204



## TITLE 22. EXAMINING BOARDS

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

#### Chapter 455. Fees

##### • 22 TAC §455.1

The Texas Board of Private Investigators and Private Security Agencies adopts an amendment to §455.1, concerning Fees, without changes to the proposed text as published in the September 6, 1994, issue of the *Texas Register* (19 TexReg 6978).

The Board has determined that the amendment is necessary in order to meet the increasing costs of criminal history background checks and to comply with the provisions of Chapter 428 of the Acts of the 73rd Legislature which requires that state agencies adopt rules that specify the amount charged for copies of public records.

This rule increases the cost of fingerprint re-submission from \$12.50 to \$15. It also sets the charges for public records at the rate established by the General Services Commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of Texas Civil Statutes, Article 4413 (29bb), §11(a)(3).

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

Issued in Austin, Texas, on November 30, 1994.

TRD-9451690 Cierna D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: December 21, 1994

Proposal publication date: September 6, 1994

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

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 49. Oral Health Improvement Services Program

The Texas Department of Health (department) adopts the repeal of §49.16 and new §49.16, concerning the Oral Health Services Advisory Committee. New §49.16 is adopted with changes to the proposed text as published in the September 6, 1994, issue of the *Texas Register* (19 TexReg 6980). The repeal is adopted without changes as proposed and will not be republished.

The new section is adopted for the following reasons. In compliance with Texas Civil Statutes, Article 6252-33, the department must evaluate its advisory committees to determine whether they should be continued, modified, consolidated with other committees, or abolished. The present advisory committee, the Dental Technical Advisory Committee, was approved by the Texas Board of Health (board) in 1989, pursuant to Health and Safety Code, §43.015. Upon review by the department, the committee's name has been changed, and its structure has been revised to create a better balance between consumer and nonconsumer representatives, and to better balance gender, minority representation, and regional representation. The new section covers applicable law, purpose, tasks, abolishment, terms of office, meetings, attendance, staff, procedures, subcommittees, statements by members, reports to the board, reimbursement of members' expenses, and the section's effective date.

The new section establishes the Oral Health Services Advisory Committee to advise the state dental program, the EPSDT dental program, and the board on matters relating to operation of the state dental program and the EPSDT dental program, and to assist those programs and others in the department that require professional dental expertise. The new section ensures the department's continued compliance with Texas Civil Statutes, Article 6252-33 concerning state agency advisory committees and the department's continued access to an effective forum in which providers and consumers can offer advice to the state dental program, the EPSDT dental program, and the board.

The following comments were received regarding the proposed rules.

**COMMENT:** The commenter stated that because the new Oral Health Services Advisory Committee will advise and assist programs on issues requiring professional dental expertise, the committee should be composed of eight nonconsumer and four consumer members.

**RESPONSE:** The department agrees and has amended subsection (f) accordingly.

**COMMENT:** Comments from staff suggested that subsection (e) should be reworded to clarify the procedures for sunset review of the committee by the board, and that subsection (f) should be reworded to clarify the provisions concerning the committee's composition.

**RESPONSE:** The department agrees and has amended subsections (e) and (f) accordingly.

**COMMENT:** The commenter stated that six-year terms seemed excessive, and that the length may conflict with the two-year Medical Care Advisory Committee (MCAC) membership terms with regard to appointment of an Oral Health Services Advisory Committee member to the MCAC.

**RESPONSE:** The department believes the term length of Oral Health Services Advisory Committee members has no direct relation to MCAC membership. No change in the proposed section was made as a result of this comment.

**COMMENT:** The commenter stated that the section pertaining to reimbursement for expenses needs clarification so that members will understand that they will be reimbursed for expenses at the same rate as state employees.

**RESPONSE:** The department agrees and has amended the proposed rule accordingly.

#### Oral Health Improvement Services Program

##### • 25 TAC §49.16

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

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 December 2, 1994.

TRD-9451834

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: December 23, 1994

Proposal publication date: September 6, 1994

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

The new section is adopted under Texas Civil Statutes, Article 6252-33, which set stan-

dards for the evaluation of advisory committees by the agencies for which they function; Health and Safety Code, §43.015, which authorizes the board to appoint an advisory committee to assist the Bureau of Dental Health Services; and under Health and Safety Code, §12.001(b), which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

#### §49.16. Oral Health Services Advisory Committee.

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

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

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

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

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

(d) Tasks.

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

(2) The committee shall perform the following duties:

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

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

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

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

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

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

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

(e) Review and duration. By January 1, 1999, the board will initiate and complete a review of the committee to determine whether the committee should be continued, consolidated with another committee, or abolished. If the committee is not continued or consolidated, the committee shall be abolished on that date.

(f) Composition. The committee shall be composed of 12 members appointed by the board, including four consumer representatives and eight nonconsumer representatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The attendance records of the members shall be reported to the board.

The report shall include attendance at committee and subcommittee meetings.

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

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

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

(2) Each member shall have one vote.

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

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

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

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

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

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

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

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

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

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

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

(1) The report shall include:

(A) a list of the meeting dates of the committee and any subcommittees;

(B) the attendance records of its members;

(C) a brief description of actions taken by the committee;

(D) a description of how the committee has accomplished the tasks given to the committee by the board;

(E) the status of any rules which were recommended by the committee to the board;

(F) anticipated activities of the committee for the next year; and

(G) any amendments to this section requested by the committee.

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

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

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

(1) Committee members may not be reimbursed for compensatory per diem, unless required by law.

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

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

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

imbursement for expenses will be at state rates for travel, meals, and lodging.

(5) Members shall submit requests for reimbursement of expenses on official state travel vouchers prepared by department staff.

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 December 2, 1994.

TRD-9451800

Susan K. Steeg  
General Counsel  
Texas Department of  
Health

Effective date: December 23, 1994

Proposal publication date: September 6, 1994

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

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**TITLE 37. PUBLIC  
SAFETY AND CORREC-  
TIONS**  
**Part V. Texas Board of  
Pardons and Paroles**  
**Chapter 145. Parole Process**  
**Final Board Disposition**  
• 37 TAC §145.53

The Texas Board of Pardons and Paroles adopts the repeal of §145.53, concerning the final board disposition of parole revocation matters, without changes to the proposed text as published in the August 30, 1994, issue of the *Texas Register* (19 TexReg 6826). This section is being repealed because it is obsolete in its references to board authority to issue and withdraw pre-revocation warrants by means of a separate submission a new §145.53 is being adopted.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to promulgate rules consistent with the Code.

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 November 30, 1994.

TRD-9451696

Michael F. Miller  
General Counsel  
Texas Board of Pardons  
and Paroles

Effective date: December 21, 1994

Proposal publication date: August 30, 1994

For further information, please call: (512) 406-5613

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The Texas Board of Pardons and Paroles adopts new §145.53, concerning the final board disposition of parole revocation matters. The new section enumerates final disposition options that may be invoked by a board panel after a revocation hearing is held, without changes to the proposed text as published in the August 30, 1994, issue of the *Texas Register* (19 TexReg 6826). The new section is adopted because it deletes obsolete language referring to the board's authority to issue and withdraw pre-revocation warrants, reemphasizes the board's exclusive statutory authority to grant and revoke parole, and clarifies an important tenet of due process in revocation matters—that at least one finding of violation of a condition or release must be sustained in order to support a revocation decision by the parole decision-maker.

One comment was received regarding adoption of the new section.

The Committee on Corrections and Parole of the Texas Criminal Defense Lawyers Association made one comment that they consider relevant to the new rule. They think that an accused releasee subject to a revocation decision should have an opportunity to review, correct, comment about, or object to the evidentiary findings and recommendations of the hearings officer before his findings and recommendations are sent to a parole panel for a final decision.

This type of communication whether addressed to the hearing or to members of the board, would constitute an ex parte communication which is prohibited by 37 TAC §147.3.

Current rules of the board provide an accused releasee with an established appeals process which avoids the needs for ex parte communication.

The Board disagrees with the comment and feels that the new rule as drafted fully complies with the law.

The new section is adopted under Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to promulgate rules consistent with the Code.

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 November 30, 1994.

TRD-9451697

Michael F. Miller  
General Counsel  
Texas Board of Pardons  
and Paroles

Effective date: December 21, 1994

Proposal publication date: August 30, 1994

For further information, please call: (512) 406-5613

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## Reparole After Revocation

### • 37 TAC §145.61, §145.62

The Texas Board of Pardons and Paroles adopts the repeal of §145.61 and §145.62, concerning the eligibility for rep parole after revocation, without changes to the proposed text as published in the August 30, 1994, issue of the *Texas Register* (19 TexReg 6827). These sections are being repealed because they have been superseded by a new §145.3, effective July 1, 1994, which more comprehensively deals with the topic of eligibility for parole.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to promulgate rules consistent with the Code.

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 November 30, 1994.

TRD-9451695

Michael F. Miller  
General Counsel  
Texas Board of Pardons  
and Paroles

Effective date: December 21, 1994

Proposal publication date: August 30, 1994

For further information, please call: (512) 406-5613

## Chapter 147. Hearings

### General Rules for Hearings

#### • 37 TAC §147.27

The Texas Board of Pardons and Paroles adopts the repeal of §147.27, concerning

objections to offers of evidence that arise during revocation hearings, without changes to the proposed text as published in the August 30, 1994, issue of the *Texas Register* (19 TexReg 6827).

This section is being repealed because a new §147.27 is being adopted by the board which will streamline the process for preserving error for appeal by eliminating the filing of written exceptions to the Hearing Officer's Rulings.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with authority to promulgate rules consistent with the Code.

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 November 30, 1994.

TRD-9451698

Michael F. Miller  
General Counsel  
Texas Board of Pardons  
and Paroles

Effective date: December 21, 1994

Proposal publication date: August 30, 1994

For further information, please call: (512) 406-5613

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The Texas Board of Pardons and Paroles adopts new §147.27, concerning the making, recording, and preservation of objections made at revocations hearings as a prerequisite for appeal, without changes to the proposed text as published in the August 30, 1994, issue of the *Texas Register* (19 TexReg 6827).

The new section is adopted to streamline the hearings appeals process by eliminating the

redundant requirement that written exceptions to a hearing officer's rulings at the revocation hearing are required to preserve error. Under the new rule, an issue is preserved for appeal once an objection is made during the hearing and ruled upon by the hearing officer.

One comment was received from the Committee on Corrections and Parole of the Texas Criminal Defense Lawyers Association regarding adoption of the new section.

The commenter views the new rule as an improvement and indicated that additional training on topics of evidence and procedure would be helpful for hearing officers.

The board agrees that the new rule is an improvement.

The new section is adopted under Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with authority to promulgate rules consistent with the Code.

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 November 30, 1994.

TRD-9451699

Michael F. Miller  
General Counsel  
Texas Board of Pardons  
and Paroles

Effective date: December 21, 1994

Proposal publication date: August 30, 1994

For further information, please call: (512) 406-5613

## Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L.

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.)*

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The Commissioner of Insurance, at a public hearing under Docket Number 2119, held at 1:30 p.m. on November 18, 1994, in Room 100 of the Texas Department of Insurance

Building, 333 Guadalupe Street, Austin, Texas, adopted the revised Texas Commercial Lines Statistical Plan (the "Plan") as proposed by staff of the Texas Department of Insurance ("TDI") with certain changes to the proposed Plan that was filed with the Chief Clerk on October 12, 1994, and notice of the filing was published in the October 18, 1994, issue of the *Texas Register* (19 TexReg 8287).

The Plan concerns the collection of insurance statistical data and market information for the following commercial lines of insurance: commercial general liability, commercial property, businessowners, inland marine, boiler and machinery, burglary and theft, fidelity, surety, glass, commercial auto, medical professional liability and mortgage guaranty. The Plan provides reporting instructions and defines the data elements to be reported by insurers to TDI through TDI's designated statistical

agent, Axiom Corporation, for those lines of insurance covered by the Plan. On August 16, 1993, the State Board of Insurance adopted the Texas Statistical Plan for Commercial Lines by Board Order Number 60447 ("original Plan").

The Department proposed the following revisions to the original Plan. The Plan, which incorporated these revisions, was filed with the Chief Clerk for public inspection and comment on October 12, 1994.

(a) The Quarterly Miscellaneous Personal Experience Report was added.

(b) All modules of the plan were modified to include an MGA Code.

(c) In the General Liability Module, the Policy Limits data elements were modified to include Aggregate Policy Limit and Policy Limit Per Occurrence.

(d) In the Commercial Property Module, the data element of Sprinkler Indicator was added, the Deductible requirement was modified to include separate deductibles for fire and windstorm and the data element of Protection Code was deleted.

(e) In the Businessowners Module, the data elements of Sprinkler Indicator and Construction Code were added and the Deductible requirement was modified to include separate deductibles for fire, windstorm and theft.

(f) In the Commercial Auto Module, the data elements of Cost Code, Age Code, Building/Lot Code, Anti-Theft Discount and Driving Record Surcharge were added. The data elements of Catastrophe Code and Accident State were added to the loss transaction record report only. The Policy Limits data element was modified to include Policy Limit Per Occurrence and Policy Limit Per Claimant.

(g) In the Miscellaneous Commercial Lines Module, the Fidelity and Surety component was modified and made a separate report. The Special Programs Module was incorporated into the Miscellaneous Commercial Lines Module and is no longer a separate report. The Miscellaneous Commercial Lines Module deleted the data elements of Policy Limit, Deductible, Rating Modification and Written Exposure.

(h) The Fee Schedule as described in Staff's petition was added as an appendix to the Plan.

(i) The Plan also included revisions, as described in Staff's petition, to address copyright and proprietary assertions by the Insurance Services Office, Inc. (ISO).

In addition to the above referenced revisions, the Department proposed the following changes to the Plan as filed with the Chief Clerk on October 12, 1994.

(a) There were five typographical errors which were corrected regarding classifications on Attachment A-8 of the Quarterly Liability Experience Report.

(b) In the Quarterly Commercial Automobile Experience Report the accident state data element in the Record Layout for Loss Transactions was made subject to the runoff reporting rule.

(c) Section 4.05 of the Fee Schedule contained typographical errors which were corrected. The words "Private Passenger Auto" were changed to "Residential Property" and the amount of \$56,160 was changed to \$51,106.

(d) Table 4.09 of the Fee Schedule, which is the Schedule for Invoicing, contained some incorrect invoice dates. In the Residential Property and Private Passenger Auto columns the October 10, 1994 date was deleted. In the Commercial Lines column the April 10, 1995 and July 10, 1995 dates were deleted. A statement was added to Table 4.09 clarifying that the first invoice for each of the three lines may include more than one quarter's billing.

(e) Section 5.03C of the Fee Schedule was amended to say that a schedule of penalties and incentives would be adopted by rule rather than be issued by the Department.

The Commissioner adopted all of the revisions described in the two preceding paragraphs at the November 18, 1994 public hearing.

The Commissioner has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.05, 5.25, 5.98, 17.25, 18.12, 19.08, and 21.69 which authorize the Commissioner to adopt statistical plans and manual rules for motor vehicle insurance, fire and allied lines of insurance, and multi-peril insurance. Articles 5.96 and 5.97 authorize the Commissioner to adopt statistical plans and manual rules under the procedures specified in those articles. Article 5.05(a) requires the Commissioner to promulgate statistical plans which shall be used by each insurer in the recording and reporting of loss experience and other necessary data for use in the evaluation of rates and rating systems. Article 5.25 authorizes the Commissioner to designate an agent to gather, audit, and compile experience of insurers writing fire and allied lines and provides that the cost thereof shall be borne by such insurers. Article 5.98 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 Article 17.25, §18 authorizes the Commissioner to compel written reports from county mutual insurance companies. Article 18.12 requires underwriters of a Lloyds Insurance Company to file with the Commissioner on an annual basis such information as the Commissioner may demand. Article 19.08 requires reciprocal exchanges to report information required by the Commissioner. Article 21.69 authorizes the Commissioner to contract with a statistical entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

The Plan as adopted by the Commissioner is filed with the Chief Clerk under Reference Number P-1094-24-1 and is incorporated by reference by Commissioner's Order Number 94-1292.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act (codified at Texas Government Code Annotated Title 10, Chapter 2001)

Consistent with the Texas Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers writing commercial lines insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the revised Texas Commercial Lines Statistical Plan, as described herein, be adopted to become effective for all insurers writing commercial general liability, commercial property, businessowners, inland marine, boiler and machinery, burglary and theft, fidelity, surety, glass, commercial auto, medical professional liability and mortgage guaranty insurance on December 31, 1994.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act

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

Issued in Austin, Texas, on December 2, 1994.

TRD-9451828

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

Effective date: December 31, 1994

For further information, please call: (512) 463-6328

The Commissioner of Insurance, at a public hearing under Docket Number 2120, held at 1:30 p.m. on November 18, 1994, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted the revised Texas Residential Property Statistical Plan (the "Plan") as proposed by staff of the Texas Department of Insurance ("TDI") with certain changes to the proposed Plan that was filed with the Chief Clerk on October 12, 1994, and notice of the filing was published in the October 18, 1994, issue of the *Texas Register* (19 TexReg 8287). The Plan concerns the collection of insurance statistical data and market information for residential property insurance. The Plan provides reporting instructions and defines the data elements to be reported by insurers to TDI through TDI's designated statistical agent, Axiom Corporation, for those lines of insurance covered by the Plan. On October 30, 1984, the State Board of Insurance adopted the Texas Statistical Plan for Residential and Commercial Risks in Board Order Number 45750. This plan adopted pursuant to Board Order Number 45750 with the subsequent amendments is the Texas Residential Property Statistical Plan currently in effect ("original Plan")

The Department proposed the following revisions to the original Plan. The Plan, which incorporated these revisions, was filed with the Chief Clerk for public inspection and comment on October 12, 1994.

(a) Foundation Exclusion/Limited Coverage Endorsement-The new Foundation Exclusion/Limited Coverage Endorsement excludes coverage for certain types of damage to foundations. New reporting instruction 26 has been added to provide guidance for reporting experience associated with the new Foundation Exclusion/Limited Coverage Endorsement. All insurers will be required to report some experience in these new fields on all premium and loss transactions, even if the insurer does not offer the exclusion. The premium record layout has been revised to accept the new data element of foundation exclusion/limited coverage endorsement code and discount amount.

(b) Tenure Discounts-Some insurers offer discounts based upon the insured's tenure with the insurer. Tenure is defined as the number of continuous years a consumer has been insured by the same insurer or insurer group. New instruction 27 provides reporting

instructions for premium and loss transactions to those insurers offering a tenure discount. The premium record layout has been revised to accept the new data elements of tenure discount code and discount amount.

(c) Adoption of materials distributed in 1993-In December 1993, TDI distributed minor revisions of the residential property statistical plan reporting instructions to insurers. The revisions included the addition of NAIC company number as a data element, the specification of Axiom as the designated statistical agent for collection of all residential property experience related to transactions on or after January 1, 1995, and the addition of instructions for reporting residential property statistical experience to Axiom.

(d) The Fee Schedule as described in Staff's petition has been added as an appendix to the Plan.

In addition to the above referenced revisions, the Department proposed the following changes to the Plan as filed with the Chief Clerk on October 12, 1994.

(a) The loss record layout was revised to clarify that the new reporting elements shall be reported on both premium and loss transactions.

(b) Section 4.05 of the Fee Schedule contained typographical errors which were corrected. The words "Private Passenger Auto" were changed to "Residential Property" and the amount of \$56,160 was changed to \$51,106.

(c) Table 4.09 of the Fee Schedule, which is the Schedule for Invoicing, contained some incorrect invoice dates. In the Residential Property and Private Passenger Auto columns the October 10, 1994 date was deleted. In the Commercial Lines column the April 10, 1995 and July 10, 1995 dates were deleted. A statement was added to Table 4.09 clarifying that the first invoice for each of the three lines may include more than one quarter's billing.

(d) Section 5.03C of the Fee Schedule was amended to say that a schedule of penalties and incentives would be adopted by rule rather than be issued by the Department.

The Commissioner adopted all of the revisions described in the two preceding paragraphs at the November 18, 1994 public hearing.

The Commissioner has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.25, 5.28, 5.98 and 21.69 which authorize the Commissioner to adopt statistical plans and manual rules and gather data to determine reasonable and appropriate rates for homeowners, dwelling, farm and ranch and ranch owners insurance. Articles 5.96 and 5.97 authorize the Commissioner to adopt statistical plans manual rules under the procedures specified in those articles Article 5.25 authorizes the Commissioner to designate an agent to gather, audit, and compile experience of insurers writing fire and allied lines and provides that the cost thereof shall be borne by such insurers. Article 5.28 authorizes the Commissioner to gather data the Commissioner deems appropriate in determining reasonable and appropriate rates. Ar-

icle 5.98 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5. Article 21.69 authorizes the Commissioner to contract with a statistical entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

The Plan as adopted by the Commissioner is filed with the Chief Clerk under Reference Number P-1094-25-1 and is incorporated by reference by Commissioner's Order Number 94-1291.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act (codified at Texas Government Code Annotated Title 10, Chapter 2001).

Consistent with the Texas Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers writing residential property insurance.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the revised Texas Residential Property Statistical Plan, as described herein, be adopted to become effective for all insurers writing residential property insurance on December 31, 1994.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

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

Issued in Austin, Texas, on December 2, 1994.

TRD-9451829                      D. J. Powers  
General Counsel and Chief  
Clerk  
Texas Department of  
Insurance

Effective date: December 31, 1994

For further information, please call: (512) 463-6329

The Commissioner of Insurance, at a public hearing under Docket Number 2121, held at 1:30 p.m. on November 18, 1994, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted the revised Texas Private Passenger Automobile Statistical Plan (the "Plan") as proposed by staff of the Texas Department of Insurance ("TDI") with certain changes to the proposed Plan that was filed with the Chief Clerk on October 12, 1994, and notice of the filing was published in the October 18, 1994, issue of the *Texas Register* (19 TexReg 8288). The Plan concerns the collection of insurance statistical data and market information for private passenger automobile insurance. The Plan provides reporting instructions and defines the data elements to be reported by insurers to TDI through TDI's designated statistical agent, Axiom Corpora-

tion, for those lines of insurance covered by the Plan. On April 18, 1994, the Commissioner of Insurance adopted the revised Texas Private Passenger Automobile Statistical Plan ("original Plan") as proposed by staff of the Texas Department of Insurance with the exception that reporting of earned premium at benchmark rates in the annual aggregate experience report for the 1994 experience year is optional for county mutual insurers. The Commissioner memorialized this official action in Commissioner's Order Number 94-0457 signed on April 26, 1994.

The Department proposed the following revisions to the original Plan. The Plan, which incorporated these revisions, was filed with the Chief Clerk for public inspection and comment on October 12, 1994.

(a) This revision removed the time limitation on optional reporting of Earned Premium at Benchmark Rates in the Annual Aggregate Experience Report by county mutual insurers. The original Plan provided that the reporting of Earned Premium at Benchmark Rates would be optional for county mutual insurers only for 1994 experience.

(b) This revision added instructions for optional reporting of more detailed Quarterly Market Report experience within a ZIP Code. The original Plan provided for ZIP Codes as the smallest level of reporting. The new instructions allow for reporting by driver class and discount within a ZIP Code. The new instructions are designed to facilitate the operation of the territorial credit program required in the Texas Automobile Insurance Plan Association Plan of Operations.

(c) The Fee Schedule described in Staff's petition was added as an appendix to the Plan.

The Department, in response to comments received, amended the Plan as filed with the Chief Clerk on October 12, 1994. The changes made in response to comments were to \$4.05, Table 4.09, and \$5.03 of the Fee Schedule. To correct typographical errors contained in \$4.05, the words "Private Passenger Auto" were changed to "Residential Property" and the amount of "\$56, 160" was changed to "\$51,106". Table 4.09, which is the Schedule for Invoicing, contained some incorrect invoice dates. In the Residential Property and Private Passenger Auto columns the October 10, 1994 date was deleted. In the Commercial Lines column the April 10, 1995 and July 10, 1995 dates were deleted. A statement was added to Table 4.09 clarifying that the first invoice for each of the three lines may include more than one quarter's billing. Section 5.03C was amended to say that a schedule of penalties and incentives would be adopted by rule rather than be issued by the Department.

The Commissioner adopted all of the revisions described in the two preceding paragraphs at the November 18, 1994 public hearing.

The Commissioner has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.05, 5.98 and 21.69, which authorize the Commissioner to adopt statistical plans and manual rules for motor vehicle

insurance. Articles 5.96 and 5.97 authorize the Commissioner to adopt statistical plans and manual rules under the procedures specified in those articles. Article 5.05(a) requires the Commissioner to promulgate statistical plans which shall be used by each insurer in the recording and reporting of loss experience and other necessary data for use in the evaluation of rates and rating systems. Article 5.96 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5. Article 21.69 authorizes the Commissioner to contract with a statistical entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

The Plan as adopted by the Commissioner is filed with the Chief Clerk under Reference Number A-1094-26-1 and is incorporated by reference by Commissioner's Order Number 94-1293.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act (codified at Texas Government Code Annotated Title 10, Chapter 2001).

Consistent with the Texas Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers writing private passenger automobile insurance.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the revised Texas Private Passenger Automobile Statistical Plan, as described herein, be adopted to become effective for all insurers writing private passenger automobile insurance on December 31, 1994.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it

from the requirements of the Administrative Procedure Act.

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

Issued in Austin, Texas, on December 2, 1994.

TRD-9451830

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

Effective date: December 31, 1994

For further information, please call: (512) 463-6328

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# TABLES AND GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Affix export certification stamp here:  
Certification No. \_\_\_\_\_

STATE OF TEXAS  
LICENSED CUSTOMS BROKER'S EXPORT CERTIFICATION

\_\_\_\_\_  
Customs Broker name Texas Customs Broker's License number

\_\_\_\_\_  
Customs Broker address

\_\_\_\_\_  
Purchaser name

\_\_\_\_\_  
Purchaser address

\_\_\_\_\_  
Seller name Date of sale

\_\_\_\_\_  
Seller address where goods were purchased

\_\_\_\_\_  
Description of Merchandise Exported

Invoice Number	Quantity	Description	Sales Price

\_\_\_\_\_  
Export location Date and time of export

I declare that I am a licensed Texas Customs Broker or an authorized employee of a licensed Texas Customs Broker and I certify that the merchandise described above was exported from the location and at the date and time specified.

Please print the name of the person signing this form below:

\_\_\_\_\_

\_\_\_\_\_  
Sign here Customs Broker or authorized employee Date

\_\_\_\_\_  
Original - Seller Copy - Customs Broker Copy - Purchaser

Figure 1: 37 TAC 531.14(e)

Expired 1 day to 90 days:

	Renewal Fee	Late Fee	Total Fee
Certificate	\$1,000 (2 years)	\$125.00	\$1,125.00
Branch office certificate	300 (2 years)	37.50	337.50
Licenses			
(Technician)	200 (2 years)	25.00	225.00
(Residential Fire Alarm Superintendent (Single Station))	200 (2 years)	25.00	225.00
(Residential Fire Alarm Superintendent)	200 (2 years)	25.00	225.00
(Planning Superintendent)	200 (2 years)	25.00	225.00

Expired 91 days to 2 years:

	Renewal Fee	Late Fee	Total Fee
Certificate	\$1,000 (2 years)	\$500	\$1,500
Branch office certificate	300 (2 years)	150	450
Licenses			
(Technician)	200 (2 years)	100	300
(Residential Fire Alarm Superintendent (Single Station))	200 (2 years)	100	300
(Residential Fire Alarm Superintendent)	200 (2 years)	100	300
(Planning Superintendent)	200 (2 years)	100	300

**FIRE ALARM SYSTEM  
INSTALLATION INSPECTION FORM**

Project: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Licensed Firm: \_\_\_\_\_  
ACR Number: \_\_\_\_\_

**DEVICE BACK-BOX INSTALLATION**

Name of Licensee: \_\_\_\_\_  
License Number: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Problems Noted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CABLE INSTALLATION**

Name of Licensee: \_\_\_\_\_  
License Number: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Problems Noted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DEVICE INSTALLATION**

Name of Licensee: \_\_\_\_\_  
License Number: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Problems Noted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Figure 3: 37 TAC 531.19(d)

XXX ALARM SERVICE	
555 SPRING LANE	
HOMEVILLE, TEXAS 77777-7777	
ACR-(number)	
H. B. BROWN	_____
APS-0000	Date _____

Figure 4: 37 TAC 531.20(b)

DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL

FIRE ALARM INSTALLATION RECORD

CR No. \_\_\_\_\_

Firm Name \_\_\_\_\_

Firm Address \_\_\_\_\_

City \_\_\_\_\_

Telephone \_\_\_\_\_

\_\_\_\_\_  
Signature of Licensee and License No.

\_\_\_\_\_  
Planning Superintendent and License No.  
or Professional Engineer and License No.

Installation Date \_\_\_\_\_

Figure 5: 37 TAC 531.20(f)

DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL  
SERVICE RECORD

XXX Alarm Service  
555 Spring Lane  
Homeville, Texas 77777-7777  
555/333-3333                      ACR- (number)

---

Date-Licensee Signature-License #

List Services: \_\_\_\_\_

Last Date of Sensitivity  
Test, if known:  
\_\_\_\_\_

Figure 6: 37 TAC 531.21(f)

DO NOT REMOVE  
BY ORDER OF THE STATE FIRE MARSHAL  
SYSTEM DOES NOT COMPLY WITH  
APPLICABLE STANDARDS

XXX Alarm Service  
555 Spring Lane  
Homeville, Texas 77777-7777  
555/333-3333                      ACR- (number)

---

Date-Licensee Signature-License #

List Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Figure 7: 37 TAC 531.22(g)

<p style="text-align: center;">DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL SYSTEM HAS A FAULT CONDITION OR IS IMPAIRED FROM NORMAL OPERATION</p> <p style="text-align: center;">XXX Alarm Service 555 Spring Lane Homeville, Texas 77777-7777 555/333-3333                      ACR-(number)</p> <hr/> <p>Date-Licensee Signature-License #</p> <p>List Conditions: _____</p> <hr/> <hr/> <hr/> <hr/>
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# OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## Texas Department of Agriculture

Monday, December 12, 1994, 1:00 p.m.

Westin Galleria Hotel, 13340 Dallas Parkway

Dallas

Texas Peanut Producers Board

AGENDA:

Call to order

Discussion and action: minutes; intern from Tarleton State University; fund deposits; audit report.

Discussion: Harvest Tour; No-Cost Peanut Program Study; export markets; other business

Update: National Peanut Council

Adjourn

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: December 2, 1994, 11:26 a.m.

TRD-9451788

Wednesday, December 28, 1994, 10:30 a.m. (Rescheduled from December 1, 1994, 10:00 a.m.)

Texas Department of Agriculture, 1700 North Congress Avenue

Austin

Office of Hearings

AGENDA:

Administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §§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 Hibbs, 1700 North Congress Avenue, Ninth Floor, Austin, Texas 78701, (512) 463-7583.

Filed: December 6, 1994, 9:36 a.m.

TRD-9451922

## Texas Commission on Alcohol and Drug Abuse

Monday, December 12, 1994, 9:00 a.m.

710 Brazos

Austin

Emergency Meeting

Offender Credentialing Committee

AGENDA:

Call to order; review applications for the Licensed Chemical Dependency Counselor; and adjourn.

Reason for Emergency: To allow sufficient time to review criminal history information on applications for chemical dependency counselor licensure.

Contact: Emelda Mendoza, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8720.

Filed: December 5, 1994, 11:11 a.m.

TRD-9451860

Monday, December 12, 1994, 11:00 a.m.

710 Brazos, Perry Brooks Building, Conference Room, Fourth Floor

Austin

Audit Committee

AGENDA:

Call to order; approval of minutes from October 10, 1994 meeting; update on internal audit activities; annual internal audit report (Coopers and Lybrand), annual internal audit report (Price Waterhouse); update on SWAT Team statewide auditing activities; other business; and adjourn.

Contact: Otis E. Williams, 710 Brazos, Austin, Texas 78701, (512) 867-8720.

Filed: December 1, 1994, 3:59 p.m.

TRD-9451747

Monday, December 12, 1994, 4:00 p.m.

710 Brazos, Suite 800

Austin

Program Development and Initiatives Committee

AGENDA:

Call to order; approval of minutes from the October 10, 1994 committee meeting; youth initiative report; training report; state jails report; update on treatment initiatives to include treatment alternatives to incarceration, Substance Abuse Felony Punishment Facility Program, In-Prison Therapeutic Community Program, continuum of care, and client tracking system; update on re-

search and development to include introduction of research and development staff, treatment and prevention report, research, program development and evaluation, program implementation, and information and training; update on prevention services; Texas Department of Criminal Justice treatment issues; new business; old business; and adjourn.

Contact: Ted Sellers, 710 Brazos, Austin, Texas 78701, (512) 867-8137.

Filed: December 1, 1994, 3:56 p.m.

TRD-9451744

Monday, December 12, 1994, 4:00 p.m.  
710 Brazos, Eighth Floor Conference Room  
Austin

Grant and Contract Review Committee

AGENDA:

Call to order; fiscal year 1995 prevention funding; unsolicited; fiscal year 1995 treatment services; HIV early intervention; Court Committed Services (CCS); Treatment Alternatives to Incarceration Program update; information items; new business; next meeting; and adjourn.

Contact: Bea Bynum, 710 Brazos, Austin, Texas 78701, (512) 867-8802.

Filed: December 1, 1994, 3:56 p.m.

TRD-9451743

Monday, December 12, 1994, 4:00 p.m.  
710 Brazos, Suite 800  
Austin

Program Development and Initiatives Committee and Grants and Contracts Review Committee

AGENDA:

Call to order; approval of minutes from October 10, 1994 committee meeting; action on Operation Kick-It Program; action on La Posada Treatment Alternatives to Incarceration Program contract; new business; old business; and adjourn.

Contact: Ted Sellers, 710 Brazos, Austin, Texas 78701, (512) 867-8137.

Filed: December 2, 1994, 9:16 a.m.

TRD-9451766

Tuesday, December 13, 1994, 8:30 a.m.  
710 Brazos, Eighth Floor Conference Room  
Austin

Revised Agenda

Board of Commissioners

AGENDA:

Action on appointments to agency committees.

Contact: Otis E. Williams, 710 Brazos, Austin, Texas 78701, (512) 867-8720.

Filed: December 5, 1994, 3:29 p.m.

TRD-9451874

## State Banking Board

Monday, December 12, 1994, 3:00 p.m.  
2601 North Lamar Boulevard

Austin

AGENDA:

Review and approval of minutes of previous meeting; consideration of conversion to limited banking association applications; consideration of interim charter applications; consideration of status of approved applications; review of the status of other pending applications; discussion of proposed revisions to the Texas Banking Code; discussion of limited banking associations; and the Board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of the Texas Banking Code.

Contact: Lynda A. Drake, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: December 2, 1994, 11:25 a.m.

TRD-9451786

## The State Bar of Texas

Friday, December 9, 1994, 8:30 a.m.

1414 Colorado, Room 206, The Texas Law Center

Austin

Commission for Lawyer Discipline

AGENDA:

Public Session: Call to order/review and discuss minutes of prior meetings; peer review program; statistical reports; Commission's compliance with provisions of the Disciplinary Rules, State Bar Act and Orders of the Supreme Court; operations of the General Counsel's office; grievance committees; special counsel program; operations of the Commission; mediation of disciplinary matters/presentations of trial staff/Closed Session: discuss pending litigation cases and cases before evidentiary panels of grievance committees; special counsel assignments; personnel matters; authority on verification of interrogatories in disciplinary matters;/Public Session: discuss and take appropriate action in items discussed in closed session/discuss future meetings/discuss other matters as appropriate/receive public comment/and adjourn.

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: December 1, 1994, 4:48 p.m.

TRD-9451762

## Texas Bond Review Board

Tuesday, December 13, 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. Comptroller of public accounts—lease purchase of computer equipment

B. Texas A&M University System—revenue financing system bonds

IV. Other business

Report on Delphis Hanover pricing study regarding state bond issues and school district bonds

V. Adjourn

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: December 5, 1994, 3:30 p.m.

TRD-9451875

## Council on Competitive Government

Wednesday, December 14, 1994, 10:00 a.m.

Capitol Extension, Room E2.026

Austin

AGENDA:

1) Approval of minutes of September 7, 1994 meeting; 2) Consideration of authorizing the award and contract execution for paper disposal services for the Texas State Library and Archives Commission; 3) Consideration of authorizing the release of a Request for Proposals concerning the Capitol Complex Telephone System (CCTS), which is currently maintained and operated by the General Services Commission; 4) Consideration of authorizing the release of Request for Proposals concerning vehicle fleet management services and operations; 5) Staff presentation of the Information Technology Assessment Guide, a tool to collect data for the State Operated Data Centers Study, and consideration of implementing use of the guide; 6) Consideration of having staff study and take action to implement selected recommendations de-

tailed in Gaining Ground, the Comptroller's Texas Performance Review findings; Briefing items: 7) Update on staff's review of State Operated Geographic Information Systems (GIS); 8) Update on laundry services; 9) Update on mail presorting and bar-coding services contract; 10) Update on the consolidation of State-owned operated print shops in Travis County; 11) Public comment; 12) Set date and time for next meeting.

Contact: John Pouland, 1711 San Jacinto, Austin, Texas 78735, (512) 463-3446.

Filed: December 6, 1994, 9:37 a.m.

TRD-9451924

### Texas School for the Deaf

Friday, December 9, 1994, 1:00 p.m.

1102 South Congress Avenue

Austin

Governing Board Budget and Audit Committee

#### AGENDA:

1. Call to order
2. Interview internal auditor applicant
3. Adjournment

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 440-5332.

Filed: December 2, 1994, 11:25 a.m.

TRD-9451785

Friday-Sunday, December 9-11, 1994, 7:00 p.m.

#1 Woodcreek Circle

Wimberley

Governing Board

#### AGENDA:

1. Call to order
2. Approval of minutes of October 21, 1994
3. Business requiring board action
4. Comments by board members
5. Adjournment

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 440-5332.

Filed: December 2, 1994, 11:25 a.m.

TRD-9451784

### Texas Education Agency

Friday, December 9, 1994, 8:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC)

#### AGENDA:

The Texas Environmental Education Advisory Committee (TEEAC) will review the funding options for the 1995-1996 year. The possibility of a newsletter will be discussed as well as evaluating the committee's role in reviewing materials. Committee member replacement issues will be discussed as well as quality control of staff development activities. Subcommittees will begin their work. Reports will be presented on the Essential Element Clarification Process, the Global Change Education Conference and the Border Interstate Commission for Environmental Education.

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451751

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Finance Subcommittee

#### AGENDA:

The Texas Environmental Education Advisory Committee Finance Subcommittee will select a chair

review budget needs for year

review options for funding

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451757

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Policy Subcommittee

#### AGENDA:

The Texas Environmental Education Advisory Committee Policy Subcommittee will develop a draft attendance policy for TEEAC

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451756

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Ad Hoc Border Task Force

#### AGENDA:

The Texas Environmental Education Advisory Committee Ad Hoc Border Task Force will

review the proceedings of the Border Interstate Commission for Environmental Education

make recommendations on the involvement of the Advisory Committee in environmental education initiatives along the Rio Grande Border.

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451755

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Teacher Standards Subcommittee

#### AGENDA:

The Texas Environmental Education Advisory Committee Teacher Standards Subcommittee will

select a chair

explore options for stickers to be printed at some location other than TEA

make recommendations for the evaluation of TEEAC-endorsed workshops

submit suggestions for the next TEEAC site program annual meeting

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451754

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Communication Subcommittee

AGENDA:

The Texas Environmental Education Advisory Committee Communication Subcommittee will

select a chair

develop a press release for the Take Stock in Texas stock certificate

discuss options for producing a newsletter

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451753

Friday, December 9, 1994, 10:30 a.m.

Eighth Floor Large Conference Room, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue

Austin

Texas Environmental Education Advisory Committee (TEEAC) Instructional Resources Subcommittee

AGENDA:

The Texas Environmental Education Advisory Committee Instructional Resources Subcommittee will

select a chair

recommend a procedure for evaluating the usefulness of the Environmental Education Resource documents now distributed by TEA

review submitted materials

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas (512) 463-9566.

Filed: December 1, 1994, 4:11 p.m.

TRD-9451752

## Texas Employment Commission

Tuesday, December 13, 1994, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of Commission Appeals; consideration and action on higher level appeals in unemployment compensation cases listed on Commission Docket 50; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: December 5, 1994, 2:00 p.m.

TRD-9451882

## Texas Ethics Commission

Friday, December 9, 1994, 9:30 a.m.

1101 Camino La Costa, Room 235

Austin

AGENDA:

The commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the November 11, 1994, meeting; briefing, discussion, and possible action to waive certain fines assessed for late filing of a report; briefing and possible action to instruct staff to research and report to the commission on laws concerning conflicts of interest of government officials; briefing, discussion, and possible action concerning recommendations to the 74th Legislature for any necessary statutory changes; discussion and possible action in response to the following Advisory Opinions Requests Numbers 259, 261 and 261-268; and adjournment.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: December 1, 1994, 4:32 p.m.

TRD-9451761

## Texas Alternative Fuels Council

Friday, December 16, 1994, 10:00 a.m.

1701 North Congress Avenue, Room 1-100, William B. Travis State Office Building

Austin

AGENDA:

I. Call to order

II. Consideration of minutes from August 12, 1994, council meeting

III. Report on Commercial Paper Program

IV. Consideration of formal request for authorization to issue commercial paper

V. Consideration of Loan Marketing Program and policies

VI. Executive session

VII. Information items

VIII. Public comment

IX. Adjournment

Contact: Craig Davis, 201 East 14th Street, Room 104, Austin, Texas 78701, (512) 463-3262.

Filed: December 1, 1994, 4:17 p.m.

TRD-9451759

## Texas Department of Health

Wednesday, December 7, 1994, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

Emergency Meeting

Toxic Substances Coordinating Council

AGENDA:

The committee will discuss and possibly act on: update from Fish Sampling Subcommittee and east Texas Fish Hg contamination; Corpus Christi/Oak Park health study; south east Texas flood response; update on agricultural resources protection authority; and Texas-Mexico border environmental health issues.

Reason for emergency: unforeseeable circumstances.

Contact: Dennis Perrotta, Ph.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7268. For ADA assistance, contact Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting

Filed: December 2, 1994, 3:05 p.m.

TRD-9451812

Friday, December 9, 1994, 1:00 p.m.

Room M-652, Texas Department of Health, 1100 West 49th Street

Austin

Community Oriented Primary Care (COPC) Advisory Council

AGENDA:

The committee will discuss and possibly act on: approval of the minutes from the July, 1994 meeting; COPC bureau reorganization status; proposed committee rules changes/expanded nomination process; legislative update; update on Title V, projects/task force work group; COPC conference; primary care access plan; and next meeting.

Contact: Demetria Montgomery, M.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7111. For ADA assistance, contact Richard Butler at (512)



458-7695 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: December 1, 1994, 2:14 p.m.

TRD-9451736

Monday, December 12, 1994, 10:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Home and Community Support Services Advisory Council

#### AGENDA:

The council will discuss and possibly act on: election of officers and drawing of terms; approval of the minutes from the previous meeting; memoranda of understanding between the Texas Department of Health and the Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Department of Protective and Regulatory Services, Texas Department of Aging, Texas Rehabilitation Commission, Texas Commission for the Blind, and the Interagency Council on Early Childhood Intervention Services as required by the Health and Safety Code, Chapter 142; proposed home and community support services agency rules as it relates to the memorandum of understanding between the Texas Department of Health and the Texas Department of Human Services; proposed home and community support services agency rules implementing Senate Bill 383; and discussion and comments not requiring council action (overview of council's responsibilities and limitations; criminal history check update; bill initiatives; possible proposed rule changes to Chapter 115; hospice licensure issues; licensing fees; and physician delegations.

Contact: Becky Beechinor, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6670. For ADA assistance, contact Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: December 2, 1994, 3:05 p.m.

TRD-9451811

### Texas Higher Education Coordinating Board

Thursday-Friday, December 15-16, 1994, 9:30 a.m. and 9:00 a.m., respectively.

5400 Renaissance Tower, 1201 Elm Street

Dallas

Coordinating Board Meeting

#### AGENDA:

Thursday, December 15th-9:30 a.m.

Discussion of the following topics: TASP and remediation (type and level of remediation, performance indicators); community college out-of-district centers; improving graduation rates (advanced placement, concurrent enrollment, State Board of Education's Advanced Graduation Track); tuition and financial aid (prepaid tuition, TEG); funding prospects and issues; technology (strategies for increasing the use of technology and how to fund, TEX-SHARE, Classroom Technology Project); Access and Equity 2000; and executive session to evaluate personnel.

Friday, December 16th-9:00 a.m.

Discussion of SPRE rules.

Contact: Glenda Barron, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: December 2, 1994, 3:16 p.m.

TRD-9451819

### Texas Department of Housing and Community Affairs

Friday, December 9, 1994, 9:30 a.m.

1400 North Congress Avenue, Room E1.012, Capitol Building Extension

Austin

Revised Agenda

Board Meeting

#### AGENDA:

The Board will meet to consider and possibly act on the following: minutes of meeting of November 10, 1994; purchase of mortgage service and errors and omissions insurance; Phoenix Mutual for change in provisions in the Supplemental Indenture; additional commitments for 1994 Low Income Housing Tax Credit Program projects that were under funded during the November 10, 1994 Board meeting; allocation of returned 1992 Low Income Housing Tax Credits; reclassification of Project Number 94158 from the "Other" set-aside to the "First-time Participant" set-aside; public hearing on State Low Income Housing Plan; approval of Comprehensive Housing Affordability Strategy; loan to TDHCA's non-profit, approval to purchase Tall Timbers and Courtyard Apartments from RTC; approval of contract for inspection contract for due diligence for Courtyard, Tall Timbers and Windscape Apartments; approval to issue request for proposal for selection of non-profits for TDHCA multi-family acquired properties; HOME Program amend award for Rio Grande Valley to Valley Coalition for Homeless; transfer of funds from Housing Assistance Fund of the 1987A CMO issue to a separate HAF held by Treasury; Housing Trust Fund Award

modification for Williamson-Burnet County; executive session on anticipated litigation-Residential Mortgage Revenue Bonds; executive director's report; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: December 1, 1994, 4:31 p.m.

TRD-9451760

### Texas Juvenile Probation Commission

Friday, December 9, 1994, 8:30 a.m.

2015 South IH-35

Austin

Board

#### AGENDA:

Call to order; excuse absences; introduction of Advisory Council members-nominations for Advisory Council members to be voted on at the next board meeting; approval of board meeting minutes for October 2, 1994 and November 18, 1994; Basic and Special Services Committee report-approval of TJPC Juvenile Probation Standards; TJPC/SBOE Committee report-approval of model policy guidelines, approve continuation of Joint Task Force Committee; Internal Audit Committee report-discussion and approval of the following three reports on the fiscal 1994 Internal Audit Program: (1) internal audit of the Texas Juvenile Probation Staff Services Division, (2) status report on internal audits performed at TJPC, (3) TJPC's internal audit annual report for fiscal year 1994; discussion of public hearings from the summer of 1994; discussion of internal audit contract between TJPC and Davis, Graves, and Livingston and progress report for first quarter; approval of additional staff positions; executive session-Evaluation Committee report; Budget Committee report-discussion of and recommendation for deobligated Community Corrections Emergency Funds; report on the Creative and Innovative Grants for fiscal year 1995; possible funding of additional staff positions; TJPC/TYC Committee report-fiscal year 1995 update on community corrections TYC commitments; NCCD consultation on Risk Assessment Project update on Travis County, TYC and TJPC meeting; Yarbrough Group proposal; mental impaired offenders; legislative activity update; Commission on Children and Youth summary of recommendations; director's report-State Policy Design Academy; Comptroller's "Gaining Ground" report; update on Texas Juvenile Probation Seminar for legislative staff; public comments; schedule next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas (512) 443-2001.

Filed: December 1, 1994, 11:27 a.m.

TRD-9451730

◆ ◆ ◆  
**Texas Life, Accident, Health  
and Hospital Service In-  
surance Guaranty Associa-  
tion**

Tuesday, December 13, 1994, 9:30 a.m.  
301 Congress Avenue, Suite 500, Board  
Room  
Austin

Assessment Committee Meeting

**AGENDA**

Consideration and possible action on: 1) Approval of minutes; 2) Assessment appeals; 3) Future assessments; 4) Refunds and refund methodology related to accumulated funds of specific estates; 5) September, 1994 Class B assessment; and 6) Next meeting.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: December 5, 1994, 3:04 p.m.

TRD-9451870

◆ ◆ ◆  
**Texas Natural Resource Con-  
servation Commission**

Wednesday, December 7, 1994, 1:00 p.m.

Bureau of Economic Geology, Pickle Research Campus, Building 130, Room 1. 202, 10100 Burnet Road

Emergency Meeting

Texas Groundwater Protection Committee

**AGENDA:**

Business-discussion and decision on final recommendations.

Reason for emergency: final action is needed for recommendations to be incorporated into legislatively-mandated report.

Contact: Kelly Mills, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4512.

Filed: December 2, 1994, 2:59 p.m.

TRD-9451807

Tuesday, December 13, 1994, 10:00 a.m.

Office of the Hearings Examiners, Conference Room, Building F, Room 1101, 12015 Park 35 Circle

Austin

Office of Hearings Examiners

**AGENDA:**

For a hearing before a hearings examiner on an amended application by Kerrville South Water Company, Inc. for an amendment to its Certificate of Convenience and Necessity (CCN) Number 11484 to provide water utility service in Kerr County, Texas. One portion of the proposed service area is located directly south of the City of Kerrville and includes existing customers in the Eighth Street West area. The other portion is located approximately seven miles south of downtown Kerrville and is generally bounded by Highway 16, Lower Turtle Creek Road and Deer Park Road. The total area includes approximately 929 current customers. Docket Number 30443-C.

Contact: Nina Fantl, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: December 2, 1994, 2:27 p.m.

TRD-9451799

Wednesday, December 14, 1994, 10:00 a.m.

State Capitol Building, Capitol Extension, Room E-1.012

Austin

Petroleum Storage Tank Advisory Committee

**AGENDA**

Call to order.

Approval of previous meeting minutes.

Discussion of TNRCC Subchapter M, PST reimbursement cost guidelines.

Discussion of strategy to privatize PST pollution liability insurance.

Discussion of items tabled from previous meetings.

Schedule future meetings.

Contact: Dwight C. Russell, 7801 North Lamar Boulevard, Suite D-77, Austin, Texas 78752, (512) 452-8834.

Filed: December 5, 1994, 3:04 p.m.

TRD-9451869

Friday, January 6, 1995, 10:00 a.m.

TNRCC, 12124 North IH-35, Building B, Room 1014A

Austin

**AGENDA:**

On an application by GPM Gas Corporation to renew air quality permit number 3131A authorizing the continued operation of a rock creek gas processing plant. The facility is located at 1000 West Tenth in Borger, Hutchinson County, Texas

Contact: Helga Chatelle, P.O. Box 13087, Austin, Texas 78711, (512) 239-1585.

Filed: December 2, 1994, 2:26 p.m.

TRD-9451798

◆ ◆ ◆  
**Texas Natural Resource Con-  
servation Commission Gal-  
veston Bay National Estuary  
Program**

Wednesday, December 14, 1994, 10:30 a.m.

Wentletrap, 2301 Strand Street

Galveston

Policy Committee

**AGENDA:**

Following opening remarks and approval of minutes, the Committee will hear a staff summary of the process of completing the Galveston Bay Plan. The Committee will then consider final approval of the Galveston Bay Plan submission package including: The Galveston Bay Plan, implementation strategy for The Galveston Bay Plan, funding strategy for The Galveston Bay Plan, federal consistency report for The Galveston Bay Plan, and the Regional Monitoring Program for The Galveston Bay Plan. The Committee will then discuss implementing The Galveston Bay Plan, have lunch and adjourn.

Contact: Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937.

Filed: December 2, 1994, 3:04 p.m.

TRD-9451810

◆ ◆ ◆  
**State Pension Review Board**

Wednesday, December 14, 1994, 10:30 a.m.

300 West 15th Street, William P. Clements Building, Fourth Floor, Room 406

Austin

**AGENDA:**

1. Meeting called to order
2. Roll call
3. Reading and adoption of minutes of previous meeting
4. Executive director's report
5. Election of PRB officers for 1995
6. Discussion and possible action on old business
7. Announcements and invitation for audience participation
8. Adjournment-announce date of next meeting

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: December 2, 1994, 3:43 p.m.

TRD-9451821

**Texas Office for Prevention of Developmental Disabilities**

Thursday, December 15, 1994, 10:00 a.m.

4900 North Lamar Boulevard, Room 5501, Brown-Healy Building

Austin

Bicycle Helmet Coalition

AGENDA:

Call to Order

Introductions

Bicycle Helmet Efficiency Post Evaluation Legislation

City Coalition/Grant Reports

Other Reports

Meeting Schedule

Adjournment

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-5042.

Filed: December 5, 1994, 8:59 a.m.

TRD-9451840

**Texas Property and Casualty Insurance Guaranty Association**

Monday, December 12, 1994, 9:00 a.m.

9420 Research Boulevard, Echelon III, Suite 400

Austin

Board of Directors

AGENDA:

The Texas Property and Casualty Insurance Guaranty Association Board of Directors will meet to call the meeting to order, approve October 27, 1994 minutes, executive session-attorney's report-discussion of assessment methods and Nordstern assessment dispute; report of the Personnel Review Committee, discuss and take possible action on the Attorney's report, discuss and take possible action on the report of the Personnel Review Committee, discuss issues and recommendations for proposed legislation, discuss and take possible on a date for the next regular meeting of the Board of Directors.

Contact: Marvin Kelly, 9420 Research Boulevard, Echelon III, Suite 400, Austin, Texas 78759.

Filed: December 2, 1994, 3:45 p.m.

TRD-9451823

**Public Utility Commission of Texas**

Tuesday, December 13, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A prehearing conference has been scheduled in Docket Number 13357-application of Comanche County Electric Cooperative Association to revise tariff in response to compliance audit.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Texas 78757, (512) 458-0100.

Filed: December 1, 1994, 11:27 a.m.

TRD-9451729

**Texas Racing Commission**

Monday, December 12, 1994, 10:00 a.m.

Capitol Extension, Room E1.028, 1400 Congress Avenue

Austin

AGENDA:

Call to order, roll call; consideration of and action on the following rules: §§303.83, 305.35, 305.42, 305.44, 305.49, 305.263, 309.53, 309.61, 309.63, 309.65, 309.193, 311.11, 311.152, 311.158, 311.171, 311.174, 313.103, 313.132, 313.161, 313.312, 313.422, 313.447, 313.450, 319.108, 319.111, 319.362, 319.332, 321.111, 321.117; petition for amendments to §311.15 and §309.200; consideration of and action on the following: proposal for decision in SOAH Number 476-94-1215 (appeal by Robert Brewer from Stewards' Ruling Sam Houston 12); Corpus Christi Greyhound Race Track update; Gulf Greyhound Park update; Valley Greyhound Park change of ownership and update; Gillespie County Fair and Festivals Association update; Bandera Downs change of ownership and update; Longhorn Downs change of ownership, change of location, and update; Lubbock Downs update; Manor Downs update; Lone Star Jockey Club amendments to limited partnership agreement and update; Retama Park update; Sam Houston Race Park amendment to limited partnership agreement, request to cancel certain live race dates, and update; Trinity Meadows request for additional 1995 live race dates and update; Hearing on complaint by Retama Park against Bandera Downs'

simulcasting; old and new business; adjourn.

Contact: Paula Cochran Carter, P.O. Box 12089, Austin, Texas 78701, (512) 794-8461.

Filed: December 2, 1994, 3:50 p.m.

TRD-9451824

**Railroad Commission of Texas**

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: December 2, 1994, 10:26 a.m.

TRD-9451772

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the agency budget, fiscal and administrative matters and the Administrative Services Division director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: December 2, 1994, 10:26 a.m.

TRD-9451773

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The Commission will consider and act on the Information Resource Manager's report on information resource planning documents.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: December 2, 1994, 10:26 a.m.

TRD-9451774

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Personnel Division director's report on division administrations, budget, procedures, and personnel matters. The Commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967,  
Austin, Texas 78711-2967, (512) 463-6981.

Filed: December 2, 1994, 10:26 a.m.

TRD-9451775

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

AGENDA:

1) Division director's report on AFRED administration, procedures, budget, program contracts, grants, personnel and policy matters relating to propane research, marketing and public education programs.

Contact: Dan Kelly, P.O. Box 12967,  
Austin, Texas 78711-2967, (512) 463-7110.

Filed: December 2, 1994, 10:27 a.m.

TRD-9451776

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Big Bend National Park AML Project contract bid award. The Commission will consider and act on the Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.E., P.O.  
Box 12967, Austin, Texas 78711, (512)  
463-6901.

Filed: December 2, 1994, 10:27 a.m.

TRD-9451777

Monday, December 12, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967,  
Austin, Texas 78711, (512) 463-7033.

Filed: December 2, 1994, 10:29 a.m.

TRD-9451778

### Boards for Lease of State-Owned Lands

Friday, December 9, 1994, 10:00 a.m.

General Land Office, Stephen F. Austin  
Building, 1700 North Congress Avenue,  
Room 833

Austin

Board for Lease of Texas Parks and Wild-  
life Department

AGENDA:

Approval of previous board meeting minutes; consideration of tracts, terms and conditions for the April 4, 1995 oil, gas and other minerals lease sale; easement amendment request. Mustang Island State Park, Nueces County; lease amendment request, Lake Brownwood, State Park, Brown County.

Contact: Linda K. Fisher, 1700 North Congress  
Avenue, Room 836, Austin, Texas  
78701, (512) 463-5016.

Filed: December 1, 1994, 4:12 p.m.

TRD-9451758

### Stephen F. Austin State University

Friday, December 16, 1994, 10:00 a.m.

Stephen F. Austin Campus, Room 307,  
Austin Building

Nacogdoches

Board of Regents, Work Session of Academic and Student Affairs Committee

AGENDA

I. Recruiting and Retention

A. Current Program

B. Short Term Plan

C. Future Plan

D. Discussion

Contact: Dr. Dan Angel, P.O. Box 3078,  
SFA Station, Nacogdoches, Texas 75962,  
(409) 568-2201.

Filed: December 5, 1994, 3:05 p.m.

TRD-9451872

### Structural Pest Control Board

Monday, December 19, 1994, 9:00 a.m.

Joe C. Thompson Conference Center, 2405  
East Campus Drive, Room 2.122

Austin

Advertising Committee

AGENDA

I. Public Comment.

II. Discuss and review proposed regulations concerning Low-Impact Pest Control Services.

Contact: Benny M. Mathis, Jr., 9101 FM  
1325, Suite 201, Austin, Texas 78758,  
(512) 835-4066.

Filed: December 5, 1994, 4:23 a.m.

TRD-9451883

### Sunset Advisory Commission

Wednesday-Thursday, December 14-15,  
1994, 9:00 a.m.

1400 North Congress Avenue, Room  
E1.030, Capitol Extension

Austin

AGENDA:

Wednesday, December 14, 1994-Call to order, approval of minutes, commission decisions on: Office of State-Federal Relations, Texas Racing Commission, Equine Research Account Advisory Committee, presentation of staff reports and public testimony on: State Preservation Board, Texas Department of Agriculture, Guadalupe-Blanco River Authority.

Thursday, December 15, 1994-Presentation of staff report and public testimony on: Teacher Retirement System, next meeting date, adjourn.

Contact: Susan Kinney, 1400 North Congress  
Avenue, Room E2.002, Austin, Texas  
78703, (512) 463-1300.

Filed: December 5, 1994, 9:00 a.m.

TRD-9451841

## Teacher Retirement System of Texas

Friday, December 9, 1994, 8:30 a.m.

1000 Red River, Fifth Floor Board Room  
Austin

Board of Trustees

### AGENDA:

Roll call of board members; consider of board member absence from November Board of Trustees meeting; consideration of Appreciation Awards; public comments; approval of minutes of November 18, 1994, meeting; report of Nominations Committee; report of Audit Committee; report of Investment Committee; report of Real Estate Committee; consideration of proposed modification to the bylaws of the Board of Trustees; review of issues identified in Sunset staff evaluation and consideration of TRS response; review of TRS financial report as of August 31, 1994; report of Texas Public School Retired Employees Group Insurance Program; report of Benefits Division; consideration of proposed rules relating to administrative procedures; establish dates for future Board of Trustees meetings; report of executive director; comments by board members; report of general counsel on litigation; and evaluation of the performance of the executive director.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: December 1, 1994, 3:56 p.m.

TRD-9451746

## The Texas A&M University System

Wednesday, December 14, 1994, 10:30 a.m.

Westgate Building, Suite 307, 1122 Colorado

Austin

Legislative Committee

### AGENDA:

The purpose of the meeting is to review the Legislative Program and issues as they relate to the Texas A&M University System for the 74th Texas Legislature.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: December 5, 1994, 8:12 a.m.

TRD-9451835

## The Texas State University System

Thursday, December 8, 1994, 5:00 p.m.

First Floor Conference Room, Houston Harte Student Center, Angelo State University

San Angelo

Revised Agenda

Board of Regents

### AGENDA

In addition of the matters previously filed: exchange of property regarding the Freeman Ranch Trust at Southwest Texas State University.

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: December 5, 1994, 4:30 p.m.

TRD-9451887

Friday, December 9, 1994, 8:00 a.m.

First Floor Conference Room, Houston Harte Student Center, Angelo State University

San Angelo

Revised Agenda

Board of Regents

### AGENDA

In addition of the matters previously filed: exchange of property regarding the Freeman Ranch Trust at Southwest Texas State University.

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: December 5, 1994, 4:30 p.m.

TRD-9451888

## Texas Woman's University

Friday, December 9, 1994, 9:00 a.m.

14th Floor, Administration and Conference Tower, 1322 Oakland

Denton

Finance and Audit Committee

### AGENDA:

I. Consider approval of the minutes of the Committee meeting of August 26, 1994.

II. Consider recommending approval of personnel additions and changes.

III. Consider recommending acceptance of gifts and grants.

IV. Consider recommending approval of contracts and agreements.

V. Consider recommending approval of allocation of federal funds.

VI. Consider recommending approval of the renewal and extension of insurance.

VII. Consider recommending approval of the Certificates of Substantial Completion on the Library Parking Lot Extension, Repaving of Administration Drive East of Bell Avenue project, carpet installation on second floor of ACT project, and moisture control repairs at Pannel Hall, Dallas project.

VIII. Consider reaffirming authorization for K. G. Lynch, Accountant, C. W. Coleman, Accountant, S. S. Fry, Accountant, C. R. Trevino, Accountant, and E. W. Petersen, Controller, to approve vouchers submitted to the State Comptroller of Public Account of payment.

IX. Recommend approval of the 1993-1994 Annual Internal Audit Report.

X. Receive the First Quarter 1994-1995 Internal Audit Report.

XI. Report of the Committee Chair.

Contact: President Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 5, 1994, 11:38 a.m.

TRD-9451861

Friday, December 9, 1994, 9:30 a.m.

14th Floor, Administration Conference Tower, 1322 Oakland

Denton

Student Affairs Committee

### AGENDA:

I. Consider approval of the minutes of the Committee meeting of August 26, 1994.

II. Report on activities of the Office of Student Life.

III. Report of the Committee Chair.

Contact: President Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 5, 1994, 11:39 a.m.

TRD-9451862

Friday, December 9, 1994, 10:00 a.m.

14th Floor Administration Conference Tower, 1322 Oakland

Denton

Committee on Institutional Advancement

### AGENDA:

I. Consider approval of the minutes of the Committee meeting of August 26, 1994.

II. Report on alumnae relations, development, and public information activities of

the Office of Institutional Advancement.

### III. Report of the Committee Chair.

Contact: President Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 5, 1994, 11:39 a.m.

TRD-9451863

Friday, December 9, 1994, 10:30 a.m.

14th Floor, Administration Conference Tower, 1322 Oakland

Denton

Academic Affairs Committee

#### AGENDA:

I. Consider approval of the minutes of the Committee meeting of August 26, 1994.

II. Consider recommending approval of the Small Class Report (Exhibit 1).

III. Consider recommending approval of the deletion of the following M.S. and Ph.D. programs: Family Relations (19.0704.00) Ph.D., M.S.; Consumer Sciences (19.0402.00) Ph.D., M.S.; Textiles and Apparel (19.0901.00) Ph.D.; Textile Technology (19.0901.00) Ph.D.; Fashion Design (50.0407.00) Ph.D.

IV. Report on activities in the Office of the Academic Affairs.

V. Report of the Committee Chair.

Contact: President Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 5, 1994, 11:39 a.m.

TRD-9451864

Friday, December 9, 1994, 1:30 p.m.

14th Floor Administration Conference Tower, 1322 Oakland

Denton

Board of Regents

#### AGENDA:

I. Executive Session

II. Consider approval of the minutes of the August 26, 1994 meeting.

III. Finance and Audit Committee: Consider approval of personnel additions and changes, gifts and grants, contracts and agreements, federal funds, insurance, Certificates of Substantial Completion; the 1993-1994 Annual Internal Audit Report; Report of the Committee Chair.

IV. Student Affairs Committee: Report of the Committee Chair.

V. Committee on Institutional Advancement: Report of the Committee Chair.

VI. Academic Affairs Committee: Consider approval of the Small Class Report, deletion

of certain M.S. and Ph.D. programs; Report of the Committee Chair.

VII. Consider approval of TWU admissions policy.

VIII. Report from the President.

IX. Hear report from Campus Master Planners (HKS).

Contact: President Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 5, 1994, 11:39 a.m.

TRD-9451865

## Texas Department of Transportation

Thursday, December 13, 1994, 9:00 a.m.

815 Brazos, Suite 302, Brazos Building

Austin

Motor Vehicle Board

#### AGENDA:

Call to order; roll call; approval of minutes of Motor Vehicle Board meeting on September 29, 1994; Recognition of employees; agreed orders; orders of dismissal; consideration of proposed new Texas Motor Vehicle Board Rule of Practice and Procedure §103.13. Other: a. review of Litigation Status Report; b. Review of Consumer Complaint Recap Report including decisions made by examiners, division director and Board members; c. Review of Article 6686 (P-number) Contested Cases; d. Division budget status; e. Approval of 1995 Board meeting schedule; adjournment.

Contact: Brett Bray, 815 Brazos, #300, Austin, Texas 78701, (512) 476-3587.

Filed: December 5, 1994, 10:52 a.m.

TRD-9451857

## University of North Texas/University of North Texas Health Science Center

Friday, December 2, 1994, 8:00 a.m.

3500 Camp Bowie Boulevard, Founders Board Room, Medical Education Building One, UNT Health Science Center

Fort Worth

Emergency Revised Agenda

#### AGENDA:

UNTHSC: approval of minutes; executive session (UNT/UNTHSC: legislative update; liability insurance. UNTHSC: student issue-test; student issue-biochemistry; update

on current lawsuits; potential litigation regarding investments. UNT: athletic update; historical collection; update on current lawsuits; bookstore lease; Nike Missile Base lease; FIREL faculty issue; Mathematics faculty issue; Physics staff issue.); faculty development leave; consensual relationships policy; Certified Non-Profit Health Corporation; personnel transactions; managed care presentation; gift report; student transcript fee; project status report; SACS site visit; federal prison contract; student issues and affiliations.

UNT: approval of minutes; faculty leaves of absence; Professor Emeritus recommendations; Regents' faculty lecture; MS Degree, Applied Geography; revision to Board of Regents bylaws; personnel transaction; gift report; proficiency exam fee; application fee for graduate students; waiver of application fee, Dallas Education Center; Nike Missile Base lease; bookstore lease; Physics building renovation; property purchase, 1120 Eagle Drive; construction of storage facility; thermal storage; project status report; resolution of appreciation for Janice Dobbs; election of new board secretary; excellence in the fine arts and athletics.

Reason for emergency: issue of litigation and urgent student matters have just been raised.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: December 1, 1994, 10:49 a.m.

TRD-9451725

## Texas Workers' Compensation Insurance Fund

Tuesday, December 13, 1994, 4:00 p.m.

100 Congress Avenue, Suite 600

Austin

Board of Directors, Organization Effectiveness Committee

#### AGENDA

Nomination of Board officers for 1995; executive session; adjourn.

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: December 5, 1994, 3:29 p.m.

TRD-9451873

## Texas Council on Workforce and Economic Competitiveness

Thursday, December 8, 1994, 2:30 p.m.

Austin Convention Center, Colorado Room,

201 East Second Street

Austin

Emergency Meeting

Executive Committee

AGENDA:

2:30 p.m. Proposed amendment of Eylaws concerning a committee on apprenticeship, 3:00 p.m. adjourn.

Reason for Emergency: This action is posted as an action item for the meeting of the Council on December 9, 1994, and full notice was given. It has been determined that the Executive Committee should have an opportunity to consider this issue and make a recommendation on it to the full Council. A failure to fully explore this issue prior to the Council meeting could result in an ill-considered decision.

Contact: Kevin Faulkner, P.O. Box 2241, Austin, Texas 78769, (512) 707-8901.

Filed: December 5, 1994, 9:25 a.m.

TRD-9451849

Friday, December 9, 1994, 8:30 a.m.

Austin Convention Center, Colorado Room, 201 East Second Street

Austin

Revised Agenda

Full Council

AGENDA:

1:00 p.m. Proposed amendment of bylaws concerning a committee on apprenticeship. 1:30 p.m. Adjourn.

Contact: Kevin Faulkner, P.O. Box 2241, Austin, Texas 78769, (512) 707-8901.

Filed: December 1, 1994, 3:56 p.m.

TRD-9451745

## Regional Meetings

### Meetings Filed December 1, 1994

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 400, San Antonio, December 6, 1994, at 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9451737.

The Bandera County Appraisal District Board of Directors met at 1116 Main Street, Bandera, December 7, 1994, at 3:00 p.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, Fax: (210) 796-3672. TRD-9451727

The Bandera County Appraisal District Appraisal Review Board will meet at 1116 Main Street, Bandera, December 20, 1994, at 9:00 a.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, Fax: (210) 796-3672. TRD-9451732.

The Dawson County Central Appraisal District Board of Directors met at 1806 Lubbock Highway, Lamesa, December 7, 1994, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9451741.

The East Texas Council of Governments Executive Committee met at 3800 Stone Road, Kilgore, December 8, 1994, at 2:00 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9451728.

The Education Service Center, Region XX Board of Directors will meet at 1314 Hines Avenue, San Antonio, December 14, 1994, at 2:00 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208-1899, (210) 299-2471. TRD-9451735.

The Appraisal District of Jones County Board of Directors will meet at 1137 East Court Plaza, Anson, December 15, 1994, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9451726.

The Lampasas County Appraisal District Appraisal Review Board met at 109 East Fifth Street, Lampasas, December 6, 1994, at 9:00 a.m. Information may be obtained from Tommy L. Watson, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9451724.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, December 6, 1994, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9451748.

The Lower Colorado River Authority Board of Trustees Investment Subcommittee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, December 6, 1994, at 11:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9451750

The Lower Colorado River Authority Board of Trustees met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, December 6, 1994, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin,

Texas 78767, (512) 473-3287. TRD-9451749.

The Panhandle Regional Planning Committee Board of Directors met at 415 West Eighth Avenue, Amarillo, December 8, 1994, at 1:30 p.m. Information may be obtained from Rebecca Rusk, 415 West Eighth, Amarillo, Texas 79101, (806) 372-3381. TRD-9451763.

The Sabine Valley Center Board of Trustees met at Judson Road, 107 Woodbine Place, Longview, December 8, 1994, at 7:30 p.m. Information may be obtained from Mack Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9451731.

### Meetings Filed December 2, 1994

The Austin-Travis County MHMR Center Planning and Operations Committee met at 1430 Collier Street, Board Room, Austin, December 8, 1994, at 11:00 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9451771.

The Austin-Travis County MHMR Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, December 8, 1994, at Noon. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548. TRD-9451816.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124A Regal Row, Austin, December 8, 1994, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax (512) 282-7016. TRD-9451809.

The Brazos Valley Development Council Brazos Valley Regional Review Committee will meet at 1706 East 29th Street, Conference Room, Bryan, December 15, 1994, at 9:00 a.m. Information may be obtained from Gary Basinger, P.O. Drawer 4128, Bryan, Texas 77805-4128. TRD-9451820.

The Brazos Valley MHMR Authority Board of Trustees met at 804 Texas Avenue, Bryan, December 8, 1994, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77845, (409) 822-6467. TRD-9451808.

The Creedmoor Maha Water Supply Corporation (Monthly Meeting) Board met at 1699 Laws Road, Mustang Ridge, December 7, 1994, at 7:00 p.m. Information may be obtained from Charles P. Laws, 1699 Laws Road, Buda, 78610, (512) 243-2113. TRD-9451764.

The Education Service Center, Region XV Board of Directors met at 612 South

Irene Street, San Angelo, December 8, 1994, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9451765.

The Garza Central Appraisal District Appraisal Review Board met at 124 East Main, Post, December 6, 1994, at 2:30 p.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9451767.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, December 5, 1994, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9451817.

The Gonzales County Appraisal District Agricultural Advisory Board met at 928 St. Paul Street, Gonzales, December 6, 1994, at 7:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9451825.

The Gray County Appraisal District Appraisal Review Board met at 815 North Sumner, Pampa, December 6, 1994, at 11:00 a.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9451827.

The Hockley County Appraisal District Appraisal Review Board met at 1103 Houston, Levelland, December 6, 1994, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9451787.

The Hunt County Appraisal District Board of Directors met at 4801 King Street, Greenville, December 8, 1994, at Noon. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9451818.

The Manville Water Supply Corporation Board met at Spur 277, Board Room, Coupland, December 8, 1994, at 7:00 p.m. Information may be obtained from Laverna Rohlach, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9451789.

The Montague County Tax Appraisal District Board of Directors met at 312 Rusk Street, Montague, December 7, 1994, at 5:00 p.m. Information may be obtained from Wanda Russel, P.O. Box 121, Montague, Texas 76251, (817) 894-2081. TRD-9451822.

The Rio Grande Compact Commission will meet in Room 317, State Capitol Building, Santa Fe, New Mexico, January 6, 1995, at 9:00 a.m. Information may be obtained from According to the agenda, the Zack L. Dean, 12100 Park 35 Circle,

Austin, Texas 78753, (512) 239-4708. TRD-9451806.

The San Antonio-Bexar County Metropolitan Planning Organization Technical Advisory Committee met at 434 South Main, Suite 205, San Antonio, December 6, 1994, at 9:00 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9451768.

The Shackelford Water Supply Corporation Regular Director's met at Fort Griffin Restaurant, Albany, December 7, 1994, at Noon. Information may be obtained from E. D. Fincher, P.O. Box 1295, Albany, Texas, (915) 762-2519. TRD-9451783.

The Board for Lease of State-owned Lands Board for Lease of Texas Department of Criminal Justice will meet in the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin, December 16, 1994, at 9:00 a.m. Information may be obtained from Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016. TRD-9451826.

The Board of Tax Professional Examiners will meet at 333 Guadalupe, Hearing Room 102, Austin, December 12, 1994, at 1:30 p.m. Information may be obtained from Peter A. Stone, 333 Guadalupe Street, Tower 2, Suite 520, Austin, Texas 78701-3942, (512) 305-7300. TRD-9451813.

The Texas Workers' Compensation Commission met at 4000 South IH-35, Room 910-911, Southfield Building, Austin, December 7, 1994, at 1:30 p.m. Information may be obtained from Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690. TRD-9451791.

The Texas Workers' Compensation Commission Medical Advisory Committee will meet at 4000 South IH-35, Room 910-911, Southfield Building, Austin, December 9, 1994, at 9:30 a.m. Information may be obtained from Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690. TRD-9451790.

The Texas Workers Compensation Insurance Facility Budget Subcommittee will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin, December 13, 1994, at 9:30 a.m. Information may be obtained from Peter E. Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222. TRD-9451815.

The Texas Workers' Compensation Insurance Facility Governing Committee will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin, December 13, 1994, at 10:00 a.m. Information may be obtained from Peter E. Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222. TRD-9451814.

## Meetings Filed December 5, 1994

The Bandera County Appraisal District (Emergency Meeting.) Board of Directors met at 1116 Main Street, Bandera, December 7, 1994, at 3:00 p.m. (Reason for emergency: Less than 72 hours to revise agenda and unforeseen problems with employee health insurance occurred requiring immediate review.) Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, Fax (210) 796-3672. TRD-9451859.

The Central Texas MHMR Center Board of Trustees will meet at 408 Mulberry Drive, Brownwood, December 12, 1994, at 5:00 p.m. Information may be obtained from Saul Pullman, 408 Mulberry Drive, Brownwood, Texas 76801, (915) 646-9574, Ext. 102. TRD-9451889.

The Coastal Bend Quality Work Force Planning Association met at Alice City Council Chamber, Alice City Hall, Alice, December 7, 1994, at 1:00 p.m. Information may be obtained from Baldomero Garcia, 5110 Wilkinson Drive, Corpus Christi, Texas 78415, (512) 855-0322. TRD-9451879.

The Education Service Center, Region V Board will meet at 2295 Delaware Street, Beaumont, December 16, 1994, at 10:30 a.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703-4299, (409) 838-5555. TRD-9451878.

The Education Service Center, Region VII Board of Directors will meet at 1000 Country Club Lane (Mt. Pleasant Country Club), Mt. Pleasant, December 16, 1994, at 11:30 a.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9451867.

The Elm Creek WSC Board will meet at the Willow Grove Baptist Church, Moody, December 12, 1994, at 7:00 p.m. Information may be obtained from Paulette Richardson, 417 East Payne Branch, Moody, Texas, (817) 853-2339. TRD-9451877.

The Kendall Appraisal District Agricultural Advisory Board will meet at 121 South Main Street, Boerne, December 15, 1994, at 6:00 p.m. Information may be obtained from Mick Mikulenska or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012 or FAX (210) 249-3975. TRD-9451853.

The Lometa Rural Water Supply Corporation Board of Directors will meet at 506 West Main Street, Lometa, December 12, 1994, at 4:45 p.m. Information may be obtained from Levi G. Cash or Tina L. Hodge, P.O. Box 158, Lometa, Texas 76853, (512) 752-3505. TRD-9451868.



**The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization** will meet at the TxDOT District Office, 600 West Expressway U.S. 83, Pharr, December 12, 1994, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 4900 North 23rd Street, McAllen, Texas, (210) 682-8481. TRD-9451890.

**The Palo Pinto Appraisal District Appraisal Review Board** will meet at the Courthouse, Highway 180, Palo Pinto, December 13, 1994, at 1:30 p. m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9451880

**The Palo Pinto Appraisal District Board of Directors** will meet at the Courthouse, Highway 180, Palo Pinto, December 14, 1994, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9451876.

**The Permian Basin Regional Planning Commission Board of Directors** will meet at 2910 La Force Boulevard, Midland, December 14, 1994, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 78711, (915) 563-1061. TRD-9451871.

**The South Texas Development Council Board of Directors** met at the Commissioners Courtroom, Courthouse Annex, Zapata, December 8, 1994, at 11: 00 a.m. Information may be obtained from Julie Saldana, Courthouse Annex, Zapata, (210) 722-3995. TRD-9451837.

**The STED Corporation Board of Trustees** met at Commissioners Courtroom, Courthouse Annex, Zapata, December 8, 1994, at 10:30 a.m. Information may be obtained from Robert Mendiola, Courthouse Annex, Zapata, Texas, (210) 722-3995. TRD-9451836

**The West Central Texas Council of Governments Regional Review Committee** met at 1025 East North Tenth Street, Abilene,

January 5, 1995, 9:00 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9451858.

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**Meetings Filed December 6,  
1994**

**The Erath County Appraisal District Board of Directors** will meet at 1390 Harbin Drive, Stephenville, December 15, 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-9451923.

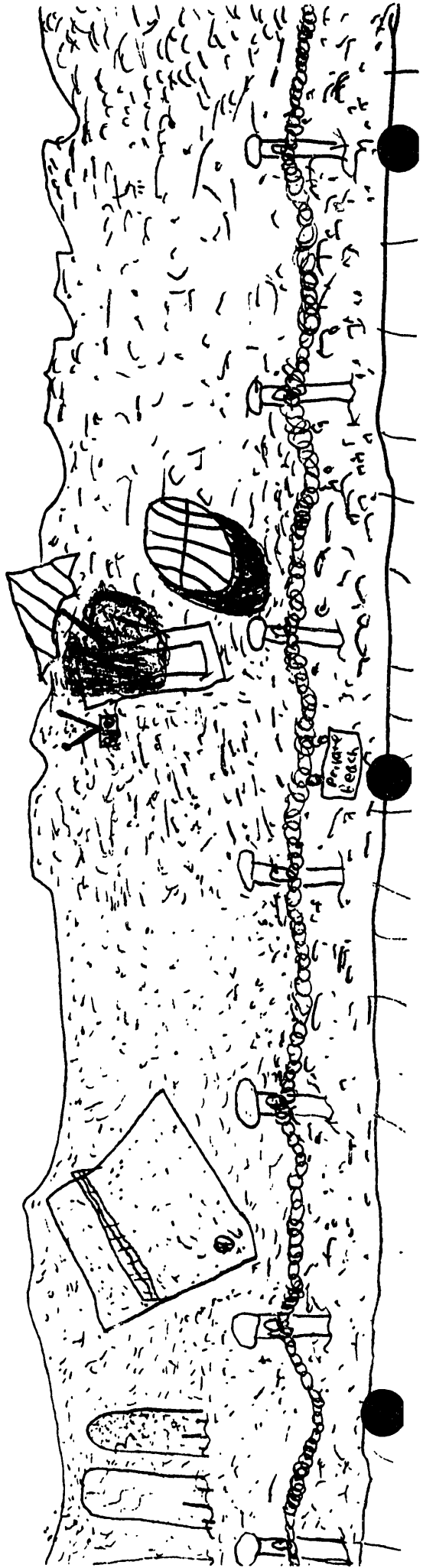
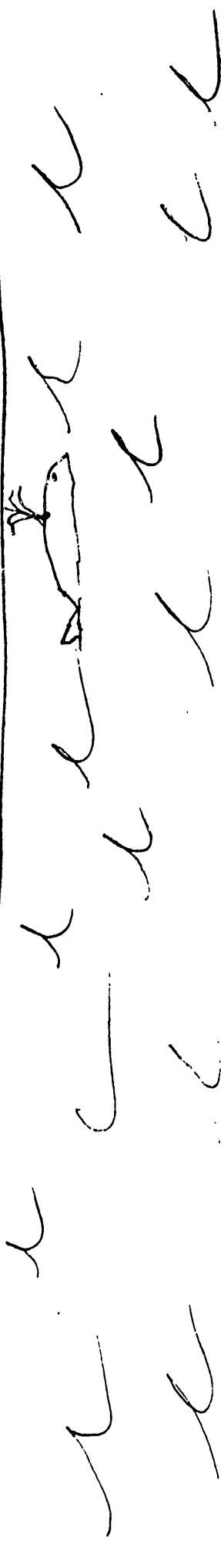
**The Liberty County Central Appraisal District Appraisal Review Board** will meet at 315 Main Street, Liberty, December 15, 1994, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9451891.

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Name: Cameron Charles  
Grade: 6

School: Bovina Middle School, Bovina 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 Notice of Consultant Contract Award

In accordance with the provisions of Chapter 2254, Subchapter B of the Texas Government Code, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the October 14, 1994, issue of the *Texas Register* (19 TexReg 8230).

The consultant will perform a management and performance review of the Waco Independent School District, and will produce periodic progress reports and a final report containing the consultant's conclusions and recommendations. These reports shall include analyses and recommendations to contain costs, improve management strategies, and to promote better education through school administration efficiency. The successful proposer will be expected to begin performance of the contract on or about December 1, 1994.

The contract is awarded to MGT of America, Inc., doing business as MGT Consultants, 100 Congress Avenue, Suite 2018, Austin, Texas 78701. The total dollar value of

the contract is not to exceed \$125,000.00. The contract was executed November 30, 1994, and extends through August 31, 1995. MGT of America, Inc., is to present a final report on or about March 6, 1995, on conclusions reached from the services performed under said contract. Issued in Austin, Texas, on December 1, 1994.

TRD-9451738

Arthur F. Lorton  
Senior Legal Counsel  
Comptroller of Public Accounts

Filed: December 1, 1994

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(3)</sup>/Agricultural/ Commercial <sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	12/05/94-12/11/94	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) <sup>(1)</sup>	12/01/94-12/31/94	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/95-03/31/95	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	01/01/95-03/31/95	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) <sup>(3)</sup>	01/01/95-03/31/95	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	01/01/95-03/31/95	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	01/01/95-03/31/95	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	12/01/94-12/31/94	10.00%	10.00%

<sup>(1)</sup>For variable rate commercial transactions only. <sup>(2)</sup>Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. <sup>(3)</sup>Credit for personal, family or household use. <sup>(4)</sup>Credit for business, commercial, investment or other similar purpose.

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

TRD-9451680 Leslie L. Pettjohn  
Acting Commissioner

Filed: November 30, 1994

## Texas Education Agency

### Request for Application Concerning the Christa McAuliffe Fellowship Program, 1995-1996

Filing Authority. Request for Application (RFA) #701-95-005 is filed under Public Law 102-325.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from qualified teachers for the

**Christa McAuliffe Fellowship Program.** This program honors the memory of the late Christa McAuliffe, the New Hampshire teacher who served as an astronaut on the space shuttle Challenger in January 1986. All applicants must have at least eight years of teaching experience in elementary or secondary public or private schools.

**Description.** Each Christa McAuliffe fellowship may be used for:

1. sabbaticals for study, research, or academic improvement to: improve the teacher's knowledge base in an area of expertise or learn a new area of expertise; increase skills and professional ability; enhance the ability of teachers to work with special education populations, including gifted and talented children, limited English proficiency children, children with disabilities, and economically and educationally disadvantaged children;
2. consultation with or assistance to other school districts or private school systems for development of special innovative programs;
3. projects or partnerships that involve the business community and the schools;
4. programs that incorporate the use and sharing of technologies to help students learn; or
5. expanding or replicating model programs of staff development.

**Dates of Project.** The Christa McAuliffe Fellowship Program will be implemented during the 1995-1996 school year. Applicants should plan for a starting date of Friday, September 1, 1995, and an ending date of Friday, August 30, 1996.

**Project Amount.** Funds will be available to full-time teachers currently teaching in elementary or secondary public or private schools. Fellowships will be awarded to recipients in amounts equal to the annual salaries the individuals would receive in their current places of employment for the award period. Applications for the Christa McAuliffe Fellowship Program are competitive and will be funded until grant funds are depleted.

**Selection Criteria.** Distribution of the awards will be based on the applications prepared by the teachers and reviewed by a statewide panel composed of teachers, school administrators, parents, representatives of higher education, and members of professional education organizations. Each application will be judged on: (1) the quality and consideration of the applicant's evaluations during employment as a teacher; (2) the applicant's demonstrated commitment to teaching in the future; and (3) the intended activities during the award period. The statewide panel makes the final selection of recipients for the fellowship awards and presents the names to the commissioner.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any application that is submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFA does not obligate TEA to award a contract or pay any costs incurred in the preparation of a response.

**Requesting the Application.** A complete copy of RFA #701-95-005 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1700 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 this request, contact Evangelina Galvan, Division of Educator Preparation, Texas Education Agency, (512) 463-9327 or 1-800-304-8162. This information is also available on the Texas Education Network (TENET).

**Deadline for Receipt of Applications.** Applications must be received in the Document Control of the Texas Education Agency by 5:00 p.m., Tuesday, March 7, 1995.

Issued in Austin, Texas, on December 5, 1994.

TRD-9451847  
Cris Cloudt  
Executive Associate Commissioner for  
Policy Planning and Information  
Management  
Texas Education Agency

Filed: December 5, 1994

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**Request for Proposals Concerning  
Improving Student Achievement in  
Social Studies, 1994-1995.**

**Filing Authority.** Request for proposals (RFP) #701-95-012 is filed under the Goals 2000: Educate America Act, Public Law 103-227; the Texas Education Code, §21.101 and §11.30; and 19 TAC §75.5

**Eligible Proposers.** The Texas Education Agency (TEA) is requesting proposals from institutions of higher education, regional education service centers, professional associations, non-profit organizations, for-profit organizations, private companies, and other entities for the management of the process of clarifying the essential elements of instruction for social studies education.

**Description.** The objective of the project is to clarify the essential elements and develop performance standards for Grades 1-12 in social studies. The main emphasis of the first phase of the project is to define what students should know and be able to do and levels of expected student achievement. Additional activities in subsequent years concerning professional development may be funded. Completion of Phase I may occur during the second year of the project, contingent upon the quality of the essential elements, the response from the field and public reviews, and State Board of Education (SBOE) approval. Ultimately, the clarified essential elements will form the basis for statewide alignment of curriculum, instruction, instructional materials, assessment, and staff development.

The TEA, with the assistance of a contracted management team, will work in collaboration with public and private institutions of higher education, regional education service centers, professional organizations, and other national- and state-based educational entities to achieve these objectives. The selected contractor will manage the clarification and rewriting process of the essential elements by planning and conducting meetings, synthesizing the work of the clarification team, and conducting reviews by the SBOE-appointed review committee and the public.

**Dates of Project.** The project activities will begin during the 1994-1995 school year. Proposers should plan for a starting date of no earlier than February 20, 1995, and an ending date of no later than September 30, 1995.

**Project Amount.** This is anticipated to be a three-year project. The first phase of the social studies project is federally funded and will not exceed \$358,000. Funding for subsequent years of the project will be determined at a

later date. Proposers are to focus their bid for the RFP on the activities described for the first phase of the project. Project funding in the 1995-1996 and 1996-1997 school years will be based on satisfactory progress of the 1994-1995 objectives and activities and general budget approval by the SBOE and the commissioner of education. The social studies project is funded 100% from the federal Goals 2000: Educate America Act.

**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 TEA reserves the right to select from the highest ranking proposals those that address all requirements in the RFP and that best meet the outcomes desired.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate TEA to award a contract or to pay any costs incurred in the preparation of a response.

**Requesting the Proposal.** A complete copy of RFP #701-95-012 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 Dorris Boone, Division of Curriculum Development and Textbooks, Texas Education Agency, (512) 463-4314.

**Deadline for Receipt of Proposals.** Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Friday, January 20, 1995, to be considered.

Issued in Austin, Texas, on December 5, 1994.

TRD-9451848      **Crisa Cloudt**  
Executive Associate Commissioner for  
Policy Planning and Information  
Management  
Texas Education Agency

Filed: December 5, 1994

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**General Land Office**  
**Contract Awards**

Pursuant to Texas Government Code Annotated, §2254.021 et seq, the General Land Office announces the award of a contract extension for consulting services. Consultant will continue to review alternative organizational structures prepared by GLO for implementing the Coastal Management Program (CMP). Consultant will provide other requested assistance with issues related to the CMP, such as environmental assessment and other draft documents, and will be available for regular telephone consultation on these issues as needed by CMP staff. The contract is an extension of a contract, under which a consultant has been providing support to the General Land Office, Coastal Management Program.

The request for proposals to provide these services was published in the January 28, 1994, issue of the *Texas Register* (19 TexReg 656).

The contract has been awarded to Richard F. Delaney, in care of R.G. Magnuson, 394 Park Street, South East, Vienna, Virginia 22180. The use of the private consultant to provide these services was approved by the Governor's Office of Budget and Planning on February 7, 1994. The consultant is to continue providing the support and assistance to the Coastal Management Program that was provided under the terms and conditions of GLO Contract Number 94-167R. The term of that contract has been extended to terminate no later than August 31, 1995. Total consideration to be paid, including the extension, is not to exceed \$25,000, including approved expenses.

The consultant will provide such advice and assistance as may be requested by the Coastal Management Program, as well as such mediation services as may be required to resolve conversion issues among environmental, industry, and governmental groups.

Issued in Austin, Texas, on November 29, 1994.

TRD-9451734      **Garry Mauro**  
Commissioner  
General Land Office

Filed: December 1, 1994

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Pursuant to Texas Government Code Annotated, §2254.021 et seq, the General Land Office announces the award of a contract extension for consulting services. Consultant will continue alternative fuels work in the coordination and facilitation of specific initiatives. The consultant will continue to be called upon to represent the General Land Office, Alternative Fuels Division, at various functions, intergovernmental meetings and/or neighborhood special assemblies. The contract is an extension of a contract, under which a consultant has been providing support to the General Land Office, Alternative Fuels Program, in the agency's ongoing efforts.

The request for proposals to provide these services was published in the August 5, 1994, issue of the *Texas Register* (19 TexReg 6146).

The contract has been awarded to R.L.P.B. Transit Group, (Rudolph F. Rodriguez), 1123-B Babcock, San Antonio, Texas 78201. The use of the private consultant to provide these services was approved by the Governor's Office of Budget and Planning on August 4, 1994. The consultant is to continue providing the support and assistance to the Alternative Fuels Program that was provided under the terms and conditions of GLO Contract Number 94-255R. The term of that contract has been extended to terminate no later than August 31, 1995. Consideration to be paid is not to exceed \$19,800, including approved expenses.

The consultant will provide such advice and assistance as may be requested by the Alternative Fuels Program, as well as such mediation services as may be required to resolve conversion issues among environmental, industry, and governmental groups. For further information, please call (512) 463-5100.

Issued in Austin, Texas, on November 29, 1994.

TRD-9451733      **Garry Mauro**  
Commissioner  
General Land Office

Filed: December 1, 1994

**General Services Commission, State  
Energy Conservation Office  
Consultant Proposal Request**

This request for consulting services is filed under the Texas Government Code, Chapter 2254, Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The State Energy Conservation Office (SECO) on behalf of the Alternative Fuels Program invites proposals from qualified private entities, institutions of higher education, or individuals to procure certification(s), validation(s) and regulatory and market acceptance for a natural gas powered vehicle (NGV) conversion kit for installation in General Motors 1995 Model Year Caprice taxi cabs produced at the Arlington, Texas, General Motors Assembly Plant. Both the kit and the resulting upfitted natural gas vehicle (NGV) must be validated and certified to meet all federal and state safety, durability, performance, driveability and emissions standards. Emissions certification(s) must meet the ILEV standard, i.e., resulting in a vehicle that will meet California Air Control Board (CARB) TLEV standards and does not emit any evaporative emissions. The State Energy Conservation Office will fund an amount not to exceed \$900,000 for these efforts; the selected consultant will be required to provide in-kind contributions or procure additional funding as necessary for completion of this project. The State of Texas operates under the basic principle of free and vigorous competition. Historically Underutilized Businesses (HUBs) are encouraged to bid and all businesses that bid are encouraged to give particular attention in preparing their bids to include HUBs as subcontractors at the first tier. In accordance with House Bill 2626, 73rd Legislature (1993), which amended Texas Civil Statutes, Article 601b, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBs. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers, or material providers. To the extent applicable, preference will be granted to resident bidders for all aspects of this project in accordance with the Texas Government Code, Chapter 2252, and for products manufactured in Texas in accordance with Texas Civil Statutes, Article 601b, Article 3, §3.28.

**Background.**

A. Federal Regulatory Scheme and Initiatives. The Clean Air Act Amendments of 1990 (CAAA), Public Law No. 101-549, encourage the purchase of "clean-fuel vehicles" by public or private fleet owners or operators of ten or more vehicles capable of being centrally fueled within 22 metropolitan areas with a 1980 population of 250,000 or more and designated by the United States Environmental Protection Agency (EPA) as in severe or extreme non-attainment of ambient air quality standards for ozone or carbon dioxide. The State of Texas has three non-attainment areas as defined in the CAAA: Beaumont-Port Arthur, El Paso and Houston-Galveston-Brazoria. By 1998, clean fuel vehicles are expected to comprise 30% of affected fleets. The Energy Policy Act of 1992 (EPACT), Public Law Number 102-486, 106 STAT. 2782, expanded the list of affected areas to include more than 120 cities with a 1980 population of 250,000 or more. Several titles of the Act relate to alternative transportation fuels. In general, EPACT requires the purchase of alternative fuel vehicles by public and private fleets in affected areas,

accelerates the purchase requirements for alternative fuel vehicles by federal fleets and establishes tax incentives for the purchase of alternative fuel vehicles and for the conversion of traditional gasoline vehicles by the private sector. Fleets of 20 or more light-duty vehicles, weighing less than 8,500 lb gross vehicle weight (gvw), which are capable of being centrally fueled and are owned by a governmental entity or by a person who controls 50 or more such vehicles are subject to EPACT requirements. Affected public and private fleets within seven metropolitan areas of Texas are subject to EPACT: Austin, Beaumont-Port Arthur, Corpus Christi, Dallas-Fort Worth, Houston-Galveston-Brazoria, McAllen-Edinberg-Mission and San Antonio. Under EPACT, implementation and purchasing requirements vary depending on the nature of the fleet. For state and fuel provider fleets, EPACT will become effective in 1996. Certain municipalities and private fleets will be covered beginning in 1999.

B. State Regulatory Scheme and Initiatives. In 1989, the 71st Texas Legislature enacted Senate Bills 740 and 769, collectively known as the "Texas Plan." The Plan encourages the use of alternative fuels in public and private vehicle fleets for the stated purpose of improving air quality. Alternately fueled vehicles (AFVs) are defined as: "capable of using CNG or other alternative fuels that result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulate or any combination thereof." The Texas Natural Resource Conservation Commission (TNRCC) has recognized CNG, LNG, LPG, ethanol, methanol and electricity as alternative fuels. Natural gas and propane sold as motor vehicle fuels are additionally exempt from sales tax. Senate Bill 740 requires school districts with 50 or more buses, state agencies with 15 or more vehicles (excluding law enforcement and emergency vehicles) and metropolitan transit authorities to phase-in AFVs according to the following schedule: September 1, 1994: 30% or more, September 1, 1996: 50% or more, September 1, 1998: 90% or more (if, by December 31, 1996, the Texas Natural Resource Conservation Commission determines that the program has been effective in reducing total annual emissions within the area). These percentages are applicable to an affected entity's entire fleet, not just newly purchased vehicles. The state agency charged with purchasing authority on behalf of the program, the General Services Commission, may waive compliance with fleet percentages if equipment or fuels supplies are unavailable within the area of operation or if the use of an alternative fuel would cost more than the use of traditional gasoline or diesel fuels over the expected useful life of the vehicle. Senate Bill 769 amended the Texas Clean Air Act and applies only to "non-attainment areas" as therein defined, i.e., areas with populations exceeding 350,000 that are in non-attainment for federal ambient air quality standards for ozone, carbon dioxide or particulates. The provisions of Senate Bill 769 are generally applicable to rapid transit buses and certain private fleet vehicles. If, by December 31, 1996, the Texas Natural Resource Commission (TNRCC) determines that the initial program has been effective, the Plan will be extended to local governments with more than 15 vehicles and private fleets with 25 vehicles or more (excluding emergency vehicles) according to the following schedule: September 1, 1998: 30%, September 1, 2000: 50%, September 1, 2002: 90%. The state agency with principle responsibility for the Texas Clean Air Act, the Texas Natural Resource Conservation Commission (TNRCC), recently adopted changes to Title 30, §114.1, concerning maintenance and operation of air

pollution control systems or devices used to control emissions from motor vehicles. Specifically, provisions were deleted which required vehicle conversion kits to be certified by the California Air Control Board (CARB) or certified in writing by the United States Environmental Protection Agency (EPA) as being in compliance with federal policy, Title 30, §114.1(b)(3)(A). This was a response to: (1) CARB's refusal to certify conversion kits for 1994 and later model year vehicles for sale outside of the state of California; and (2) EPA's failure to provide written verification that conversion kits for 1994 model years or later are in compliance with federal policy. TNRCC also has not adopted independent emissions certification standards based on asserted testing difficulties. This leaves EPA Memorandum I-A as the most recent policy statement regarding gasoline engine conversions. Currently, there is no EPA or equivalent approved equipment for conversion of diesel engine equipment to alternative fuels. The Texas Railroad Commission is charged with establishing safety standards for fuel conversion kit components and OEM engines and related hardware operating on alternative fuels. The standards for safety validation or certification which have been established by the Railroad Commission are, generally, more stringent than standards of the United States Department of Transportation.

C. State Energy Conservation Office. The State Energy Conservation Office/General Services Commission, formerly the Governor's Energy Office, is charged with administration of the energy-related programs described in the Texas Government Code, Chapters 447 (Energy Management Center) and 2305 (Oil Overcharge Restitutionary Act). The Office administers a wide variety of federal grants and oil overcharge funds which are spent within approximately 30 different programs, including, recycling, alternative fuels, sustainable and alternative energy demonstrations, transportation, energy-efficient construction and retrofit and weatherization projects.

Funding. This project will be funded with oil overcharge monies, specifically, Stripper Well Settlement monies, which have been approved for this purpose by the Department of Energy. Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the U.S. Department of Energy against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in energy programs deemed to provide restitution to citizens aggrieved by the overcharges. Funds are subject to program guidelines of DOE and the Final Stripper Well Settlement Agreement. These funds may be used to supplement existing programs, but may not supplant funds already allocated to the program. Approved projects will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and are subject to approval by the State Energy Conservation Office. Advance payments will not be allowed. Administrative expenses and/or indirect costs will be allowed only to the extent permitted under the guidelines for use of Stripper Well funds and policies of the State of Texas.

Services to be Performed. The successful proposer will procure certification(s), validation(s) and regulatory and market acceptance for a fully-warranted, original equipment manufacturer (OEM), natural gas powered vehicle (NGV) that meets the ILEV standard. At minimum, the successful proposer will be expected to: (1) Enter into a contract with a supplier of natural gas powered vehicle

conversion kits to supply, on commercially reasonable terms acceptable to submitter/proposer, one or more natural gas cylinders or kits for use in testing. The contract between submitter/proposer and supplier may require that the supplier shall, if vehicle certification and validation are successfully completed, be prepared to deliver commercial quantities of cylinders or kits sufficient to meet the reasonably expected demands of identified 1995 GM NGV's. (2) Ensure that all stand-alone tests involving structural integrity, pressure and impact have been completed for NGV fuel conversion kits prior to delivery and installation of the kits. (3) Enter into a contract with the General Motors Corporation or a supplier to supply, on commercially reasonable terms acceptable to submitter/proposer, one or more upfitted GM NGV Caprice taxi cabs for testing and driving validation tasks, including validation of tank configuration, crash testing, performance testing and emissions testing. (4) Conduct validation testing for a commercially-produced, upfitted 1995 NGV GM Caprice taxi cab. This shall include testing of the vehicle with installed NGV conversion kit, testing of the engine component design, engine mapping and calibration, engine emission and performance, vehicle certification and vehicle durability. Performance validation should include PCM diagnostic code check, vehicle cold start and cold driveability, hot weather driveability, high altitude and gradeability, and catalytic over temperature. (5) Conduct and successfully complete Federal Motor Vehicle Safety Standards (FMVSS) tests, including crash tests, noise pass-by, windshield defrost and defog, brake performance evaluation, and trim height. (6) Collect and assemble suitable data derived during the design, validation and certification processes for presentation to appropriate governmental and industrial groups connected with regulatory and market acceptance of the 1995 GM NGV's. (7) Develop and implement strategies to obtain regulatory and market acceptance of the 1995 Model Year GM NGV Caprice taxi cabs. (8) Obtain necessary regulatory approvals of 1995 Model Year GM Caprice NGV taxi cab from the United States Department of Transportation, the United States Department of Environmental Protection Agency (EPA), appropriate authorities of the State of Texas and other states, if applicable, in particular, the California Air Control Board (CARB). (9) Submit quarterly and final reports on the project as required by the State of Texas, State Energy Conservation Office and the United States Department of Energy.

Contact Person. For additional information or a proposal packet contact Renee Veasey, State Energy Conservation Office, P.O. Box 13047, Austin, Texas 78711, (512) 463-1931.

Closing Date. Seven copies of the sealed proposal should be sent to Mary-Jo Woodall at the previously listed address or at the State Energy Conservation Office. The State Energy Conservation Office is located at the Insurance Annex Building, Suite 200, 221 East 11th Street, Austin, Texas 78701. In order to be considered, proposals must be received in hand by 4:00 p.m. on January 9, 1995. Late proposals and proposals submitted by fax will not be considered.

Preproposal Conference. All potential proposers are encouraged to attend a preproposal conference to be held on, December 19, 1994, from 10:00 a.m. until noon at the Insurance Annex Building (1st Floor Conference Room) located at 221 East 11th Street, Austin, Texas. The purpose of this meeting is to answer any questions regarding the consultant proposal request, the required format, or the

evaluation process. It is anticipated that contractor selection will be made on or before January 13, 1995, and that the contract period will extend from the date of signing through August 31, 1995.

**Format.** The submittal shall be organized in the sequence described below, and when appropriate, should include reference to the specific section being addressed by number and title.

1. Proposer's ability to assign qualified personnel to the project.

a. **Business organization.** State full name and address of the Proposer's organization and identify parent company if applicable. Specify the branch office or other subordinate element which will perform, or assist in performing, the work described herein. Indicate whether the firm operates as a partnership, corporation or sole proprietorship. Identify the state(s) in which incorporated or licensed to operate. State the number of years the firm has been in business.

b. **Project Management Structure.** Provide an explanation, using charts or other exhibits if necessary, which specifies project leadership, reporting responsibilities and interface with the State Energy Conservation Office. Provide a description of the methods which will be employed to organize, monitor and manage resources under the Proposer's control in the performance of the work. If the use of subcontractors is proposed, identify their placement in the primary project structure, and provide a management description for each subcontractor.

c. **Authorized Negotiator.** Include name, address and telephone number of the person in the Proposer's organization who is authorized to negotiate contract terms and render binding decisions on contract matters.

2. Relevant background of assigned personnel and familiarity with similar work.

a. **Prior Experience.** Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe, in general terms, all energy-related work experience. Do not include details of experience prior to 1988. Supply the project title, year and reference name, title, present address and phone number of principal party for whom prior projects were accomplished.

b. **Personnel.** Include names, qualifications and copies of resumes for all professional personnel who will be assigned to the project(s). State the primary work assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

3. Proposed work plan and ability to complete tasks in a timely manner

a. Proposed work plan, including a description of proposed methodologies to be employed.

b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Identify other ongoing and related projects. Specify the number of personnel at each level, including managerial, technical and clerical, who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. If possible, three references willing to attest to the proposer's timely completion of similar projects should be specified. If not possible, this should be explained.

4. **Reasonableness of Budget and Ability to Obtain Additional Funding.** Proposer should submit a proposed budget that specifies the costs associated with completion of this project and specifies any additional financial resources that the proposer can bring to the project as match, in-kind contribution, etc., if any. Proposer must provide copies of audited financial and/or annual reports for the most recent two years, describing the financial status of each business entity expected to participate in this project as a prime or subcontractor. Proposer must additionally provide credit reports and a letter to the State on the entity's letterhead and signed by an authorized official that authorizes investigation of the entity's and its principals' creditworthiness and financial status by the State Energy Conservation Office or other appropriate agencies within the state of Texas.

5. **Conflicts of Interest.** Persons employed within the past 12 months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite energy offices are not eligible to participate in SECO contracts. Describe the quantity and nature of any work, interest in work, partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work. Proposals will be reviewed by a staff committee, and evaluation scores will be based on the following criteria: 1) Proposers' ability to assign experienced and qualified personnel to the project (25%); 2) Relevant background of assigned personnel (15%); 3) Proposed work plan and ability to complete tasks in a timely manner (30%); 4) Reasonableness of budget and ability to obtain additional funding (30%); and 5) Conflicts of Interest. Proposals should address each of the preceding criteria in the order listed. SECO reserves the right to disqualify (or reduce the score of) any proposer if selection of the proposer would result in a conflict of interest or the appearance of a conflict of interest, as determined solely by SECO. The SECO staff may require that finalists meet with the review panel and other SECO staff in Austin for a formal interview prior to the selection of the contractor. Selection for the interview will be based on the proposer's ability to satisfy the five criteria listed above, and the interviews will focus on published selection criteria. If deemed necessary, interviews will be conducted on January 11, 1995. SECO reserves the right to negotiate both budget and scope of work with the finalist(s). SECO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of the Consultant Proposal Request. No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal. This Consultant Proposal Request was funded with 100% of PVE-Stripper Well and PVE-Exxon and 0% of Non-PVE funding authorized through the U.S. Department of Energy, State Energy Conservation Office and through the administration of the Texas Governor's Office.

Issued in Austin, Texas, on December 5, 1994.

TRD-9451838

David A. Talbot  
General Counsel, Office of the Governor  
General Services Commission, State  
Energy Conservation Office

Filed: December 5, 1994



## Request for Proposals

This Request for proposal is filed pursuant to the provisions of the Texas Government Code, Chapter 2254, Texas Civil Statutes, Article 6252-11c.

**Notice of Invitation.** This request for proposals is made in connection with the "Texas Commitment," a program approved by the United States Department of Energy (DOE) which will reduce dependence on conventional petroleum supplies, assist in the achievement of federal air quality standards within non-attainment areas and encourage production of original equipment manufacturers (OEM) natural gas vehicles (NGVs) through the General Motors assembly plant in Arlington, Texas. The State Energy Conservation Office (SECO) on behalf of the Alternative Fuels program invites proposals from qualified cities, towns, regional councils and councils of governments within "non-attainment areas" as defined in the Clean Air Act Amendments of 1990 (CAAA), Public Law Number 101-549, and/or the National Energy Policy Act of 1992 (EPACT), Public Law Number 102-486, to provide administrative oversight for a rebate or equivalent program benefitting owners of affected taxi cab fleets under either of the above-referenced law(s). SECO will contract with the successful proposer(s) for a pass-through or match administrative contract under the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. Accessibility of slow and fast-fill refueling stations will be considered in selecting contractor(s), as will the percentage of emissions contributed by mobile sources within the area. Selected contractor(s) may be expected to contract with one or more certified upfitting businesses within the area who will upfit 1995 Model Year GM Caprice taxi cabs with fully-certified NGV conversion kits that meet the ILEV standard, hereinafter known as "Texas-1." The contractor(s) will provide rebates or equivalent benefits to taxi cab owners which will cover the costs of converting 1995 Model Year GM Caprice taxi cabs. The contractor(s) will also work with local licensing authorities to ensure that benefitting taxi cab owners participate in an emissions testing and validation study that will be conducted by or under the auspices of the Texas Natural Resource Conservation Commission (TNRCC). The study may last as long as three years. The State of Texas operates under the basic principle of free and vigorous competition. Proposers are encouraged to give particular attention in preparing their bids to include Historically Underutilized Businesses (HUBs) as subcontractors at the first tier. In accordance with House Bill 2626, 73rd Legislature (1993), which amended Texas Civil Statutes, Article 601b, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBs. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers, or material providers. To the extent applicable, preference will be granted to resident bidders for all aspects of this project in accordance with the Texas Government Code, Chapter 2252 and for products manufactured in Texas in accordance with Texas Civil Statutes, Article 601b, Article 3, §3.28.

### Background.

**A. Federal Regulatory Scheme and Initiatives.** The Clean Air Act Amendments of 1990 (CAAA), Public Law Number 101-549, encourage the purchase of "clean-fuel vehicles" by public or private fleet owners or operators of ten or more vehicles capable of being centrally fueled within

22 metropolitan areas with a 1980 population of 250,000 or more and designated by the United States Environmental Protection Agency (EPA) as in severe or extreme non-attainment of ambient air quality standards for ozone or carbon dioxide. The State of Texas has three non-attainment areas as defined in the CAAA: Beaumont-Port Arthur, El Paso and Houston-Galveston-Brazoria. By 1998, clean fuel vehicles are expected to comprise 30% of affected fleets. The Energy Policy Act of 1992 (EPACT), Public Law Number 102-486, 106 STAT. 2782, expanded the list of affected areas to include more than 120 cities with a 1980 population of 250,000 or more. Several titles of the Act relate to alternative transportation fuels. In general, EPACT requires the purchase of alternative fuel vehicles by public and private fleets in affected areas, accelerates the purchase requirements for alternative fuel vehicles by federal fleets and establishes tax incentives for the purchase of alternative fuel vehicles and for the conversion of traditional gasoline vehicles by the private sector. Fleets of 20 or more light-duty vehicles, weighing less than 8,500 lb gross vehicle weight (gvw), which are capable of being centrally fueled and are owned by a governmental entity or by a person who controls 50 or more such vehicles are subject to EPACT requirements. Affected public and private fleets within seven metropolitan areas of Texas are subject to EPACT: Austin, Beaumont-Port Arthur, Corpus Christi, Dallas-Fort Worth, Houston-Galveston-Brazoria, McAllen-Edinburg-Mission and San Antonio. Under EPACT, implementation and purchasing requirements vary depending on the nature of the fleet. For state and fuel provider fleets, EPACT will become effective in 1996. Certain municipalities and private fleets will be covered beginning in 1999.

**B. State Regulatory Scheme and Initiatives.** In 1989, the 71st Texas Legislature enacted Senate Bills 740 and 769, collectively known as the "Texas Plan." The Plan encourages the use of alternative fuels in public and private vehicle fleets for the stated purpose of improving air quality. Alternately fueled vehicles (AFVs) are defined as: "capable of using CNG or other alternative fuels that result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulate or any combination thereof." The Texas Natural Resource Conservation Commission (TNRCC) has recognized CNG, LNG, LPG, ethanol, methanol and electricity as alternative fuels. Natural gas and propane sold as motor vehicle fuels are additionally exempt from sales tax. Senate Bill 740 requires school districts with 50 or more buses, state agencies with 15 or more vehicles (excluding law enforcement and emergency vehicles) and metropolitan transit authorities to phase-in AFs according to the following schedule: September 1, 1994: 30% or more, September 1, 1996: 50% or more, September 1, 1998: 90% or more (if, by December 31, 1996, the Texas Natural Resource Conservation Commission determines that the program has been effective in reducing total annual emissions within the area). These percentages are applicable to an affected entity's entire fleet, not just newly purchased vehicles. The state agency charged with purchasing authority on behalf of the program, the General Services Commission, may waive compliance with fleet percentages if equipment or fuels supplies are unavailable within the area of operation or if the use of an alternative fuel would cost more than the use of traditional gasoline or diesel fuels over the expected useful life of the vehicle. Senate Bill 769 amended the Texas Clean Air Act and applies only to "non-attainment areas" as therein defined, i.e., areas with populations exceeding 350,000 that are in

non-attainment for federal ambient air quality standards for ozone, carbon dioxide or particulates. The provisions of Senate Bill 769 are generally applicable to rapid transit buses and certain private fleet vehicles. If, by December 31, 1996, the Texas Natural Resource Commission (TNRCC) determines that the initial program has been effective, the Plan will be extended to local governments with more than 15 vehicles and private fleets with 25 vehicles or more (excluding emergency vehicles) according to the following schedule: September 1, 1998: 30%, September 1, 2000: 50%, September 1, 2002: 90% The state agency with principle responsibility for the Texas Clean Air Act, the Texas Natural Resource Conservation Commission (TNRCC), recently adopted changes to Title 30 §114.1, concerning maintenance and operation of air pollution control systems or devices used to control emissions from motor vehicles. Specifically, provisions were deleted which required vehicle conversion kits to be certified by the California Air Control Board (CARB) or certified in writing by the United States Environmental Protection Agency (EPA) as being in compliance with federal policy. Title 30 §114.1(b)(3)(A). This was a response to: (1) CARB's refusal to certify conversion kits for 1994 and later model year vehicles for sale outside of the state of California; and (2) EPA's failure to provide written verification that conversion kits for 1994 model years or later are in compliance with federal policy. TNRCC also has not adopted independent emissions certification standards based on asserted testing difficulties. This leaves EPA Memorandum 1-A as the most recent policy statement regarding gasoline engine conversions. Currently, there is no EPA or equivalent approved equipment for conversion of diesel engine equipment to alternative fuels. The Texas Railroad Commission is charged with establishing safety standards for fuel conversion kit components and OEM engines and related hardware operating on alternative fuels. The standards for safety validation or certification which have been established by the Railroad Commission are, generally, more stringent than standards of the United States Department of Transportation.

C. State Energy Conservation Office. The State Energy Conservation Office/General Services Commission, formerly the Governor's Energy Office, is charged with administration of the energy-related programs described in Chapters 447 (Energy Management Center) and 2305 (Oil Overcharge Restitutionary Act) of the Texas Government Code. The Office administers a wide variety of federal grants and oil overcharge funds which are spent within approximately 30 different programs, including recycling, alternative fuels, sustainable and alternative energy demonstrations, transportation and energy-efficient construction, retrofit and weatherization projects. Funding This project will be funded with oil overcharge monies, specifically Exxon and Stripper Well Settlement monies, which have been approved for this purpose by the U.S. Department of Energy (DOE). Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the DOE against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in energy programs deemed to provide restitution to citizens aggrieved by the overcharges. Funds are subject to program guidelines of the DOE, the U. S. v. Exxon court decision, and the Final Stripper Well Settlement Agreement. These funds may be used to supplement existing programs, but may not supplant funds already allocated to the program. Approved projects will be funded on a cost

reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and are subject to approval by the State Energy Conservation Office. Administrative expenses and/or indirect costs will be allowed only to the extent permitted under the guidelines for use of Stripper Well funds and policies of the State of Texas.

Services to be Performed. The successful proposer(s) will provide administrative oversight for a rebate or equivalent program which will directly benefit owners of affected taxi cabs and/or fleets under CAAA and/or EPACT. At minimum, the successful proposer will be expected to: (1) identify potential rebate recipients, fleet owners, etc.; (2) develop and administer a rebate or equivalent system that ensures an equitable distribution of rebates among eligible owners of taxi cabs and/or fleets; and (3) coordinate with appropriate licensing authorities and others to facilitate the participation of benefitting taxi owners in a fuel emissions testing and validation study to be conducted by or under the auspices of the Texas Natural Resource Conservation Commission. The selected proposer(s) shall be expected to hire and/or assign staff or subcontract to administer a rebate program consisting of up to 300 rebates. The selected proposer(s) will be expected to contribute some portion of the costs for subcontractors or staff as in-kind match. The proposer's staff or subcontractor will, at minimum, perform the following tasks:

- a. Subject to final approval by SECO, develop and administer a rebate plan that defines eligibility and grants rebates to eligible taxi cab owners on a first-come-first-served or other equitable basis;
- b. Publicize the availability and terms of eligibility for rebates to help ensure equitable and efficient distribution;
- c. Assist taxi cab owners in preparing paperwork necessary to determine eligibility and/or obtain rebates and, if applicable, to document eligibility for tax deductions as described in Title X of the National Energy Policy Act (EPACT), see, 26 U.S.C. 179A;
- d. Coordinate with appropriate licensing authorities and others to facilitate participation of rebate recipients in emissions and validation testing, data collection, etc. to be conducted by or under the auspices of the Texas Natural Resource Conservation Commission (TNRCC); and
- e. Prepare reports and other documentation as required by the United States Department of Energy (DOE), the State Energy Conservation Office (SECO), and other federal or state agencies. In particular, contractor will be expected to submit quarterly reports and a final report to SECO and will be subject to monitoring by SECO and/or the United States Department of Energy.

Contact Person. For additional information or a proposal packet contact Renee Veasey, State Energy Conservation Office, P.O. Box 13047, Austin, Texas 78711, (512) 463-1931.

Closing Date. Seven copies of the sealed proposal should be sent to Mary-Jo Woodall at the previously listed address or at the State Energy Conservation Office. The State Energy Conservation Office is located at the Insurance Annex Building, Suite 200, 221 East 11th Street, Austin, Texas 78701. In order to be considered, proposals must be received in hand by 4:00 p.m. on January 9, 1995. Late proposals and proposals submitted by fax will not be considered.

Preproposal Conference. All potential proposers are encouraged to attend a preproposal conference to be held on, December 21, 1994, from 10:00 a.m. until noon, at the Insurance Annex (1st Floor Conference Room), located at 221 East 11th Street, Austin, Texas. The purpose of this meeting is to answer any questions regarding the consultant proposal request, the required format, or the evaluation process. It is anticipated that contractor selection will be made on or before January 13, 1995, and that the contract period will extend from the date of signing through August 31, 1995.

Format. The submittal shall be organized in the sequence described below, and when appropriate, should include reference to the specific section being addressed by number and title.

1. Proposer's ability to assign qualified personnel to the project.

a. Business organization. State full name and address of the Proposer's organization and identify proposed subcontractors if applicable. Specify the branch office or other subordinate element which will perform, or assist in performing, the work described herein. If a private firm is expected to participate, indicate whether the firm operates as a partnership, corporation or sole proprietorship. Identify the state in which incorporated or licensed to operate. State the number of years the firm has been in business. Foreign corporations must have a current certificate of authority to do business in Texas prior to submission of a proposal and must, thereafter, comply with applicable statutes regulating the business of foreign corporations in Texas.

b. Project Management Structure. Provide an explanation, using charts or other exhibits if necessary, which specifies project leadership, reporting responsibilities and interface with the State Energy Conservation Office. Provide a description of the methods which will be employed to organize, monitor and manage resources under the Proposer's control in the performance of the work. If the use of subcontractors is proposed, identify their placement in the primary project structure, and provide a management description for each subcontractor. Describe experience of key personnel related to state or federal grant programs and their familiarity with applicable Office of Management and Budget (OMB) guidelines.

c. Authorized Negotiator. Include name, address and telephone number of the person in the Proposer's organization who is authorized to negotiate contract terms and render binding decisions on contract matters.

2. Relevant background of assigned personnel and familiarity with similar work.

a. Prior Experience. Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe, in general terms, all energy-related work experience. Describe experience of key personnel related to state or federal grant programs and their familiarity with applicable Office of Management and Budget (OMB) guidelines. Do not include details of experience prior to 1988. Supply the project title, year and reference name, title, present address and phone number of principal party for whom prior projects were accomplished.

b. Personnel. Include names, qualifications and copies of resumes for all professional personnel who will be as-

signed to the project (s). State the primary work assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

3. Proposed work plan and ability to complete tasks in a timely manner.

a. Proposed work plan, including a description of proposed methodologies to be employed.

b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Specify the number of personnel, at the managerial, technical and clerical levels, who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. Proposer must submit one or more "statement(s) of interest" from taxi cab owners, on the owners' letterhead and signed by appropriate representative(s). Proposers should submit statements of interest accounting for a minimum of 100 taxi cab conversions.

e. Proposer must designate an upfitter or converter, certified in accordance with rules and procedures of the Texas Railroad Commission. The conversion facility must operate within the same non-attainment area or within reasonable proximity, not to exceed 50 miles beyond the area covered as a non-attainment area. The converter will be required to upfit the 1995 Model Year GM Caprice taxi cab with "Texas-1" or an approved equivalent.

f. If possible, three references willing to attest to the proposer's timely completion of similar projects should be specified. If not possible, this should be explained.

4. Ability to Provide Matching Funds and/or Services. Identify financial and personnel resources that the proposer can bring to the project as match, in-kind contribution, etc., if any. The successful proposer will also be required to work with local and/or state taxi licensing authorities to ensure that taxi owners who benefit under this program submit to emissions testing conducted by or under the auspices of the Texas Natural Resource Conservation Commission. Subject to final negotiation with SECO, the successful proposer(s) may be required to contract directly with a certified upfitter. Proposers should write their proposals to specify the costs, in-kind contributions, etc. associated with contracting with a local upfitter.

5. Accessibility of CNG Infrastructure. Proposer must submit a detailed listing of current and planned refueling stations, including location, capacity, whether slow and/or fast-fill system(s) are used and whether the systems allow for cash and/or credit card payments. Terms of access, e.g., whether open to non-fleet vehicles, and costs should be specified.

6. Percentage of Emissions Contributed by Mobile Sources. Proposer must submit documentation indicating the percentages of emissions and/or pollutants that have been contributed to the ambient air quality within the non-attainment area from mobile and non-mobile sources. This information should be available from the United States Environmental Protection Agency and/or the Texas Natural Resource Conservation Commission.

7. Conflict of Interest. Persons employed within the past 12 months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite energy offices are not eligible to participate in SECO contracts. Describe quantity and nature of any work, interest in work,

partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work.

**Selection Criteria.** Proposals will be reviewed by a staff committee, and evaluation scores will be based on the following criteria: 1) Proposers' ability to assign experienced and qualified personnel to the project (10%); 2) Relevant background of assigned personnel (10%); 3) Proposed work plan and ability to complete tasks in a timely manner (20%); 4) Ability to provide matching funds and/or services (20%); 5) Accessibility of CNG infrastructure (20%); and 6) Percentage of emissions contributed by mobile sources within the non-attainment area (20%); and 7) Conflicts of Interest (see note below). Proposals should address each of the preceding seven criteria in the order listed. SECO reserves the right to disqualify (or reduce the score of ) any proposer if selection of the proposer would result in a conflict of interest or the appearance of a conflict of interest, as determined solely by SECO. SECO staff may require that finalists meet with the review panel and other SECO staff in Austin for a formal interview prior to the selection of the contractor. Selection for the interview will be based on the proposer's ability to satisfy the seven criteria listed above, and the interviews will focus on published selection criteria. If deemed necessary, the interviews will be conducted on January 11, 1995. SECO reserves the right to negotiate both budget and scope of work with the finalist(s). SECO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of the Consultant Proposal Request. No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal. This Proposal Request was funded with 24% of PVE-Exxon, 76% of PVE-Stripper Well, and 0% of Non-PVE funding authorized through the U.S. Department of Energy State Energy Conservation Office and through the administration of the Texas Governor's Office.

Issued in Austin, Texas, on December 5, 1994.

TRD-9451839      David A. Talbot  
General Counsel, Office of the Governor  
General Services Commission, State  
Energy Conservation Office

Filed: December 5, 1994

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This request for proposals is filed pursuant to the provisions of the Texas Government Code, Chapter 2254, Texas Civil Statutes, Article 6252-11c.

**Notice of Invitation.** The Sustainable Energy Development Council (SEDC), on behalf of the Alternative Energy Program (AEP), invites proposals from qualified firms, non-profit organizations, state and local government agencies, institutions of higher education, or individuals to demonstrate active or passive natural daylighting technologies in a 52,068 square foot mixed-use facility of the General Services Commission known as the Bolm Road Facility. The facility includes 7,117 square feet of air conditioned office space with a suspended ceiling; 1,484 square feet of storage space; 6,832 square feet of shop space; and 36,635 square feet of warehouse space, all of which should be considered in developing an appropriate daylighting scheme. The State of Texas operates under the basic principles of free and vigorous competition.

Historically Underutilized Businesses (HUBS) are encouraged to bid, and all businesses that bid are encouraged to

give particular attention in preparing their bids to include HUBS as subcontractors and material providers at the first tier. In accordance with House Bill 2626, 73rd Legislature, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBS. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers or material providers.

**Background.** The AEP is funded with oil overcharge funds appropriated by the 73rd Legislature for the purpose of accelerating the use of renewable energy technologies in Texas. The AEP is administered by the Sustainable Energy Development Council (the Council), which was created by Governor Ann W. Richards to craft a strategic plan for developing the state's renewable energy and energy efficiency resources.

Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the U.S. Department of Energy (DOE) against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges.

Funds are subject to program guidelines of DOE and the U.S. v. Stripper Well court order. These funds may be used to supplement existing programs, but may not supplant funds already allocated to the program. Approved projects will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's Office. No advance payments are allowable, and no administrative overhead or indirect costs may be paid with oil overcharge monies.

**Fudget.** The maximum state-paid portion for this proposal is \$200,000.

**Services to be Performed.** Demonstration project contractors will be expected to perform the following services:

1. design and install a technically feasible and economically practical demonstration of active or passive daylighting technologies and automatic lighting controls to provide lighting as needed;
2. coordinate installation of the demonstration project through the General Services Commission's Building Maintenance Division, and guarantee that all associated roof penetrations are leak-free for the life of the project;
3. identify specific members of the population sector (target audience) that would be likely to replicate this installation;
4. photograph the installation process and the completed demonstration project;
5. define and follow a monitoring plan for the demonstration project, collecting performance data for two years subsequent to installation;
6. identify two publications such as trade journals, newsletters or newspapers, and assure at least two articles discussing the project are published;
7. assist the Sustainable Energy Development Council (SEDC) in the preparation of a technology transfer sheet describing the project;
8. arrange and conduct a minimum of six tours of the demonstration facility;

9. provide information to members of the target audience choosing to implement the demonstrated techniques or technologies;

10. file monthly progress, performance and visitor reports;

11. prepare a final report summarizing the installed project cost and the energy savings achieved by this project.

Additional information concerning this project may be obtained by contacting Jane Pulaski, Sustainable Energy Development Council, at (512) 463-1796.

**Closing Date.** Seven copies of the sealed proposal should be mailed to Charlotte Banks at the Sustainable Energy Development Council. For hand deliveries, the SEDC is located at the Sam Houston Building, 14th and Brazos Streets, Suite 104, Austin, Texas 78701. In order to be considered, proposals must be received by 10:00 a.m. on January 4, 1995. Proposals received after that date, and proposals submitted by facsimile transmission will not be considered.

All potential proposers are encouraged to attend a pre-proposal conference in Austin on Tuesday, beginning at 10:00 a.m. in Room 118 Stephen F. Austin Building, located at 17th Street and Congress Avenue. The purpose of this meeting is to answer any questions regarding the request for proposal, the required format, or the evaluation process. It is anticipated that contractor selection will be made during the week of January 30, 1995. The contract period will extend from the date of signing through August 31, 1995.

**Format.** The submittal shall be organized in the sequence described below, and when appropriate, should include reference to the specific section being addressed by number and title.

1. Technology proposed and projected performance.
  - a. Proposed technology and projected performance of the installed system.
2. Relevant background of assigned personnel and familiarity with similar work.
  - a. **Prior Experience.** Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe all energy-related work. Do not include details of experience prior to 1988. Supply the project title, year, and reference name, title, present address and phone number of principal party for whom prior projects were accomplished.
  - b. **Personnel.** Include names, qualifications and copies of resumes for all professional personnel who will be assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.
3. Proposed work plan and ability to complete tasks in a timely manner.
  - a. Proposed work plan, including a description of proposed methodologies to be employed, including the economic analysis of the proposed installation and the product's effect on the entire facility, such as initial cost, operational and maintenance costs, repair and other life cycle costs.
  - b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Specify the number of personnel, both technical and clerical, who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. Three references willing to attest to the proposer's timely completion of similar projects should be specified.

4. **Soundness of Budget.** The proposed budget should be detailed and reasonable.

5. **Conflicts of Interest.** Describe the quantity and nature of any work, interest in work, partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work. Persons employed within the past 12 months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite offices are not eligible to participate in SECO contracts.

**Selection Criteria.** The contractor selected for the natural daylighting demonstration of a state facility must have successfully demonstrated proven, commercially available active or passive daylighting systems for mixed use facilities. The contractor shall provide information on the overall thermal efficiency of the natural daylighting system proposed, the amount, volume and quality of light, amount of heat gain, energy savings and payback period, and all attendant operation and maintenance costs. Any and all applicable warranties shall be provided.

Proposals must adhere to the format provided by the SEDC and each of the format questions must be addressed. Budgets must include a minimum of 30% matching funds. Proposals will be reviewed by a committee of staff and Council representatives, and evaluation scores will be based on the following criteria:

**Transferability (30%):** The proposed demonstration project must accelerate the acceptance of natural daylighting technology by a particular user group that represents a potentially significant market.

Members of the target audience must be able to replicate this natural daylighting technology

The proposed project must offer a unique opportunity to reach the target audience.

The proposal must contain components for information dissemination to the target audience.

**Energy Impact (20%):** The proposed natural daylighting technology must save or displace the use of fossil fuels. Calculations for projected energy and cost savings or fuel displacement must be included and clearly explained.

**Technical Feasibility and Practicality (30%):** The proposal must establish that this natural daylighting technology is economically competitive now or will be within four years.

The description of the natural daylighting technology demonstration project must include all pertinent information necessary to establish practicality and technical feasibility.

The proposed system design should be clearly illustrated and must use only proven, commercially available equipment. Adherence to applicable codes and standards is required.

The proposed natural daylighting technology demonstration project must be safe, long-lasting and maintainable

The proposed project must include a two-year monitoring plan, and the system design must include metering equipment necessary to measure project performance. The project team must be qualified and experienced. Soundness of Proposed Budget and Level of Commitment (15%): The proposal should contain a detailed cost breakdown, and all project costs must be reasonable. Participants will be required to share project costs at a minimum of 30%.

**New Texas Bonus (5.0%):** Will this project benefit Texas technology, industry or employment? Does the project offer exceptional environmental benefits? Selection of a contractor will be based on the recommendations of the review panel. The review panel may require that finalists meet in Austin for a formal interview prior to selection of a contractor. Selection for interviews will be based on the proposer's ability to satisfy the five criteria listed above, and interviews will focus on published selection criteria. Recommendations of the review panel are not subject to appeal.

SECO reserves the right to negotiate both budget and scope of work with the finalist(s). SECO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Request for Proposal.

No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal.

This Request for Proposal was funded with 100% of PVE-Stripper Well funds and 0% of Non-PVE funding authorized through the U.S. Department of Energy, Texas Sustainable Energy Development Council and through the administration of the of the Texas Governor's Office.

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

TRD-3451850  
David A. Talbot  
General Counsel, Office of the Governor  
General Services Commission, State  
Energy Conservation Office

Filed: December 5, 1994

This request for proposals is filed under the Texas Government Code, Chapter 2254, Texas Civil Statutes, Article 6252-11c.

Notice of Invitation Historically Underutilized Businesses (HUBS) are encouraged to bid, and all businesses that bid are encouraged to give particular attention in preparing their bids to include HUBS as subcontractors and material providers at the first tier. The State of Texas operates under the basic principles of free and vigorous competition. In accordance with House Bill 2626, 73rd Legislature, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBS. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers or material providers. The Sustainable Energy Development Council (SEDC), on behalf of the Alternative Energy Program (AEP), invites proposals from qualified firms, non-profit organizations, state and local government agencies, institutions of higher education, or individuals to demonstrate the generation of electricity from Texas biomass, biomass-derived waste or biofuels.

**Background.** The AEP is funded with oil overcharge funds appropriated by the 73rd Legislature for the purpose of

accelerating the use of renewable energy technologies in Texas. The AEP is administered by the Sustainable Energy Development Council (the Council), which was created by Governor Ann W. Richards to craft a strategic plan for developing the state's renewable energy and energy efficiency resources. Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the U.S. Department of Energy (DOE) against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges. Funds are subject to program guidelines of DOE and the U.S. v. Stripper Well court order. These funds may be used to supplement existing programs, but may not supplant funds already allocated to the program. Approved projects will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's Office. No advance payments are allowable, and no administrative overhead or indirect costs may be paid with oil overcharge monies.

**Budget.** The maximum state-paid portion for this proposal is \$475,000 and all contract deliverables must be completed by August 31, 1995.

**Services to be Performed.** Demonstration project contractors will be expected to perform the following services: design and install a technically feasible and economically practical demonstration of the generation of electricity from Texas biomass, biomass-derived waste or biofuels; coordinate siting of the project through the Texas General Land Office to ensure that all requisite royalty revenues will accrue to the Permanent School Fund, in the event that the project is sited on state-owned lands, identify specific members of the population sector (target audience) that would be likely to replicate this installation; photograph the installation process and the completed demonstration project; define and follow a monitoring plan for the demonstration project, collecting performance data for two years subsequent to installation; identify two publications such as trade journals, newsletters or newspapers, and assure at least two articles discussing the project are published; assist the Sustainable Energy Development Council (SEDC) in the preparation of a technology transfer sheet describing the project; arrange and conduct a minimum of six tours of the demonstration facility; provide information to members of the target audience choosing to implement the demonstrated technology; file monthly progress, performance and visitor reports; prepare a final report summarizing the installed project cost and the energy savings achieved by this project. Additional information concerning this project may be obtained by contacting Jane Pulaski, Sustainable Energy Development Council, at (512) 463-1796.

**Closing Date.** Seven copies of the sealed proposal should be mailed to Charlotte Banks at the Sustainable Energy Development Council. For hand deliveries, the SEDC is located at the Sam Houston Building, 14th and Brazos Streets, Suite 104, Austin, Texas 78701. In order to be considered, proposals must be received by 10:00 a.m. January 9, 1995. Proposals received after that date, and proposals submitted by facsimile transmission will not be considered. All potential proposers are encouraged to attend a pre-proposal conference in Austin on Tuesday, December 20, 1994, at 10:00 a.m. in Room 118 of the Stephen F Austin Building, located at 17th Street and Congress Avenue. The purpose of this meeting is to

answer any questions regarding the request for proposal, the required format, or the evaluation process. It is anticipated that contractor selection will be made during the month of January. The contract period will extend from the date of signing through August 31, 1995.

Format. The submittal shall be organized in the sequence described below, and when appropriate, should include reference to the specific section being addressed by number and title.

1. Project Description

a. Proposed technology, site and projected performance of the installed system.

b. Details of the proposed use of the electricity generated by this project or the proposed Interconnection Agreement for sale of electricity.

c. Proposed ownership and estimated operational life of project.

2. Proposer's Ability to Assign Qualified Personnel to the Project.

a. Business Organization. State the full name and address of the Proposer's organization and identify parent company if applicable. Specify the branch office or other subordinate element which will perform or assist in performing the work described herein. Indicate whether the firm operated as a partnership, corporation or sole proprietorship. Identify the state in which incorporated or licensed to operate. State the number of years the firm has been in business.

3. Relevant Background of Assigned Personnel and Familiarity with Similar Work.

a. Prior Experience Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe all energy-related work. Do not include details of experience prior to 1988. Supply the project title, year, and reference name, title, present address and phone number of principal party for whom prior projects were accomplished.

b. Personnel. Include names, qualifications and copies of resumes for all professional personnel who will be assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

4. Proposed work plan and ability to complete tasks in a timely manner.

a. Proposed work plan.

b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Specify the number of personnel, both technical and clerical, who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. Three references willing to attest to the proposer's timely completion of similar projects should be specified.

5. Soundness of Budget

a. The proposed budget should be detailed and reasonable.

b. Proposer's are required to share project costs at a minimum of 30%. The proposal should outline the proposed cost sharing arrangement.

c. The proposal must contain details of the proposed commitment to operating the project beyond the contract period.

6. Conflicts of Interest Describe the quantity and nature of any work, interest in work, partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work. Persons employed within the past 12 months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite offices are not eligible to participate in SECO contracts.

Selection Criteria. The contractor selected will be responsible for all elements of installing and demonstrating a biomass to electricity generation technology on an appropriate site in Texas. The contractor should have a comprehensive knowledge of biomass resources, biomass technologies and transmission issues.

Proposals must adhere to the format provided by the SEDC and each of the format questions must be addressed. Budgets must include a minimum of 30% matching funds. Proposals will be reviewed by a committee of staff and Council representatives, and evaluation scores will be based on the following criteria: Transferability (30%): The proposed generation of electricity from biomass demonstration project must accelerate the acceptance of this technology by a particular user group that represents a potentially significant market. Members of the target audience must be able to replicate this installation. The proposed project must offer a unique opportunity to reach the target audience. The project team must include a credible representative of the identified user group. The proposal must contain components for information dissemination to the target audience. Energy Impact (20%): The proposed technology must save or displace the use of fossil fuels. Calculations for projected energy and cost savings or fuel displacement must be included and clearly explained. Technical Feasibility and Practicality (30%): The proposal must establish that the proposed biomass energy technology in the proposed location is economically competitive now or will be within four years. The description of the biomass technology demonstration project must include all pertinent information necessary to establish practicality and technical feasibility. The proposed system design should be clearly illustrated and must use only proven, commercially available equipment. Adherence to applicable codes and standards is required. The proposed technology demonstration project must be safe, long-lasting and maintainable. The proposed project must include a two-year monitoring plan, and the system design must include metering equipment necessary to measure project performance. The project team must be qualified and experienced. Soundness of Proposed Budget and Level of Commitment (15%): The proposal should contain a detailed cost breakdown, and all project costs must be reasonable. Participants will be required to share project costs at a minimum of 30%. Cost-sharing should be adjusted upward in proportion to user (owner) benefits. The proposal must contain details of the participants' commitment to operating the project beyond the contract period. New Texas Bonus (5%): Will this project benefit Texas technology, industry or employment? Does the project offer exceptional environmental benefits? Will royalty revenues accrue to the Permanent School Fund from this

project? Selection of a contractor will be based on the recommendations of the review panel. The review panel may require that finalists meet in Austin for a formal interview prior to selection of a contractor. Selection for interviews will be based on the proposer's ability to satisfy the five criteria listed above, and interviews will focus on published selection criteria. Recommendations of the review panel are not subject to appeal. SECO reserves the right to negotiate both budget and scope of work with the finalist(s). SECO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Request for Proposal. No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal. This Request for Proposal was funded with 100% of PVE-Stripper Well funds and 0% of Non-PVE funding authorized through the U.S. Department of Energy, Texas Sustainable Energy Development Council and through the administration of the of the Texas Governor's Office.

Issued in Austin, Texas, on December 1, 1994.

TRD-9451852

David A. Talbot  
General Counsel, Office of the Governor  
General Services Commission, State  
Energy Conservation Office

Filed: December 5, 1994

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This request for proposals is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation Historically Underutilized Businesses (HUBS) are encouraged to bid, and all businesses that bid are encouraged to give particular attention in preparing their bids to include HUBS as subcontractors and material providers at the first tier. The State of Texas operates under the basic principles of free and vigorous competition. In accordance with House Bill 2626, 73rd Legislature, all state agencies are to give a good faith effort to award at least 30% of the total value of all contracts to certified HUBS. Achievement of the goal may be reached by the state contracting directly with HUB firms or by the state's general contractors establishing contracts with HUB firms as subcontractors, suppliers or material providers. The Sustainable Energy Development Council (SEDC), on behalf of the Alternative Energy Program (AEP), invites proposals from government agencies, institutions of higher education, non-profit organizations, utilities, private firms, or individuals to demonstrate the use of a solar technology to generate electricity on state-owned lands. The demonstration project will provide electricity to the power grid and royalty revenues will accrue to the Permanent School Fund. For purposes of this request for proposals, solar technologies include photovoltaics, solar thermal, and dish-Stirling technologies.

**Background.** The AEP is funded with oil overcharge funds appropriated by the 73rd Legislature for the purpose of accelerating the use of renewable energy technologies in Texas. This will be accomplished through the demonstration of technically feasible and economically practical applications which target various sectors of the population and through the installation of monitoring equipment to document the availability of renewable resources. The AEP is administered by the Sustainable Energy Development Council (the Council), which was created by Governor Ann W. Richards to craft a strategic plan for developing the state's renewable energy and energy efficiency resources. Oil overcharge funds are monetary set-

tlements returned to the states as a result of litigation by the U.S. Department of Energy (DOE) against certain oil companies for alleged violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges. Funds are subject to program guidelines of DOE and the U.S. v. Stripper Well court order. These funds may be used to supplement existing programs, but may not supplant funds already allocated to the program. Approved projects will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's Office. No advance payments are allowable, and no administrative overhead or indirect costs may be paid with oil overcharge monies.

**Budget.** The maximum state-paid portion for this proposal is \$775,000, and all contract deliverables must be completed by August 31, 1995.

**Services to be Performed.** Demonstration project contractors will be expected to perform the following services: design and install a technically feasible and economically practical demonstration of a solar energy technology used to generate electricity for the power grid; coordinate siting of the project through the Texas General Land Office to ensure that all requisite royalty revenues will accrue to the Permanent School Fund; identify specific members of the population sector (target audience) that would be likely to replicate this installation; photograph the installation process and the completed demonstration project; define and follow a monitoring plan for the demonstration project, collecting performance data for two years subsequent to installation; identify two publications such as trade journals, newsletters or newspapers, and assure at least two articles discussing the project are published; assist the Sustainable Energy Development Council (SEDC) in the preparation of a technology transfer sheet describing the project; arrange and conduct a minimum of six tours of the demonstration facility; provide information to members of the target audience choosing to replicate the demonstrated technology; file monthly progress, performance and visitor reports; and prepare a final report on the demonstration project including an economic analysis of the installed project cost, estimated operational life of the project, estimated lifetime operation and maintenance costs, and the value of electricity produced and royalty revenues achieved. Additional information concerning this project may be obtained by contacting Jane Pulaski, Sustainable Energy Development Council, at (512) 463-1796.

**Closing Date.** Seven copies of the sealed proposal should be mailed to Charlotte Banks at the Sustainable Energy Development Council. For hand deliveries, the SEDC is located at the Sam Houston Building, 14th and Brazos Streets, Suite 104, Austin, Texas 78701. In order to be considered, proposals must be received by 10:00 a.m. on January 9, 1995. Proposals received after that date, and proposals submitted by facsimile transmission will not be considered. All potential proposers are encouraged to attend a pre-proposal conference in Austin on Tuesday, December 20, 1994, at 10:00 a.m. in Room 118 of the Stephen F. Austin Building, located at 17th and Congress Avenue. The purpose of this meeting is to answer any questions regarding this request for proposals, the required format, or the evaluation process. It is anticipated that contractor selection will be made during the month of January 1995. The contract period will extend from the date of signing through August 31, 1995.



Format. The submittal shall be organized in the sequence described below, and when appropriate, should include reference to the specific section being addressed by number and title.

1. Project Description.

a. Proposed technology, site and projected performance of the installed system.

b. Details of Interconnection Agreement for sale of electricity.

c. Proposed ownership and estimated operational life of project.

2. Proposer's Ability to Assign Qualified Personnel to the Project.

a. Business Organization. State the full name and address of the Proposer's organization and identify parent company if applicable. Specify the branch office or other subordinate element which will perform, or assist in performing, the work described herein. Indicate whether the firm operated as a partnership, corporation, or sole proprietorship. Identify the state in which incorporated or licensed to operate. State the number of years the firm has been in business. Project Management Structure Provide an explanation, using charts or other exhibits if necessary, which specifies project leadership and reporting responsibilities, and interface with SECO. Provide a description of the methods which will be employed to organize, direct, monitor, control schedules and costs, and otherwise manage resources under the Proposer's control in the performance of the work. If the use of subcontractors is proposed, identify their placement in the primary project structure, and provide an internal management description for each subcontractor.

Authorized Negotiator. Include name and address, and telephone number of the person in Proposer's organization, who is authorized to negotiate contract terms and render binding decisions on contract matters.

3. Relevant Background of Assigned Personnel and Familiarity with Similar Work.

a. Prior Experience. Describe only relevant corporate experience and individual experience for personnel who will be actively engaged in the project(s). Do not include corporate experience unless personnel assigned to this project actively participated. Describe all energy-related work. Do not include details of experience prior to 1988. Supply the project title, year, and reference name, title, present address, and phone number of principal party for whom prior projects were accomplished.

b. Personnel. Include names, qualifications and copies of resumes for all professional personnel who will be assigned to the project(s). State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

4. Proposed Work Plan and Ability to Complete Tasks in a Timely Manner.

a. Proposed work plan.

b. Sequence and schedule of activities.

c. Proposer's current workload and staffing levels. Specify the number of personnel, both technical and clerical who will be assigned to this project and the percentage of working hours for each person to be assigned.

d. Three references willing to attest to the proposer's timely completion of similar projects should be specified.

5. Soundness of Budget.

a. The proposed budget should be detailed and reasonable.

b. Proposers are required to share project costs at a minimum of 30%. The proposal should outline the proposed cost sharing arrangement.

c. The proposal must contain details of the proposed commitment to operating the project beyond the contract period.

6. Conflicts of Interest. Describe the quantity and nature of any work, interest in work, partnership interest or other interest in any property or business arrangement which may give rise to a potential conflict of interest with the proper execution of this work. Persons employed within the past 12 months by the State Energy Conservation Office (formerly the Governor's Energy Office) or its satellite offices are not eligible to participate in SEDC contracts.

Selection Criteria. The contractor selected will be responsible for all elements of installing a solar technology at an appropriate site on state lands. The contractor should have a comprehensive knowledge of solar resources, solar technology and transmission issues.

Proposals must adhere to the format provided by the SEDC and each of the format questions must be addressed. Budgets must include a minimum of 30% matching funds. Proposals will be reviewed by a committee of staff and Council representatives, and evaluation scores will be based on the following criteria: Transferability (30%): The proposed demonstration project must accelerate the acceptance of this solar technology by a particular user group that represents a potentially significant market. Members of the target audience must be able to replicate this solar technology. The proposed project must offer a unique opportunity to reach the target audience. The project team must include a credible representative of the identified user group. The proposal must contain components for information dissemination to the target audience. Energy Impact (20%): The proposed solar technology must save or displace the use of fossil fuels. Calculations for projected energy and cost savings or fuel displacement must be included and clearly explained. Technical Feasibility and Practicality (30%): The proposal must establish that the proposed solar energy technology in the proposed location is economically competitive now or will be within four years. The description of the solar technology demonstration project must include all pertinent information necessary to establish practicality and technical feasibility. The proposed system design should be clearly illustrated and must use only proven, commercially available equipment. Adherence to applicable codes and standards is required. The proposed solar technology demonstration project must be safe, long-lasting and maintainable. The proposed project must include a two-year monitoring plan and the system design must include metering equipment necessary to measure project performance. The project team must be qualified and experienced. Soundness of Proposed Budget and Level of Commitment (15%): The proposal should contain a detailed cost breakdown, and all project costs must be reasonable. Participants will be required to share project costs at a minimum of 30%. Cost-sharing should be adjusted upward in proportion to user (owner) benefits. The proposal must contain details of

the participants' commitment to operating the project beyond the contract period. New Texas Bonus (5%): Will this project benefit Texas technology, industry or employment? Does the project offer exceptional environmental benefits? Selection of a contractor will be based on the recommendations of the review panel. The review panel may require that finalists meet in Austin for a formal interview prior to selection of a contractor. Selection for interviews will be based on the proposer's ability to satisfy the five criteria listed above, and interviews will focus on published selection criteria. Recommendations of the review panel are not subject to appeal. SEDC reserves the right to negotiate both budget and scope of work with the finalist(s). SEDC also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Request for Proposal. No respondent will be reimbursed for any costs incurred in the preparation, submission or clarification of a proposal. This Request for Proposal was funded with 100% of PVE-Stripper Well funds and 0% of Non-PVE funding authorized through the U.S. Department of Energy, Texas Sustainable Energy Development Council and through the administration of the of the Texas Governor's Office.

Issued in Austin, Texas, on December 1, 1994.

TRD-9451851 David A. Talbot  
General Counsel, Office of the Governor  
General Services Commission, State  
Energy Conservation Office

Filed: December 5, 1994

◆ ◆ ◆  
**Texas Health and Human Services  
Commission**  
Public Notices

The Health and Human Service Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-09, Amendment Number 438.

The amendment invokes the authority in §1902(r)(2) by specifying that, for certain individuals, the value of home property is exempt if the client places the property for sale. The amendment is effective July 1, 1994.

The additional information is need, please contact Judy Coker, Texas Department Human Services, at (512) 450-3227.

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

TRD-9451488 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: November 28, 1994

◆ ◆ ◆  
The Health and Human Service Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-27, Amendment Number 456.

The amendment revises the organizational structure of the State Medicaid Agency to reflect that the Medicaid ICFMR program and services are under the operational

direction of the Texas Department of Mental Health and Mental Retardation. The amendment is effective September 1, 1994.

The additional information is need, please contact Cathy Rossberg, Health and Human Services Commission, at (512) 450-3219.

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

TRD-9451487 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: November 28, 1994

◆ ◆ ◆  
The Health and Human Service Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-14, Amendment Number 443.

The amendment adds coverage and reimbursement provisions for targeted case management for individuals receiving services from the Department of Protective and Regulatory Services. The amendment is effective January 1, 1995.

If additional information is needed, please contact Mary Ann Harvey, Texas Department of Protective and Regulatory Services, at (512) 834-3772.

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

TRD-9451488 Tim Graves  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: November 28, 1994

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**Texas Department of Health**  
Title V Futures Project

The Texas Department of Health (TDH) is sponsoring a series of regional meetings to publicize its new "Title V Futures Project." The project will use a strategic planning process to critically examine and make short-term and long-range recommendations to transform Maternal and Child Health Block Grant programs and activities to adapt to a changing health care environment and to improve the health status of women and children in Texas. Major services include health education, preventive and primary health care services for pregnant women, infants, children and adolescents, specialized services for children with special health care needs, case management, genetic services, school health services, children's dental services, dysplasia services and Community Oriented Primary Care.

TDH staff, contractors, local health departments, service consumers, consumer advocacy organizations and other interested persons are invited to attend regional meetings to learn more about the project. Proposed project recommendations will be completed by April 1995 and the public will be invited to comment in writing or in person at regional public hearings in April/May 1995.

For more information about the December regional meetings, call the TDH regional office in your area. Meetings will be held as follows: Public Health Region 4 & 5 North, Tyler, December 9, 1994, (903) 595-3585; Public Health

Region 2, Arlington, December 13, 1994, (817) 460-3032; Public Health Region 9 & 10, Midland, December 13, 1994, (915) 683-9492; Public Health Region 9 & 10, El Paso, December 14, 1994, (915) 774-6200; Public Health Region 11, Harlingen, December 20, 1994, (210) 423-0130; Public Health Region 6 & 5 South, Houston, December 19, 1994, (713) 995-1112; Public Health Region 7, Temple, December 21, 1994, (817) 778-6744; Public Health Region 8, San Antonio, December 21, 1994, (210) 342-3300.

A meeting was held in Public Health Region 1, Lubbock, on December 7, 1994. If you have any questions, please call (806) 744-3577.

Issued in Austin, Texas, on November 30, 1994.

TRD-9451805 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: December 2, 1994

## Texas Natural Resource Conservation Commission

### Enforcement Orders

An agreed enforcement order was entered regarding Citgo Petroleum Corporation, Docket Number 94-0014-SWR-E (SWR Number 31964) on November 18, 1994, assessing \$7,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Christopher Wilson, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087 (512) 239-0471.

An enforcement order was entered regarding Lewis J. M., Docket Number 94-0223-MWD-E (No Registration Number) on November 18, 1994, assessing \$8,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0678.

An agreed enforcement order was entered regarding Campbell Ready Mix, Inc., Docket Number 94-0340-IWD-E (No Permit) on November 18, 1994, assessing \$27,300 in administrative penalties with \$7,300 deferred.

Information concerning any aspect of this order may be obtained by contacting Kathy Keils, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0678.

An agreed enforcement order was entered regarding Manor, City of, Docket Number 94-0394-MSW-E (Permit Number 11003-01) on November 18, 1994, assessing \$12,080 in administrative penalties with \$6,040 deferred.

Information concerning any aspect of this order may be obtained by contacting Helen Stoval, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0578.

An agreed enforcement order was entered regarding Allauddin Akber A., Docket Number 94-0655-PST-E/Enforce ID E10692 (TNRCC Facility ID63071) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Borden, Inc., Docket Number 94-0656-PST-E/Enforce ID E10691 (TNRCC Facility ID44506) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Esmail Abdul, Docket Number 94-0657-PST-E/Enforce ID E10558 (TNRCC Facility ID39694) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Harper's Self Serve, Docket Number 94-0658-PST-E/Enforce ID E10549 (TNRCC Facility ID14799) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Joe Benny H., Docket Number 94-0659-PST-E/Enforce ID E10707 (TNRCC Facility ID2980) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Lyondell Citgo Refining Company, Limited, Docket Number 94-0660-PST-E/Enforce ID E10689 (TNRCC Facility ID39953) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Mauritz and Couey, Docket Number 94-0661-PST-E/Enforce ID E10645 (TNRCC Facility ID36875) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding John Moore Plumbing Company, Inc., Docket Number 94-0662-PST-E/Enforce ID E10693 (TNRCC Facility ID12430) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Nguyen Truong, Docket Number 94-0663-PST-E/Enforce ID E10651 (TNRCC Facility ID06658) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Rip Griffin Truck Center, Docket Number 94-0664-PST-E/Enforce ID E10654 (TNRCC Facility ID35742) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Sammy Tate Texaco also known as Mark Burris Texaco, Docket Number 94-0666-PST-E/Enforce ID E10602 (TNRCC Facility ID27845) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Texcon Oil Company, Docket Number 94-0667-PST-E/Enforce ID E10646 (TNRCC Facility ID46576) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney,

Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Trevino Consuelo, Docket Number 94-0668-PST-E/Enforce ID E10608 (TNRCC Facility ID15419) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding U.S. Immigration and Naturalization Services, Docket Number 94-0669-PST-E/Enforce ID E10540 (TNRCC Facility ID24465) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Yim Jay, Docket Number 94-0670-PST-E/Enforce ID E10650 (TNRCC Facility ID23160) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding Shell Oil Company, Docket Number 94-0665-PST-E (TNRCC Facility I.D. Number 33038; Enforce I.D. Number 10633) on November 18, 1994, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Duncan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0465.

An agreed enforcement order was entered regarding C.S.C. Disposal and Landfill, Inc., Docket Number 94-0725-MSW-E (MSW Permit Number 1209) on November 18, 1994, assessing \$3,840 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 November 28, 1994.

TRD-8451794

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1994

## Notice of Applications for Waste Disposal Permits

Notices of Applications for waste disposal permits issued during the period of November 21-December 2, 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.

Acme Brick Company; Mayfield Clay Mine; approximately 1.5 miles west of State Highway 19 and 0.3 mile north of FM Road 1861, Van Zandt County, Texas; new; 03761.

City of Aledo; Aledo; City of Aledo Wastewater Treatment Facilities; approximately 0.5 mile west of the intersection of FM Road 5 and FM Road 2376 in the City of Aledo, Parker County, Texas; renewal; 10847-01.

Alvin Independent School District; Manvel; Manvel Wastewater Treatment Facilities; northeast of the intersection of State Highway 6 and FM Road 1128 in the City of Manvel, Brazoria County, Texas; renewal; 11251-01.

Ihor Balaban; Houston; wastewater treatment facility; approximately 400 feet south of Halls Bayou and approximately 400 feet west of Airline Drive in Harris County, Texas; renewal; 13749-01.

Brushy Creek Utility, Inc.; Tomball; wastewater treatment plant; approximately 2,300 feet north of Spring Creek and

5,500 feet east of the Waller-Montgomery County line in Montgomery County, Texas; renewal; 12898-01.

City of Bynum; Bynum; wastewater treatment facilities; approximately 700 feet northeast of the intersection of State Highway 171 and FM Road 1242 in the southeast portion of the City of Bynum in Hill County, Texas; renewal; 11542-01.

Coastal States Crude Gathering Company; Corpus Christi; on the north end of Cantwell Lane at Oil Dock 11 on the south side of Corpus Christi Inner Harbor in the Nueces County Navigation District in the City of Corpus Christi, Nueces County, Texas; renewal; 03062.

Colorado County; Columbus; wastewater treatment facility; 3.3 miles east of Columbus, Texas, and 1,000 feet south of Interstate Highway 10 on the Old Alleyton Road in Colorado County, Texas; new; 13740-01.

Dawn Custom Cattle Feeders, Inc.; Dawn; feedlot; on the north side of FM Road 1602, approximately two miles west of the intersection of FM Road 1602 and FM Road 809 in Deaf Smith County, Texas; new; 03758.

City of Eagle Lake; Eagle Lake; wastewater treatment facilities; 400 feet southeast of the intersection of U.S. Highway 90A bypass and McCarty Avenue, being also 0.5 mile northwest of the intersection of FM Highway Number 102 and U.S. Highway 90A in Eagle Lake in Colorado County, Texas; amendment; 10505-01.

Emory Augustus Thomas and Laguna Tres, Inc.; Granbury; wastewater treatment facility; are 0.25 mile east of State Highway 51 and 0.25 mile north of Lake Granbury, approximately 1.5 miles north of Granbury on State Highway 51 in Hood County, Texas; new; 13751-01.

City of Groesbeck; Groesbeck; wastewater treatment facilities; northeast of Groesbeck, approximately one mile northeast of the intersection of State Highway 164 and State Highway 14 on the north side of FM Road 1245 in Limestone County, Texas; amendment; 10182-01.

Guaranty Bank; Mount Pleasant; wastewater treatment facilities; approximately two miles northwest of the intersection of FM Road 21 and State Highway 11, approximately 3.5 miles southeast of the intersection of FM Roads 21 and 127 in Camp County, Texas; renewal; 13229-01.

Caroline Harris; Rising Star; dairy; on the south side of an unnamed county road, approximately one mile west of the intersection of the county road and U. S. Highway 183. This intersection is approximately four miles north of the intersection of U.S. Highway 183 and FM Road 583, in Brown County, Texas; new; 03701.

Jerry D. Harris; Rising Star; dairy; on the east side of an unnamed county road, approximately one and a half miles west and south of the intersection of the county road and U.S. Highway 183. This intersection is approximately four miles north of the intersection of U.S. Highway 183 and FM Road 583, in Brown County, Texas; new; 03700.

Hill Country Farms, Inc.; Goldthwaite; dairy; on the southwest side of State Highway 84 at the intersection of State Highway 84 and FM Road 1029 in Mills County, Texas; new; 03709.

Hillman Shrimp and Oyster Company; Dickinson; seafood processing and wholesale plant; at 10700 Hillman Drive in the City of Dickinson, Galveston County, Texas; new; 03749.

City of Jacksboro; Jacksboro; wastewater treatment facilities; approximately 1,500 feet north of U.S. Highway 281 and approximately 4,600 feet west of State Highway 148 in the City of Jacksboro in Jack County, Texas; amendment; 10994-01.

City of Justin; Justin; Justin Sewage Treatment Plant; approximately 600 feet east of FM Road 156 and approximately 1,600 feet south of FM Road 407 (First Street) in Deaton County, Texas; renewal; 11312-01.

John Ghodrattollah Karbalai; Houston; Lake Houston Storage Wastewater Treatment Facilities; at 12110 Mount Houston Road, immediately southeast of the intersection of East Mount Houston Road and East Houston Road in Harris County, Texas; renewal; 12692-01.

City of La Marque; La Marque; wastewater treatment facility; at the intersection of Campbell and Sixth Street, approximately 1,300 feet southwest of the intersection of FM Road 519 and State Highway 3 in Galveston County, Texas; amendment; 10410-01.

City of Marlin; Marlin; wastewater treatment plant; on the west side of an unnamed county road approximately 2.5 miles southwest of the intersection of State Highway 6 and State Highway 712 in Falls County, Texas; renewal; 10110-02.

City of Meadows; Meadows; wastewater treatment plant; approximately 5,000 feet west of the Southwest Freeway (U.S. Highway 59) and 1,000 feet south of Keegans Bayou on the Harris County-Fort Bend County Line in Fort Bend County, Texas; renewal; 11039-01.

Memorial Villages Water Authority; Houston; wastewater treatment facilities; approximately 1,500 feet south by southwest of the San Felipe Drive Bridge where it crosses Buffalo Bayou and approximately 1,500 feet south by southeast of the intersection of San Felipe Drive and Farnham Park and east of the terminus of Farnham Park in Harris County, Texas; renewal; 10584-01.

Mills Road Municipal Utility District; Houston; Mills Road Municipal Utility District Wastewater Treatment Facilities; at 10128 Peachridge Drive, approximately 3,000 feet southwest of the intersection of Perry Road and Mills Road, northwest of the City of Houston in Harris County, Texas; renewal; 11907-02.

National Oil Recovery Corporation; Corpus Christi; crude oil refinery; adjacent to and on the east side of FM Road 2725, at the intersection of FM Road 2725 and Bishop Road, approximately one mile southeast of the City of Ingleside, San Patricio County, Texas; renewal; 02142.

North Texas Municipal Water District; McKinney; Wilson Creek Wastewater Treatment Facilities; southwest of Wilson Creek at the confluence with Lake Lavon and approximately five miles southeast of the City of McKinney in Collin County, Texas; amendment; 12446-01.

Ohmstede, Inc.; LaPorte; heat exchanger repair plant; on the north side of State Highway 225, approximately one-half mile west of the intersection of State Highway 225 with State Highway 146 in the City of LaPorte, Harris County, Texas; amendment; 01318.

Peaster Independent School District; Peaster; wastewater treatment facility; approximately 1,200 feet southeast of the intersection of FM Road 2028 and FM Road 920, and approximately 800 feet east of FM Road 920 in Parker County, Texas; new; 13589-01.

Pecan Grove Municipal Utility District; Houston; wastewater treatment facilities; at 1504 Skinner Lane (FM Road 359), approximately 1.5 miles north of U.S. Highway 90A and approximately 500 feet east of FM Road 359 in Fort Bend County, Texas; renewal; 11655-01.

Phibro Energy USA, Inc.; Texas City; petroleum refinery; approximately 1,600 feet northeast of the intersection of State Highway 519 and Loop 197 East in the City of Texas City, Galveston County, Texas; amendment; 00449.

City of Rio Hondo; Rio Hondo; wastewater treatment facilities; approximately 500 feet east of the Arroyo Colorado Tidal and approximately 1.5 miles north of the intersection of FM Road 106 and FM Road 1846 in Cameron County, Texas; renewal; 10475-02.

City of San Antonio; San Antonio; Alamodome multi-purpose stadium; at 101 Montana Street in the City of San Antonio, Bexar County, Texas; new; 03724.

City of Springtown; Springtown; wastewater treatment facilities; east of the City of Springtown, at a point approximately 4,600 feet east of the intersection of Spring Branch Trail and Third Street in Parker County, Texas; renewal; 10649-01.

Mark D. Stowe; Zavalla; wastewater treatment plant; adjacent to Sam Rayburn Reservoir, approximately 500 feet southeast of the intersection of State Highway 147 and FM Road 3123, approximately 5.9 miles northeast of the intersection of State Highways 63 and 147 in Angelina County, Texas; renewal; 11438-01.

City of Texarkana; Texarkana; New Regional South Wastewater Treatment Facilities; along the east bank of Days Creek, adjacent to the west side of State Line Road, approximately one mile south of the intersection of Phillips Land and State Line Road in the City of Texarkana in Bowie County, Texas; amendment; 10374-05.

Texas Department of Transportation; Fort Worth; Johnson County Rest Area-Southbound Lane Wastewater Treatment Facilities; on the southbound right-of-way of Interstate Highway 35W, at a point approximately 3.9 miles south of Burleson in Johnson County, Texas; renewal; 12952-01.

Texas Department of Transportation; Fort Worth; Johnson County Rest Area Northbound Lane Wastewater Treatment Facilities; on the northbound right-of-way of Interstate Highway 35W, approximately 0.8 miles north of the intersection of Interstate Highway 35W and FM Road 917 in Johnson County, Texas; renewal; 12951-01.

The Goodyear Tire and Rubber Company; San Angelo; tire evaluation facility; on the east side of U.S. Highway 277, approximately seven miles northeast of the intersection of U.S. Highway 67 and U.S. Highway 277, northeast of the City of San Angelo, Tom Green County, Texas; new; 03750.

Timbercrest Village Utility Company, Inc.; Spring; wastewater treatment facilities; approximately 600 feet east of the intersection of Kuykendahl Road and Huffsmith Road in Harris County, Texas; renewal; 13487-01.

U.S. Army Corps of Engineers; Wylie; Lakeland Park Wastewater Treatment Facilities; in Lakeland Park, on the east side of Lavon Lake at a point approximately two miles west of the intersection of State Highway 78 and State Highway Spur 509 in Collin County, Texas; renewal; 12060-01.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451795

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1994

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**Notice of Opportunity to Comment on  
Permitting Actions**

For the Week Ending December 2, 1994.

City of Wallis for a minor amendment to Permit Number 10765-01 in order to dispose of the wastewater treatment plant sludge by way of licensed commercial hauler and discontinue the use of the monofill site for sludge disposal. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 498,000 gallons per day, which will remain the same. The plant site is approximately 5,000 feet northwest of the intersection of FM Road 1093 and State Highway 36 just north of State Highway 36 in Austin County, Texas.

CNP Utility District for a minor amendment to Permit Number 11239-01 in order to modify the biomonitoring language of the existing permit in accordance with NDPEs permit requirements. The permit currently authorizes the discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 2,500,000 gallons per day, which will remain the same. The proposed amendment will enforce more stringent effluent limitations in order to meet existing applicable rules and regulations. The wastewater treatment plant is on the south bank of Cypress Creek approximately 2,700 feet west of Interstate Highway 45 in Harris County, Texas.

Disposal Systems, Inc. for minor amendments to Permit Numbers WDW-169 and WDW-249 in order to incorporate the Hazardous and Solid Waste Amendments (HSWA) variance no-migration petition approval conditions into the Class I injection well permits, as requested by EPA Region VI. The minor amendments specify: (1) that the maximum cumulative permitted volume injected into both wells shall be a cumulative total for the site, (2) injection zone and injection interval language and depths, (3) EPA hazardous waste codes and (4) specific gravity values. The injection zone is the Frio and Anahuac Formations at the approximate subsurface depths of 5,030 to 7,350 feet below ground level. The authorized injection interval for both wells is the Frio Formation at the approximate subsurface depths of 5,530 and 7,350 feet within the injection zone. The maximum cumulative annual volume is 78,840,000 gallons, and the maximum instantaneous rate of injection is 260 gallons per minute per well. The wells are currently used to dispose of non-hazardous and hazardous waste generated on-site by the permittee's facility and from other sources on a commercial basis. Waste disposal wells WDW-169 and WDW-249 are located in the George Ross Survey, A-646 in Harris County, Texas.

Approval of Uvalde Water Supply Corporation for a Water Certificate of Convenience and Necessity in Uvalde County, Texas (Application Number 30444-C, Albert Holck).

Approval of Raywood Water Supply Corporation to amend Water Certificate of Convenience and Necessity

Number 10928 in Liberty County, Texas (Application Number 30585-C, Albert Holck).

Approval of Bulverde Utility Company, Inc. to Transfer Water CCN Number 11938 from Jerry Bucher, Receiver, doing business as Ork Valley Water Company; Amend Water CCN Number 10964; Cancel Water CCN Number 11938 in Comal County, Texas (Application Number 30482-S, Dean Pollard).

Approval of Malone Water Supply Corporation for a Water Certificate of Convenience and Necessity in Hill County, Texas (Application Number 30572-C, Albert Holck).

Approval of Flo Community Water Supply Corporation to amend Water CCN Number 11585 in Leon County, Texas (Application Number 30571-C, Albert Holck).

Approval of Land Locators of Texas, Inc. doing business as Rankin Park Utilities for Water and Sewer Certificates of Convenience and Necessity in Harris County, Texas (Application Numbers 30562-C and 30563-C, Guillermo Zevallos).

Approval of Benny Hall doing business as Coyanosa Water System to Transfer Water CCN Number 12192 from Clifford Skelton doing business as Skelton Water System in Pecos County, Texas (Application Number 30557-S, Albert Holck).

Approval of Dyegard Land Partnership doing business as Dyegard Water Company for a Water Certificate of Convenience and Necessity in Parker County, Texas (Application Number 30596-C, Darrell Nichols).

Texas Utilities Electric Company for a minor amendment to Permit Number 00550 to update the standard language in the existing permit to the language utilized in current permits. The permit authorizes a discharge of once through cooling water and previously monitored effluents at a volume not to exceed an average flow of 432,000,000 gallons per day, which will remain the same. The applicant operates the Eagle Mountain Steam Electric Station. The plant site is at 10029 Morris-Dido Newark Road adjacent to Eagle Mountain Lake and approximately ten miles (via FM Road 1220) northwest of the City of Fort Worth, Tarrant County, Texas.

City of Pearsall for a minor amendment to Permit Number 10360-001 to authorize changing the method of disinfection from dechlorinating the chlorinated effluent to ultraviolet radiation disinfection in the final phase. The permit currently authorizes a discharge of treated domestic wastewater effluent at a final volume not to exceed an average flow of 1,950,000 gallons per day, which will remain the same. The proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The wastewater treatment plant is on Old Loma Vista Road, approximately 0.25 mile northeast of the intersection of FM Road 1581 and Interstate Highway 35 in Frio County, Texas.

City of Garland for a minor amendment to Permit Number 10090-002 in order to include whole effluent toxicity limits. The permit currently authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 24,000,000 gallons per day, which will remain the same. The proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The Rowlett Creek Water Recycling Wastewater Treatment Facilities are on Centerville Road approximately 1/4

mile south of the intersection of State Highway 66, on the southeast corner where Missouri, Kansas and Texas Railroad tracks cross Centerville Road in Dallas County, Texas.

Application Number 23-821B By the City of Lyford for a Texas Water Code, §11.122, Water Use Permit Application. Amendment to Certificate Number 23-821 to sever the water rights owned by applicant under Certificates of Adjudication 23-151, 23-803, 23-68 from the certificates and to combine them with the applicant's water rights authorized by Certificate Number 23-821, as amended; and to change the ownership, diversion point and purpose and place of use for Certificate Number 23-68, Rio Grande, Rio Grande Basin, Hidalgo County, Texas (Kellye Rila).

Approval of Bi-County Water Supply Corporation to amend Water CCN Number 10490 and Decertify a Portion of CCN Number 10402 Issued to Tri Water Supply Corporation in Titus County, Texas (Application Number 30601-C, Albert Holck).

Approval of R.P.M. Water Supply Corporation to amend Water Certificate of Convenience and Necessity Number 10787 in Henderson County, Texas (Application Number 30570-C, Albert Holck).

Approval of Tall Oaks Estates Property Owners' Association also known as Tall Oaks Estates Water Systems for a Water Certificate Convenience and Necessity in Van Zandt County, Texas (Application Number 30553-C, Darrell Nichols).

Issued in Austin, Texas, on December 2, 1994.

TRD-9451793 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1994

### Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 and the Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or Commission) will conduct a public hearing to receive testimony concerning revisions to 30 TAC Chapter 114.

The TNRCC proposes new §114.7, concerning fees for the Inspection/Maintenance (I/M) program. The new section is proposed to formalize fees established by Commission Resolutions and to clarify specific processing provisions at inspection facilities in the four ozone nonattainment areas of Texas.

A public hearing on the proposal will be held December 29, 1994 at 10:00 a. m. in Room 365 of TNRCC Building E, located at 12118 North I-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through December 29, 1994. Material received by the TNRCC Office of Policy and Regulatory Development by 4:00 p.m. on December 29, 1994 will be considered by the Commission prior to any final action on the proposal. Please mail written comments to the attention of Lisa Martin, Office of Policy and Regulatory Development, P.O. Box 13087, Austin, Texas 78711-3087. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, contact Sherry Bryan at (512) 239-1994.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1457. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451845 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed December 5, 1994

### Notice of Receipt of Application and Declaration for Administrative Completeness for Sludge Registrations

Notice of Receipt of Application and Declaration for Administrative Completeness for sludge registrations issued during the period of November 21-23, 1994

Magna-Flow International, approximately 1.7 miles east of Red Bluff Road, south and adjacent to Fairmont Parkway in the City of Pasadena, Harris County, Texas; new; 710702

This application has been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that this application is subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding this application should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711. The request should contain the name, mailing address, and phone number of the person making the request, and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning this application may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on November 28, 1994

TRD-9451796 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1994



## Provisionally-Issued Temporary Permits to Appropriate State Water

The following permit was issued during the period of November 14-December 2, 1994.

Application Number TA-7372 by Lannie M. Moses for diversion of ten acre-feet of water in a one-year period for mining purposes. Water may be diverted from the Rio Grande near its crossing of Highway 83 South, approximately 20 miles north of Zapata, Zapata County, Texas, Rio Grande Basin.

Application Number TA-7373 by Young Contractors, Inc. for diversion of two acre-feet of water in a six-month period for industrial use. Water may be diverted from the Little Rocky Creek crossing of Sam Houston County Road, approximately 12 miles north of Brenham, Washington County, Texas, Brazos River Basin.

Application Number TA-7371 by Robertson Onshore Drilling Company, for diversion of ten acre-feet in a one-year period for mining purposes. Water may be diverted from the Pin Oak Creek crossing of FM 1124, approximately 10.5 miles north of Fairfield, Freestone County, Texas, Trinity River Basin.

Application by Houston Fuel Oil Terminal Company, for diversion of 100 acre-feet of water in a three-year period for industrial use. Water may be diverted from near the Interstate 10 stream crossing of Buffalo Bayou, approximately 15.5 miles east of Houston, Harris County, Texas, San Jacinto River Basin.

Application Number TA-7374 by Valero Transmission, L.P. for diversion of two acre-feet in a three-month period for industrial use. Water may be diverted from approximately 16 miles northeast of Houston, Harris County, Texas, San Jacinto River Basin.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451792 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1994

## Public Notice

Pursuant to the Administrative Procedure Act, §2001.034, the Texas Natural Resource Conservation Commission (Commission) furnishes this notice that the Commission shall consider an emergency rule, 30 TAC §114.7, regarding Inspection/Maintenance (I/M) Fees, at its December 21, 1994 Regular Contested Agenda. The emergency rule sets up the fee system necessary to implement the State of Texas I/M Program in the following nonattainment areas: Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso. The text of the emergency rule that the Commission will consider is expected to be identical to the proposal for a new §114.7 that is published in this issue of the *Texas Register*.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451846 Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: December 5, 1994

## Public Utility Commission of Texas Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Digital Equipment Corporation-Houston, Houston, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a New PLEXAR-Custom Service for Digital Equipment Corporation-Houston pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13671.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom service for Digital Equipment Corporation-Houston. The geographic service market for this specific service is the Houston, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451769 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 2, 1994

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive 23.27 for approval of customer-specific PLEXAR-Custom Service for General Services Administration, San Antonio, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a 22-Station Addition to the Existing PLEXAR-Custom Service for General Services Administration-San Antonio pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13672.

The Application. Southwestern Bell Telephone Company is requesting approval of a 22-station addition to the existing Plexar-Custom service for General Services Administration. The geographic service market for this specific service is the San Antonio, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on December 2, 1994.

TRD-9451770 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 2, 1994

## PUC Requests Comments on Regulatory Flexibility for Access and Private Line Services

The Public Utility Commission of Texas has established Project Number 13605 concerning regulatory flexibility for access and private line services. The Commission seeks comments and information from interested parties in response to the following questions. The Commission requests that parties respond to the questions in the order in which they are presented below and encourages parties to include an executive summary of their comments.

1. Should the Commission establish procedures for granting additional regulatory flexibility and/or pricing flexibility to Local Exchange Carriers (LECs) in the provision of private line, special access, switched access and/or switched access transport services?
2. Are the markets or submarkets the same or different for each of these services? If different markets or submarkets exist, identify the factors that distinguish the markets or submarkets for each service.
3. What is the appropriate product market or submarket for determining the level of competition existing for each of these services? What is the appropriate geographic market or submarket for determining the level of competition for each of these services, e.g., exchange, city, metro area, LATA, state, other?
4. What factors, in addition to those listed in PURA §18(e)(2), should the Commission consider in determining the level of competition in each market or submarket?
5. Should the Commission establish specific threshold levels for determining when these factors have been satisfied? If so, what are the appropriate threshold levels (for the factors listed in response to question 4) that would justify granting the LECs regulatory and/or pricing flexibility for each service? Should the threshold be the same for each service? Should the regulatory and/or pricing flexibility thresholds vary with the size of the local exchange company?
6. Should the Commission adopt the pricing flexibility guidelines described in the FCC Memorandum Opinion and Order in CC Docket Number 91-141?
7. If Density Zone Pricing is adopted, how should the zones be defined? Should they be defined similarly for private line, special access, switched access, and switched transport services?
8. Are volume and term discounts appropriate? Should cost justification be required for all such discounts? Are there other potential justifications for such discounts that should be considered?
9. What other forms of pricing flexibility (besides density zone pricing and volume and term discounts), if any, should the Commission consider? What other forms of regulatory flexibility, if any, should be available to LECs in a competitive market or submarket?
10. Should the degree of regulatory and/or pricing flexibility be related to the nature of the collocation arrangement offered by the LEC?
11. Should the flexibility occur all at once or in steps? If in steps, what should the criteria and associated flexibility be for each step?

12. How can a flexible pricing scheme be structured to minimize incentives to use the network inefficiently?
13. What, if any, competitive safeguards need to be a part of the grant of regulatory and/or pricing flexibility?
14. What, if any, are the likely impacts on universal service if regulatory and/or pricing flexibility is adopted?
15. Should these issues be addressed in an amendment to PUC Substantive Rule 23.27 or as a new rule?
16. Does the Commission have the necessary statutory authority to address these issues in this fashion? If not, identify any statutory impediments and suggest appropriate changes or explain why changes should not be made.
17. Are there any other matters the Commission should consider in determining whether to continue this project? Please provide any comments or information that may be helpful in determining the need for, or the scope of, this project.

The Commission staff and the General Counsel will review the responses to these questions and use them in preparing a recommendation to the Commission for further action, including possible amendments to the Commission's Substantive Rules (16 TAC §23.1 et seq).

Responses (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757 within 45 days and reply comments within 60 days of the date of publication of this notice. Responses and reply comments should refer to Project Number 13605.

issued in Austin, Texas, on November 30, 1994.

TRD-9451673

John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 30, 1994

## Texas Rehabilitation Commission Intent to Award Contract

The Texas Rehabilitation Commission announces its intention to award a grant on behalf of the Texas Planning Council for Developmental Disabilities to the University of Texas at Austin, University Affiliated Program, P.O. Box 7159, Austin, Texas. The grant is a part of a larger Project of National Significance that is funded by the U.S. Office of Health and Human Service, Administration on Developmental Disabilities. Collaboration with the Texas University Affiliated Program and the Texas Protection and Advocacy System is a required component of that federal grant.

**Description of Project.** The overall goal of the Project of National Significance is to study the feasibility and implications of expanding the scope of Developmental Disabilities Councils system change, capacity building, advocacy and other activities mandated under the DD Act. The grant award to the University of Texas is intended to accomplish the following activities: assist with a literature review to identify relevant issues and resource needs related to the expansion of the scope of DD Councils, organize and facilitate focus group meetings across the state in order to identify relevant local issues, identify the characteristics of the population served by the UAP with a focus on needs of culturally diverse populations, collaborate in the analysis of needs of new population groups

identified by the focus groups, and participate in conference presentations on the results of the study.

**Terms and Funding.** The project will be funded for 15 months not to exceed \$90,000 for the project period. The initial budget period began October 1, 1994, and ends December 31, 1995.

For information on any aspect of this announcement, contact Lester Sanders, Texas Planning Council for Devel-

opmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4084.

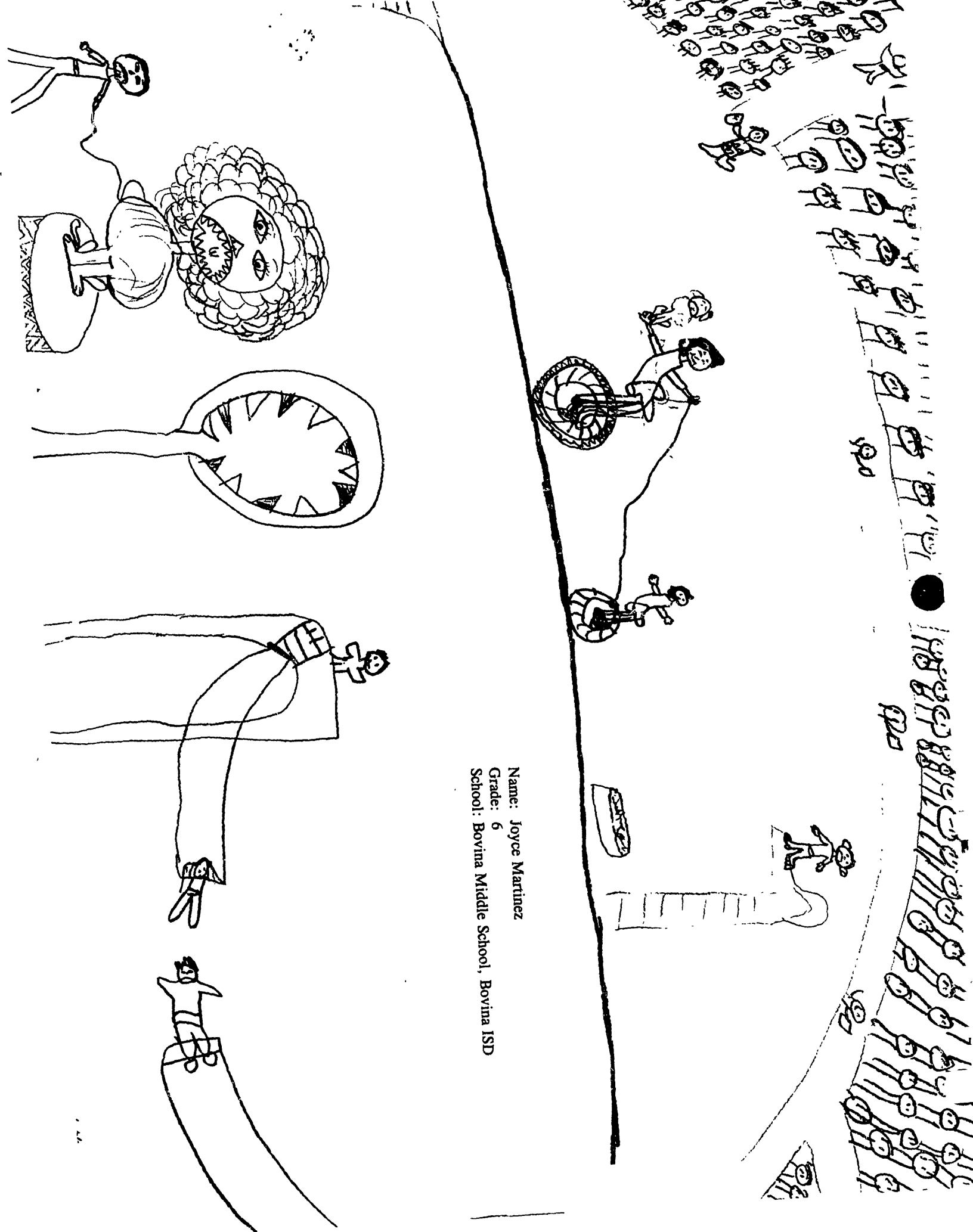
Issued in Austin, Texas, on November 29, 1994.

TRD-8451624

Charles Schiesser  
Associate Commissioner for Legal Services  
Texas Rehabilitation Commission

Filed: November 30, 1994





Name: Joyce Martinez  
Grade: 6  
School: Bovina Middle School, Bovina ISD

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