

Texas Register

Volume 18, Number 18, March 5, 1993

Page 1383-1462

In This Issue...

Proposed Sections

Texas Department of Health

Chronically Ill and Disabled Children's Services

25 TAC §38.11.....1393

Texas Air Control Board

General Rules

31 TAC §101.1.....1396

Texas Department of Human Services

Primary Home Care

40 TAC §47.1903.....1400

40 TAC §47.4901.....1401

Community Care for the Aged and Disabled

40 TAC §48.2103.....1401

40 TAC §48.2707.....1402

Texas Department on Aging

State Delivery Systems

40 TAC §255.41.....1402

Transportation Service Standards

40 TAC §§273.1, 273.3, 273.5.....1407

Texas Department of Insurance

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L.....1407

Adopted Sections

State Finance Commission

Banking Section

7 TAC §3.7.....1409

Texas Board of Architectural Examiners

Landscape Architects

22 TAC §3.46.....1409

Interior Designers

22 TAC §5.31.....1409

Texas State Board of Examiners of Psychologists

General Rulings

22 TAC §461.14.....1409

Applications

22 TAC §463.6.....1410

22 TAC §463.14.....1410

Texas Department of Insurance

Property and Casualty Insurance

28 TAC §§5.2001-5.2004.....1411

Texas Air Control Board

General Rules

31 TAC §101.1, §101.29.....1411

Texas Department on Aging

State Delivery Systems

40 TAC §255.35.....1427

40 TAC §255.36.....1427, 1428

Procedures for Approval of Area Agencies Requests to Provide Services

40 TAC §§289.1, 289.5, 289.7, 289.9, 289.11, 289.13, 289.17.....1428

Table of TAC Titles Affected.....Page 1457

CONTENTS CONTINUED INSIDE



Texas Register



a section of the
Office of the
Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(512) 463-5561
FAX (512) 463-5569

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Circulation/Marketing
Jill S. Dahnert
Roberta Knight

TAC Editor
Dana Blanton

TAC Typographer
Madeline Chrisner

Documents Section
Supervisor
Patty Webster

Document Editors
Janiene Allen
Lisa Martin

Open Meetings Clerk
Jamie Alworth

Production Section
Supervisor
Ann Franklin

Production Editors/
Typographers
Carla Carter
Janice Rhea
Mimi Sanchez

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except July 30, November 30, December 28, 1993. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: one year - printed, \$95 and electronic, \$90; six-month printed, \$75 and electronic, \$70. Single copies of most issues are available at \$5 per copy.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* Director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Texas Register* is published under Texas Civil Statutes, 6252-13a. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824.

How to Use the Texas Register

Information Available: The 10 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 Sections - sections adopted by state agencies on an emergency basis.

Proposed Sections - sections proposed for adoption.

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

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

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 18 (1993) is cited as follows: 18 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 "18 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 18 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, releases cumulative supplements to each printed volume of the TAC twice each year.

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
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 22, April 16, July 13, and October 12, 1993). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

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

Area Agency on Aging Program Development Services

40 TAC §§291.1-291.6..... 1428

Texas Department of Insurance

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L..... 1429

Open Meetings

Texas State Board of Public Accountancy 1431

The Texas Board on Aging..... 1431

Texas Department of Agriculture..... 1431

State Banking Board..... 1432

Institute of Biosciences and Technology..... 1432

Texas Bond Review Board..... 1432

Texas Catastrophe Property Insurance Association...1432

Texas Board of Chiropractic Examiners 1432

Texas Department of Commerce..... 1432

Credit Union Department 1432

Texas Planning Council for Developmental Disabilities..... 1432

Texas Education Agency..... 1433

Advisory Commission on State Emergency Communications 1433

Texas Employment Commission..... 1434

Texas Department of Health..... 1434

Health and Human Services 1434

Texas Historical Commission..... 1434

Texas Department of Human Services 1434

Texas Department of Insurance..... 1434

Lamar University Sytem, Board of Regents..... 1435

Texas Commission on Law Enforcement Officer Standards and Education 1436

Texas Department of Licensing and Regulation 1436

State Medical Education Board..... 1436

Texas Mental Health and Mental Retardation..... 1436

Texas Board of Pardons and Paroles..... 1437

Board of Plumbing Examiners 1437

Texas State Board of Examiners of Psychologists...1437

Texas Public Finance Authority 1438

Texas Department of Public Safety..... 1438

Public Utility Commission of Texas 1438

Railroad Commission of Texas 1439

Texas Real Estate Research Center..... 1440

School Land Board..... 1440

State Committee of Examiners for Speech-Language Pathology and Audiology..... 1440

Supreme Court of Texas..... 1440

Teacher Retirement System of Texas..... 1440

The Texas A&M University System, Board of Regents.....1440

Texas Southern University.....1441

The Texas State University System.....1441

Texas Department of Transportation.....1441

Texas Turnpike Authority.....1441

The University of Texas Health Center at Tyler... 1441

Texas Water Commission.....1441

Texas Water Development Board.....1442

Texas Water Resources Finance Authority.....1443

Regional Meetings.....1443

In Addition Sections

Texas Air Control Board

Notice of Intention to Let Contracts.....1445

Texas Antiquities Committee

Notice of Hearing Date Amendment.....1446

Office of the Attorney General

Notice of Amendment to Consulting Services Contract.....1446

Central Texas Council of Governments

Request for Proposals.....1446

Texas Department of Commerce

Product Commercialization Fund Application Announcement.....1446

Request for Proposals.....1447

Texas Education Agency

Notice of Public Hearing.....1448

Employees Retirement System of Texas

Consultant Contract Renewal Flexible Benefits Program.....1448

Contract Award for Consulting Services.....1448

Texas Employment Commission

Consultant Contract Amendment.....1448

Notice.....1449

Texas General Land Office

Contract Award.....1449

Correction of Error.....1449

Texas Department of Health

Correction of Error.....1450

Enhanced Sexually Transmitted Disease Accelerated Prevention Campaign Request for Proposals1450

Notice of Emergency Cease and Desist Order.....1450

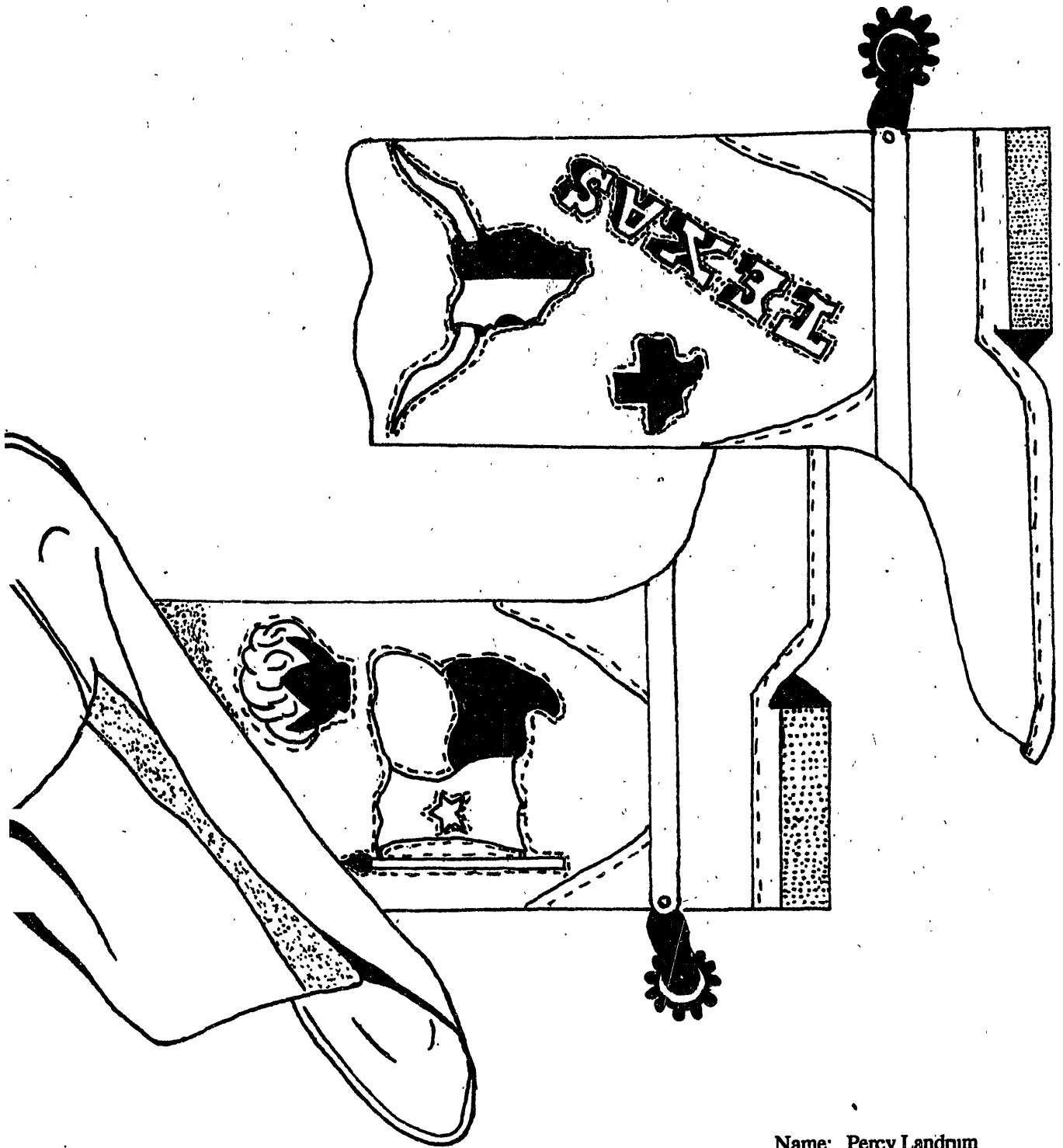
Notification Regarding the Elimination of Medicaid Clients From CIDC Coverage.....1450

Request for Proposals for Breast and Cervical Cancer Control Public Information Campaign.....1451

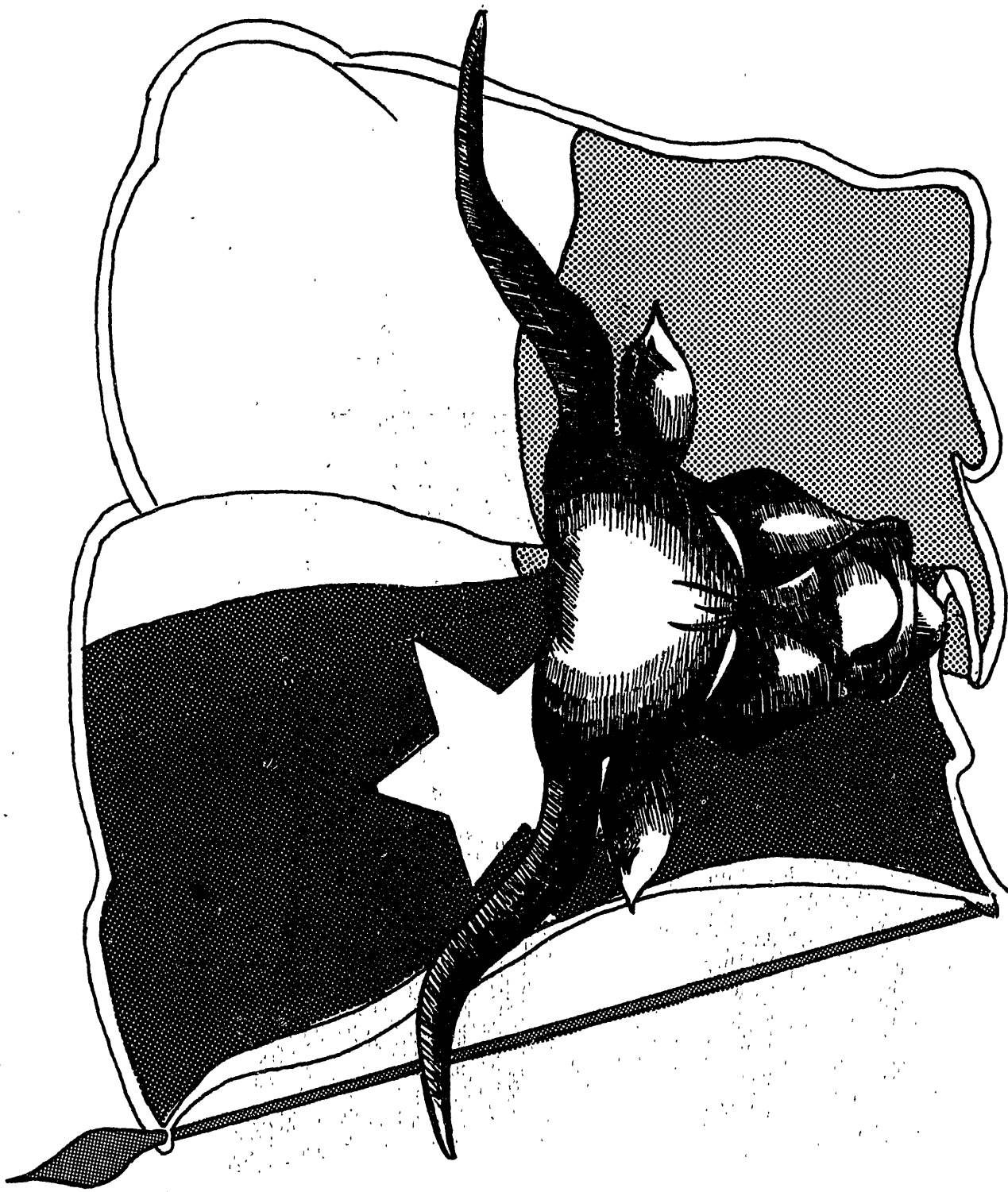
Texas Department of Human Services

Public Notice.....1451

Public Notice Open Solicitation.....	1451
Texas Department of Insurance	
Open Meetings Clarification.....	1452
Texas Department of Mental Health and Mental Retardation	
Public Notice: Intended Use Plan	1452
Public Utility Commission of Texas	
Notice of Application to Amend Certificate of Convenience and Necessity.....	1453
Notices of Intent to File Pursuant to PUC Substantive Rule 23.27.....	1453
Texas Low-Level Radioactive Waste Disposal Authority	
Notice of Contract Award.....	1454
Texas Water Commission	
Enforcement Orders.....	1454

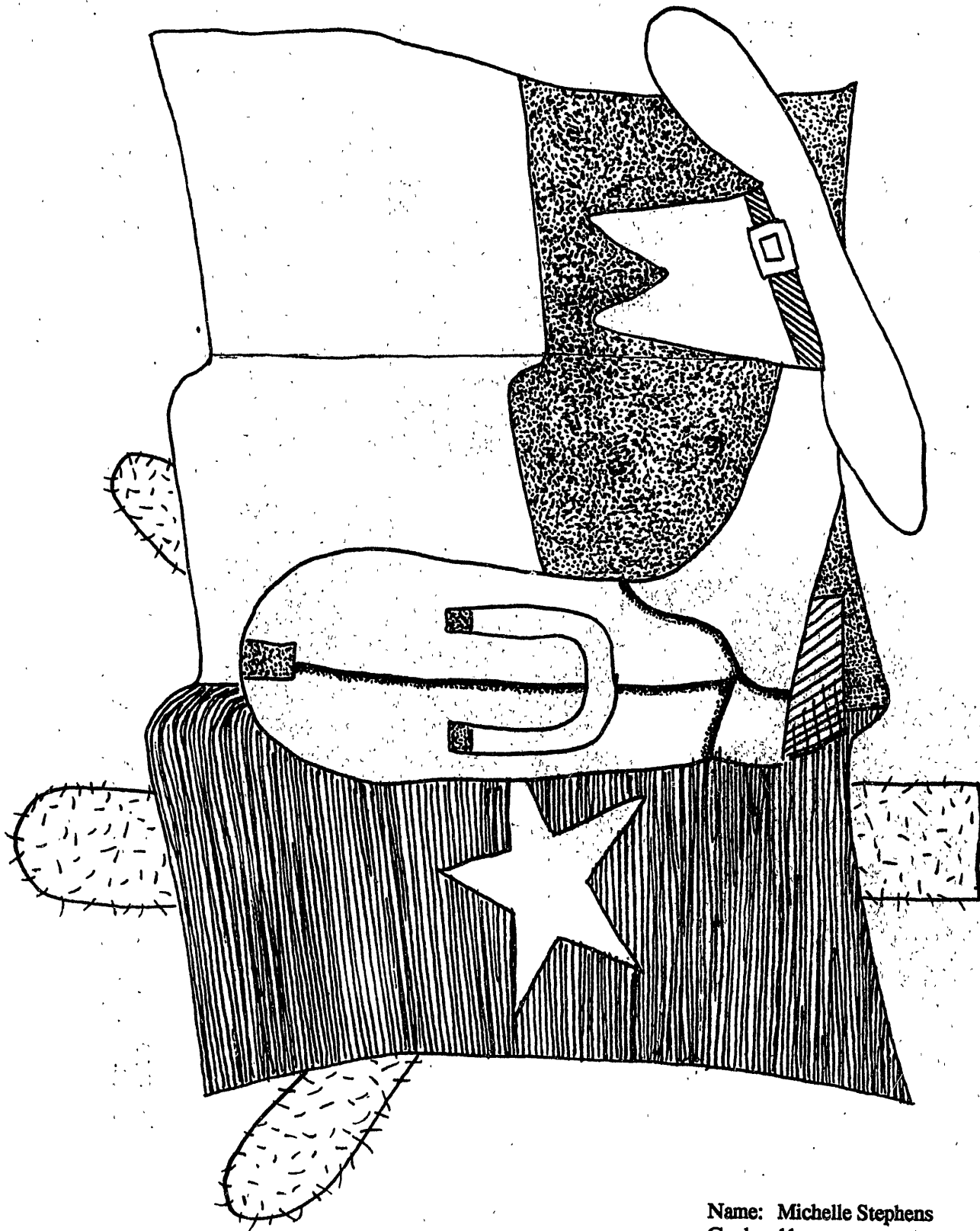


Name: Percy Landrum
Grade: 11
School: Arlington High, Arlington ISD

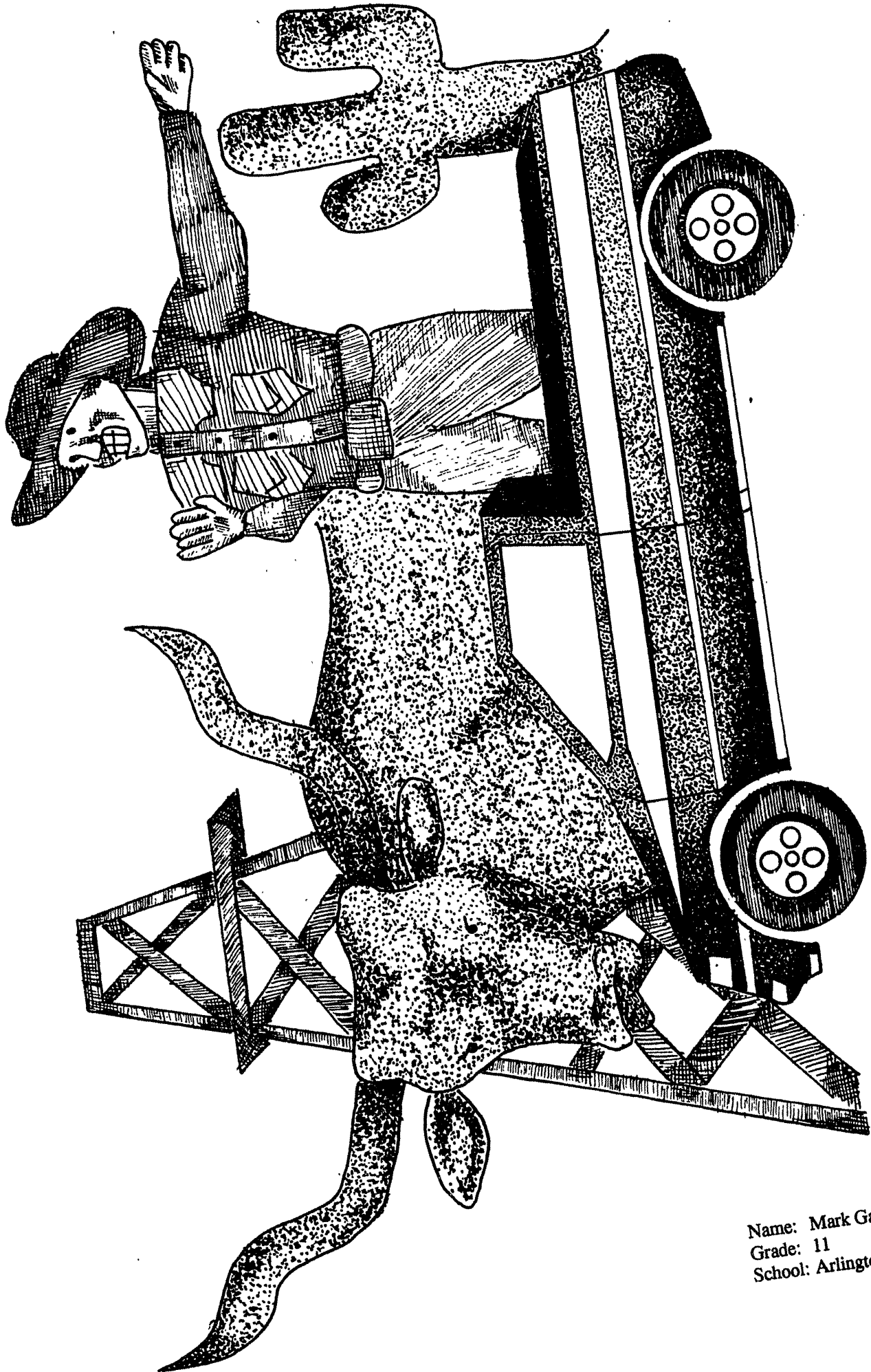


THE LONE STAR STATE

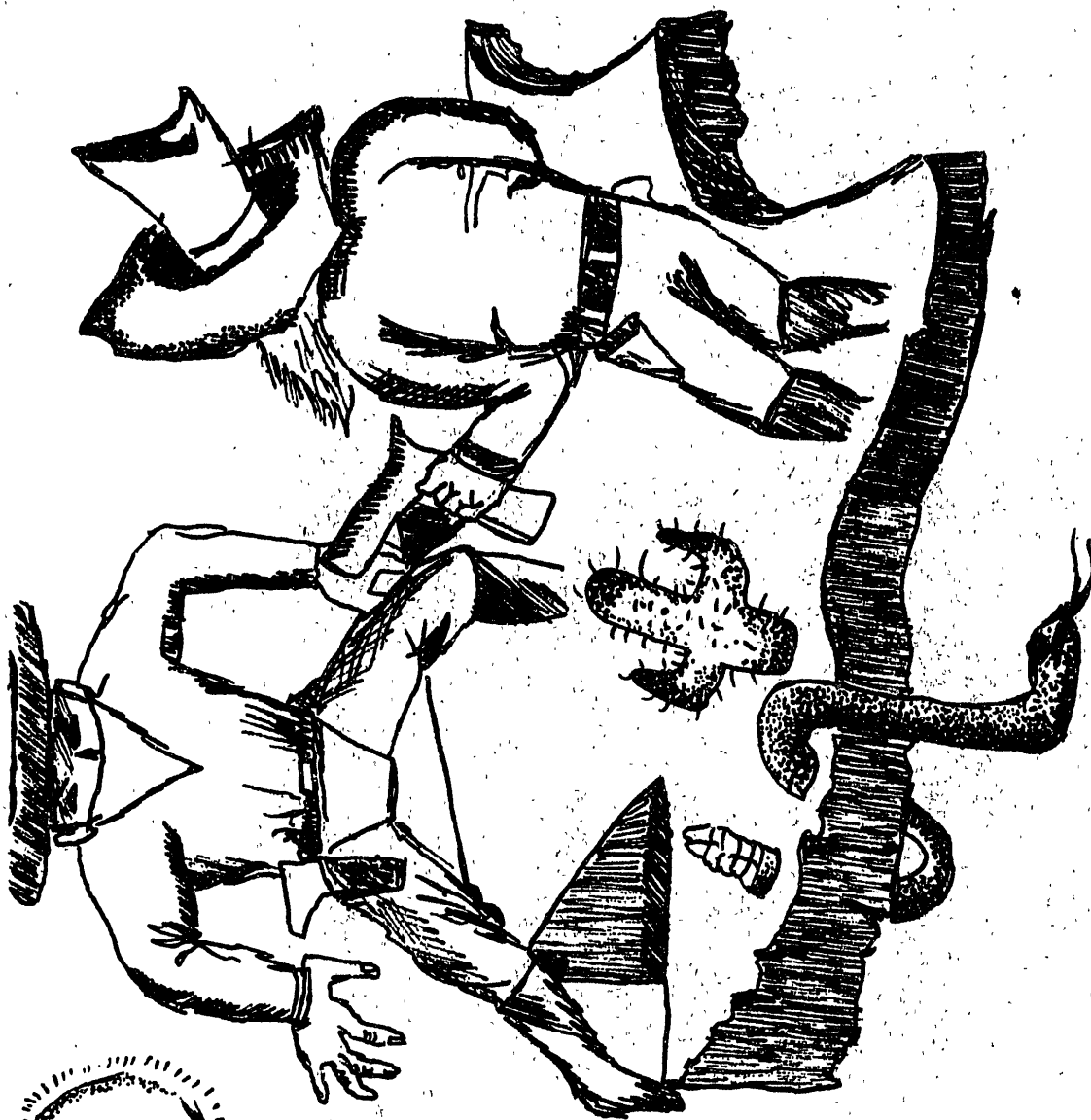
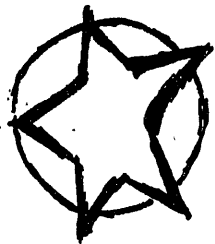
Name: Kris McCadden
Grade: 10
School: Arlington High, Arlington ISD



Name: Michelle Stephens
Grade: 11
School: Arlington High, Arlington ISD



Name: Mark Garza
Grade: 11
School: Arlington High, Arlington



Name: Daxx Dhrham
Grade: 11
School: Arlington High, Arlington ISD



Name: Daniel Smith
Grade: 11
School: Arlington High, Arlington ISD

Proposed Sections

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 any action may be 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 sections, 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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 38. Chronically Ill and Disabled Children's Services

• 25 TAC §38.11

The Texas Department of Health (department) proposes an amendment to §38.11, concerning the Chronically Ill and Disabled Children's (CIDC) Services. Section 38.11, covers guidelines for a cardiac center to be approved as a CIDC cardiovascular diagnostic and treatment center. The amendment will revise the current CIDC guidelines for cardiac centers.

Roy Middleton, Chief Accountant III, 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. Middleton also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the CIDC Program will utilize guidelines for the approval and review of cardiovascular diagnostic and treatment centers which follow the nationally recognized guidelines established by the American Academy of Pediatrics. There is no anticipated economic cost to small businesses or persons who are required to comply with the section as proposed. There also will be no effect on local employment.

Oral and written comments on the proposal may be submitted to John E. Evans, Chief, Bureau of Chronically Ill and Disabled Children's (CIDC) Services Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7355. Public comments will be accepted for 30 days after the publication of the section in the *Texas Register*.

The amendment is proposed under Health and Safety Code, Chapter 35, which provides the Texas Board of Health with the authority to adopt rules concerning Chronically Ill and Disabled Children's (CIDC) Services Program; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§38.11. Guidelines for a Cardiac Center to be Approved Through the Chronically Ill and Disabled Children's (CIDC) Services Program.

(a) Introduction. To assure that eligible children with cardiac conditions receive high quality comprehensive services, the Texas Board of Health (board) adopts the guidelines in this section for cardiac diagnostic and treatment centers (center). The guidelines are based on guidelines developed by the American Academy of Pediatrics (AAP) Section on Cardiology [concerning pediatric cardiology diagnostic and treatment centers, which were developed by the American Academy of Pediatrics section on cardiology which were published in the Academy's publication titled, "Pediatrics", Volume 62, Number 2, August 1978. The academy's guidelines have been recognized and accepted by national maternal and child health/crippled children's services (MCH/CC) programs and the board].

(b) Approval process for [as a] Chronically Ill and Disabled Children's (CIDC) Services Program cardiac [cardiovascular] diagnostic and treatment centers [center].

[(1) Initial or continuing approval process.]

(1)[(A)] Centers making initial [new] application for approval will be reviewed by the Texas Department of Health (department) CIDC Program according to the guidelines in this section . [, with particular attention paid to quantitative data such as number of live births required in the center's catchment area, number of staff, number of procedures, caseload numbers, number of catheterizations (excluding electrophysiologic studies) that go to surgery, etc. Also, the centers must meet the requirements in the guidelines in this section concerning administration and facilities. The CIDC Program will emphasize geographic need in the approval of new centers.]

[(B) Prior to initial approval, all centers are subject to a site visit in which the centers and their quality of care are assessed according to the guidelines in this section. If a center is approved, the approval will be for a period of three years,

subject to a review of the quality of care at that center based on review of site visit reports and morbidity/mortality data by the CIDC Program. Approval periods may be less than three years if specified by the CIDC Program and approved by the board.

[(C) At the time of the review, a written invitation shall be sent to the administrator of the center to attend and/or present information required in the review process. Recommendations from the CIDC Program for initial approval, continuing approval or disapproval shall be sent through the chief, Bureau of Chronically Ill and Disabled Children's Services, to the board for its consideration.]

(2) Following review of the initial application, all centers being considered for initial approval will undergo a site visit in which the centers and their quality of care are assessed according to the guidelines in this section. [Calculation of the number of statewide centers. It is desirable that on the average no more than one center per 24,000 live births for the State of Texas be approved at any one time, including those centers with approval based on geographic need as provided in paragraph (3) of this subsection. For the approximately 300,000 live births in Texas in 1985, this means that only 12 centers could be approved until there are 312,000 live births in Texas, when a 13th center could be approved, based on the guidelines in this section.]

(3) At the time of the site visit, written notification shall be sent to the administrator of the center to attend the site visit and present information required in the review process.

(4) Recommendations from the CIDC Program for initial approval or disapproval shall be sent through the bureau chief of the CIDC Program to the board for its consideration and action.

(5) The final decision by the board regarding approval shall be made after it has carefully reviewed the documentation submitted, and has determined the applying center is capable of meeting these standards.

(6) If a center is approved, the center will be subject to ongoing quality-

of-care review by the CIDC Program, based on site visit reports and morbidity/mortality data. The approval period will be for three years, unless otherwise specified by the board.

(7) Continuing approval will depend upon on the center's demonstrated ability to maintain the high standards expected. This ability will be verified by periodic site visits (every three years, or more often if so specified) by a team made up of CIDC approved physicians, a representative(s) from the CIDC Program staff, and other individuals as deemed necessary by CIDC.

(8) The quality of care and services will be determined according to qualifications of personnel; adequacy of the facility; quality of diagnostic/therapeutic measures; and documentation of results of short and long term follow-up, client outcomes, and morbidity/mortality statistics for the previous year.

(9) The center will be required to generate documentation that its program meets the requirements in the guidelines in this section. This information must be available for review by the site visit team.

(10) If a center is found to be deficient or have problems in certain areas, the CIDC Program will make recommendations, which shall include the status of the center pending corrective action; the recommended corrective action; the time frame for corrective action to occur; and the reevaluation process.

(11) Recommendations from the CIDC Program for continuing approval or disapproval shall be sent through the bureau chief of the CIDC Program to the board for its consideration and action.

(c)[(3)] Catchment area criteria/geographic need.

(1)[(A)] As a general rule, in order to be approved, a center should meet the overall criteria set out in these guidelines in this section and provide pediatric cardiology care to a geographic area with at least 30,000 live births per year.

(2)[(B)] An exception to the catchment area criteria may be made if a center meets a geographic need. Geographic need for a center shall be defined as having greater than 12,000 live births in the proposed catchment area and being approximately 75 miles or more from another CIDC Program approved center.

(d)[(c)] Pediatric cardiology diagnostic and treatment team for a CIDC Program approved cardiac center.

(1) Criteria and process for approval. The CIDC Program sets the criteria and process for approval of car-

diac center pediatric cardiologists and thoracic/cardiovascular surgeons. Only physicians who meet these approval criteria may be reimbursed for invasive cardiac procedures.

(2)[(1)] Pediatric cardiology staff. A center should have a minimum of two CIDC Program approved and board certified pediatric cardiologists. The suggested ratio for a pediatric cardiologist is 1/50-75 cardiac catheterizations or 1/1,000 client visits per year. Caseload numbers may be smaller, but must be sufficient to maintain skills resulting in good quality of care.

(3)[(2)] Pediatric cardiac surgical staff. A center should have a minimum of [at least] two CIDC Program approved [and] cardiac surgeons who are board certified in thoracic surgery. One surgeon should have experience in, and [a major interest in and the] primary responsibility for the surgery of congenital heart disease. The cardiac surgeon should be able to direct a surgical team in the performance of all current cardiac surgical procedures applicable to infants and children [the age group cared for], although special procedures in limited volume may be the province of a single member of the team.

(4)[(3)] Other pediatric staff. A cardiac center must have available [the following] CIDC Program approved [and board eligible/certified] physicians with recognized competence in providing necessary consultative services to infants and children. [in the following specializations for consultation:] It is preferable that these physicians be board certified in their subspecialties and/or have certificates of pediatric proficiency, if such boards/certificates exist. The required specializations are: pediatric anesthesiology; pediatric radiology; pediatric intensive care; pediatric hematology; pediatric nephrology; pediatric neurology; neonatology; pediatric pulmonology; pediatric endocrinology; pediatric surgery; pediatric infectious disease; and pediatric pathology.

[(A)] pediatric hematology;

[(B)] nephrology;

[(C)] neurology;

[(D)] neonatology;

[(E)] pulmonary;

[(F)] endocrinology;

[(G)] pediatric surgery;

[(H)] pediatric intensivist;

[(I)] urology;

[(J)] radiology;

[(K)] anesthesiology; and

[(L)] pathology.]

(5)[(4)] Nursing staff. A center must have nurses who are [specially] trained in the management of infants and children [specific age groups] with heart disease; they include cardiac nurse specialists and surgical, intensive care, and general pediatric nurses [unit floor nurses]. Frequent reassignment of nurses outside their area of special training is discouraged. [Basic nursing skills must include evaluation of cardiac output, blood pressure, pulse volume, pulse rate and rhythm, interpretation of ECG's and other monitoring devices, and management under the direct physician supervision of preoperative and postoperative complications associated with heart diseases.] Continuing inservice education must be incorporated into the nursing program [A continuing inservice education program for nurses assigned to the center is required].

(6)[(5)] Social work. A center should have [available] a master's level social worker for [referrals for] family support, family social assessments, and coordination of community resources. The social worker should be familiar with state and local programs for financial support, case management, and rehabilitation of cardiac clients.

(e)[(d)] Administration/facilities.

(1) Administration. A hospital with a CIDC Program approved cardiac center must have trustees, an administration system, and a medical board each with [; each must have] an understanding of the requirements for a high quality program. There should be assurance that necessary materials and professional resources are available, and that excellent quality of care can be maintained [and that excellence of performance can be maintained].

(2) Professional staff and support system. The center, directed by a CIDC Program approved pediatric cardiologist, shall assure that there is adequate in-hospital professional staff coverage at all times, that [the] hospital support systems and services are sufficiently integrated to manage medical and surgical emergencies, and that a physician team member [of the team] familiar with the child [client] is available on site until the child [client] is stable.

(3)[(A)] Inpatient services. Comprehensive specialized services for infants and children [pediatric clients] with heart disease must be provided in a children's hospital or in a pediatric cardiology department of a category C hospital (designated in accordance with the national hospital categorization guidelines of the Joint Commission on Accreditation of Health Care Organizations). These hospitals should be capable of providing quality comprehensive, diagnostic, and therapeutic services, [of optimal quality] including cardiac surgery for infants and children with all types of cardiovascular disease.

(4)[(B)] Outpatient services [Ambulatory services]. There should be readily accessible pediatric cardiology outpatient [ambulatory] services, [available] including office or clinic services, which are supervised by a pediatric cardiologist [, and emergency service should be available on 24-hour call].

(5) Emergency services/equipment.

(A) Emergency care appropriate for infants and children must be available on a 24-hour basis.

(B) Resuscitation equipment and supplies must be available at all times for immediate use in the catheterization lab and elsewhere in the facility. The equipment must be checked regularly for reliable performance and should include the following: a defibrillator capable of delivering energy at low doses and of synchronized cardioversion; laryngoscopes and endotracheal tubes appropriate for all ages; an oxygen source; equipment for oxygen administration and assisted ventilation; a suction device; emergency drugs; facilities for insertion of a transvenous pacemaker; a body temperature monitoring device; and a warming device for infants.

(6)[(C)] Cardiac catheterization laboratory.

(A) The cardiac catheterization laboratory staff should be headed by a CIDC Program approved pediatric cardiologist. In addition to the cardiologist performing the [present at a] catheterization, there should be present a [full time] registered nurse with [special] training in cardiovascular techniques or in the intensive care of infants and children [pediatric clients]. Other staff should include two or more additional personnel who [which] may include nurses, anesthesiologists, or technicians [, or individuals specially] trained in the operation of radiologic, resuscitation, and monitoring equipment. [operating monitoring and radiologic equipment. The catheterization equipment should meet the following requirements.]

(i) Intracardiac electrophysiologic studies are a specialized area of cardiac catheterization which require additional medical expertise and technical support. In centers without available pediatric expertise in this area, these studies may be performed in conjunction with an adult electrophysiologist, or patients may be referred to a more specialized center. When performing electrophysiologic studies, the catheterization laboratory team should be particularly well trained in performing cardioversion and cardiopulmonary resuscitation.

(ii) Interventional catheterization is another specialized area of cardiac catheterization which requires additional medical expertise and technical and surgical support. Surgical intervention must be immediately available in the same facility in the event of a major complication.

(B) The equipment necessary for a cardiac catheterization laboratory includes the following:

(i) a multi-channel recording apparatus for the [with a] continuous display and recording of intracardiac pressures [pressure], electrocardiograms [ecg's], and other selected physiologic variables; [should be available.]

(ii) equipment [should be available] to measure oxygen consumption and to determine the cardiac output in infants, children, and adolescents; [clients of all ages, and densitometers and other equipment to detect shunts using indicator dilution or hydrogen electrode techniques should be available.]

(iii) equipment to evaluate hemoglobin oxygen saturation, blood pH, and blood partial pressures of carbon dioxide and oxygen. Results of these studies should be immediately available. Laboratories which serve infants should have equipment which uses small samples of blood for analysis. A transcutaneous oximeter for continuous monitoring of tissue oxygenation is a necessity when performing invasive procedures on high-risk infants and children; [A hemoglobin-oxygen saturation analyzing technique, and equipment for laboratories that is periodically checked for accuracy, should be available. In addition, measurement of blood gases should be immediately available. The results of oxygen determinations should be immediately available while the catheter is in place. Laboratories in which infants are studied should be equipped with units requiring small samples of blood for analysis.]

(iv) [Radiologic equipment should include] image intensification roentgenographic [x-ray] apparatus capable of video and cine recording, biplane [Biplane] imaging [, equipment, and pressure injector [either cine or serial large frame technique, is essential. Equipment] that permits rapid injection of controlled amounts of radiopaque contrast material are essential. Low ionic or recently developed nonionic radiopaque contrast materials should be available; [,]

(v) intracardiac electrophysiologic study equipment (for those centers performing these specialized studies) should include: a physiological recorder capable of displaying and recording at least three simultaneous electrocardiograms, six intracardiac signals, and blood pressure; a "freeze" oscilloscope; a programmable stimulator capable of delivering three or more extra stimuli; and electrophysiologic catheters designed for children.

(vi) interventional catheterization equipment should include specialized equipment for angioplasty and catheter or prosthesis retrieval.

(D) Resuscitation equipment. Client support devices should include resuscitation equipment and supplies available at all times for immediate use in the laboratory. The equipment should be periodically checked for reliable performance and should include the following:

(i) a defibrillator;

(ii) laryngoscopes and endotracheal tubes appropriate for all ages;

(iii) an oxygen source;

(iv) equipment for oxygen administration;

(v) an assisted respiratory ventilation;

(vi) a suction device;

(vii) emergency drugs;

(viii) facilitates for insertion of a transvenous pacemaker;

(ix) a body temperature monitoring device; and

(x) a warming device for infants.]

(7)[(E)] Non-invasive procedures/equipment. A center must have available electrocardiography, ambulatory electrocardiographic monitoring, exercise testing, and echocardiography procedures with interpretation of each [used] under the direction of the pediatric cardiologist. A center dedicated to the care of clients with life threatening arrhythmias should provide means for telemetry. Equipment

for complete [High quality] two-dimensional and M-mode echocardiography and doppler examinations [echo equipment, preferably with doppler.] should be available and in regular use. A technician capable of recording diagnostic quality studies on neonates, infants, and children [and infants including newborn babies as part of the cardiac team is desirable.] is necessary to the center. Personnel able to recognize and treat medical emergencies should be in attendance during these studies. Physician staff review of each echocardiographic examination is mandatory.

(8)[(F)] Operating room and surgical facilities. The cardiovascular operating room should be a part of the general surgical suite. The administration of the cardiac surgery operating rooms is assigned to a specialty nurse supervisor. Specific recommendations regarding equipment are outlined in the report of the "Intersociety Commission for Heart Disease Resources", published in "Circulation", Volume 52, November 1975.

(9) [(G)] Records management. A center must maintain a medical records system permitting prompt retrieval of information. Medical records must be legible, must show complete and accurate documentation [accurately documented] in a timely manner, and must be accessible to the site review team.

(10)[(H)] Responsibility to the CIDC Program. A center must agree to abide by the CIDC Program's requirements in this section which include, but are not limited to, utilizing all third party resources available to clients prior to requesting payment; accepting CIDC Program payment as payment in full; and submitting documentation required by the CIDC Program. [CIDC Program required documentation; submitting an annual report due 30 days after the end of the state fiscal year (August 31).]

(11)[(I)] Rights of clients. A center must be responsible for assuring that all members of the diagnostic and treatment team recognize the rights of eligible clients. The responsible physician is expected to inform parents or guardians or adult clients of the complete information concerning diagnosis, treatment, and prognosis. He or she should provide opportunities for parents or guardians or adult clients to participate in discussion involving the client's care and provide a written follow up plan for parents or guardians or adult clients and referring physicians. When appropriate, a referral to a primary care provider [CIDC Program approved physician] in the client's home community should be made for [the] follow-up care and emergencies. Unless there are compelling reasons to the contrary, cardiac care should be delivered in

the cardiac center which is closest to the client's home and which has available facilities and expertise. Services should be culturally competent, family centered, community based, and coordinated.

(f)[(e)] Caseloads. Although there may be a decline in the number of catheterizations being performed, generally, minimum caseloads are essential to stimulate and maintain quality of care. The caseload numbers for catheterizations and surgeries should be large enough that the team responsible for the delivery of cardiac care to infants and children will maintain their technical skills and provide quality care. The relationship between caseload and quality of care will be assessed at the time of the site review. A center applying for initial approval will be considered if its caseload volume approaches that of other CIDC approved cardiac centers and there is an established pattern of caseload growth over the last three to five years, which is expected to continue. The caseload must reflect a variety of cardiac diagnoses and degrees of complexity and must represent various pediatric age groups. [Without these minimum caseloads it is believed that the team that is responsible for the delivery of cardiac care to infants and children will not maintain their technical skills. CIDC Program approved centers should perform a minimum of 100-150 catheterizations per year when catheterizing only infants and children, or 350 cardiac catheterizations per year when serving both adults and pediatric clients, with at least 100 catheterizations performed on pediatric clients. The ratio of invasive studies to total surgical procedures will be considered in the overall assessment of the statistics, excluding electrophysiological studies. The center should perform at least 100 operations per year on pediatric clients, with at least 30% using extra-corporeal circulation.]

(f) Continuing approval.

[(1)] The guidelines in this section for approval of a center for the cardiac care of children are intended to ensure that a very high quality of care is delivered. It is expected that a center meet a majority of the criteria set out in the guidelines in this section before making application for approval. The final decision by the board regarding approval shall be made upon the recommendation of the CIDC Program after it has carefully reviewed the documentation submitted, and has been convinced that the applying center is capable of meeting these standards. Once the center has been approved, its ongoing approval will only depend on its demonstrated ability to continue to maintain the high standards expected. This ability will be verified by periodic site visits by a team made up of approved CIDC physicians.

[(2)] Continuation of approved centers will be based on a qualitative and quantitative assessment. Quality will be assessed by annual reports, if possible, and on-site visits will be evaluated on the basis of the CIDC Program's expertise. The quality of care and services will be determined according to competency of personnel; adequacy of the facility; quality of diagnostic/therapeutic measures; and documentation of results of short and long term follow-up, client outcomes, and mortality statistics for the previous year.

[(3)] The center will be required to generate documentation that its program meets the statistical requirements in the guidelines in this section. This information must be available for review by the onsite review team.

[(4)] The CIDC Program will make site visits every three years to approved cardiac centers or more often if so specified.

[(5)] If a center is found to be deficient or have problems in certain areas, the CIDC Program will make a recommendation, which shall include the status of the center until corrective action is taken; the recommended corrective action; the time frame for corrective action to occur; and the re-evaluation process.]

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 February 25, 1993.

TRD-9319524

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: June 19, 1993

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. The Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §101.1

The Texas Air Control Board (TACB) proposes amendments to §101.1, concerning Definitions. The definition for nonattainment area is reworded to avoid using the defined term "nonattainment" within the definition. The definitions that apply only to nonattainment area new source review rules will be deleted from the General Rules and will be proposed for addition to Chapter 116 in concurrent action.

Lane Hartsock, Deputy Director of Air Quality Planning, 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. Hartsock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clearer understanding of the rules. The nonattainment definitions only concern permit applicants affected by nonattainment review, and will be relocated within the new Chapter 116. 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.

A public hearing on this proposal will be held on March 16, 1993, at 10 a.m. in the Auditorium, Room 201S of the TACB Central Office, Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TACB staff member will discuss the proposal and answer questions 30 minutes before the hearing.

Written comments not presented at the hearing may be submitted to the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753 through March 31, 1993. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the Board prior to any final action on the proposed sections. Copies of the proposal are available at the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB Regional offices. For further information, contact Gary McArthur at (512) 908-1917.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendment is proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.1. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

[Actual emissions (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act

provisions)—Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Executive Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. The Executive Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions, e.g., when the allowable limit is reflective of actual emissions. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

[Allowable emissions (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—The emissions rate of a stationary source, calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both), and the most stringent of the applicable standards set forth in 40 Code of Federal Regulations, Part 60 or 61, any applicable State Implementation Plan emissions limitation including those with a future compliance date, or the emissions rate specified as a federally enforceable permit condition including those with a future compliance date.

[Begin actual construction (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—In general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

[Building, structure, facility, or installation (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—All of the pollutant-emitting activities which belong to the same industrial grouping are located in one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Clas-

sification Manual, 1972, as amended by the 1977 supplement.

[Commence (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—As applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or has entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

[Construction (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

[De minimis threshold—(In regard to any proposed emissions increase in a specific nonattainment area), an emissions level, as determined by aggregating the proposed increase with all other creditable source emission increases and decreases during the previous five calendar years, including the calendar year of the proposed change, which equals the major modification level (in tons/year) for that specific nonattainment area. Table I, of §101.1 of this section, specifies the various classifications of nonattainment along with the associated emission levels which designate a major modification for those classifications.

[Lowest achievable emission rate—For any emitting facility, that rate of emissions of a contaminant which does not exceed the amount allowable under applicable new source performance standards promulgated by the United States Environmental Protection Agency under Section 111 of the Federal Clean Air Act and which reflects:

(A) the most stringent emission limitation which is contained in the rules and regulations of any approved state implementation plan for a specific class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or

(B) the most stringent emission limitation which is achieved in practice by a specific class or category of facilities, whichever is more stringent.

[Major facility/stationary source (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Any facility/sta-

tionary source which emits, or has the potential to emit, the amount specified in the MAJOR SOURCE column of Table I of this section or more of any air contaminant (including volatile organic compounds) for which a National Ambient Air Quality Standard has been issued. Any physical change that would occur at a stationary source not qualifying as a major stationary source in Table I of this section, if the change would constitute a major stationary source by itself. A major stationary source that is major for volatile organic compounds shall be considered major for ozone. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this definition whether it is a major stationary source, unless the source belongs to one of the categories of stationary sources listed in 40 Code of Federal Regulations, 51.165(a)(1)(iv) (C).

[Major modification (applies only to new source review rules pursuant to Federal

Clean Air Act provisions)—Any physical change, or change in the method of operation of a facility/ stationary source that causes a net increase of its potential to emit volatile organic compounds (VOC), or any air contaminant for which a National Ambient Air Quality Standard has been issued by the amount listed in the MAJOR SOURCE column of Table I of this section, or a major facility/stationary source that would result in a net increase in its potential to emit VOC, or any air contaminant for which a National Ambient Air Quality Standard has been issued by an amount equal to or greater than that specified in the MAJOR MODIFICATION column of Table I. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone. A physical change or change in the method of operation shall not include routine maintenance, repair, and replacement; use of an alternative fuel or raw material by reason of

an order under the Energy Supply and Environmental Coordination Act of 1974, §2(a) and (b) (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act; use of an alternative fuel by reason of an order or rule of the FCAA, §125; use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste; use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before December 21, 1976 (unless such change would be prohibited under any federally enforceable permit condition established after December 21, 1976) or the source is approved to use under any permit issued under regulations approved pursuant to this section; an increase in the hours of operation or in the production rate (unless the change is prohibited under any federally enforceable permit condition which was established after December 21, 1976); or any change in ownership at a stationary source.

TABLE I

MAJOR SOURCE/MAJOR MODIFICATION EMISSION THRESHOLDS

<u>POLLUTANT</u>	<u>MAJOR SOURCE tons/year</u>	<u>MAJOR MODIFICATION net increase in tons/year</u>	<u>OFFSET RATIO minimum</u>
VOC/NO _x ¹			
I marginal	100	40	1.10 to 1
II moderate	100	40	1.15 to 1
III serious	50	25	1.20 to 1 ²
IV severe	25	25	1.30 to 1
CO			
I moderate	100	100	1.00 to 1 ³
II serious	50	50	1.00 to 1 ³
SO ₂	100	40	1.00 to 1 ³
PM ₁₀			
I moderate	100	15	1.00 to 1 ³
II serious	70	15	1.00 to 1 ³
Lead	100	0.6	1.00 to 1 ³

¹ VOC and NO_x are to be considered separately for purposes of determining whether a source is subject to permit requirements. For those counties which are designated nonattainment for ozone, but are not classified because of incomplete data (Victoria County), the new source review rules for a marginal classification apply to sources of VOC but not to sources of NO_x.

² BACT may be used as an alternative to LAER if a 1.30 to 1 offset is met.

³ The offset ratio is specified to be greater than 1.00 to 1.

- VOC = volatile organic compound
- NO_x = oxides of nitrogen
- CO = carbon monoxide
- SO₂ = sulfur dioxide
- PM₁₀ = particulate matter of less than 10 microns in diameter]

[Necessary preconstruction approvals or permits (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)-Those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

[Net emissions increase (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions) -Any emissions changes at the building, structure, facility, or installation in which the sum of any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source, and any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable, exceeds zero. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs. An increase or decrease in actual emissions is creditable only if it occurs within a reasonable period to be specified by the reviewing authority, and the reviewing authority has not relied on it in issuing a permit for the source (under regulations approved during which the permit is in effect) when the increase in actual emissions from the particular change occurs. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level. A decrease in actual emissions is creditable only to the extent that the old level of actual emission or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; it is federally enforceable at and after the time that actual construction on the particular change begins, the reviewing authority has not relied on it in issuing any permit, or the state has not relied on it in demonstrating attainment or reasonable further progress; it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.]

Nonattainment area-A defined region within the State which is designated by the United States Environmental Protection Agency (EPA) as failing to meet the National Ambient Air Quality Standard for a pollutant for which a standard exists. The EPA will designate the area as nonattainment under the provisions of

the Federal Clean Air Act, §107(d) [An area which is designated "nonattainment" with respect to any air pollutant within the meaning of the Federal Clean Air Act, §107(d)].

[Potential to emit (applies only to nonattainment areas, new source rules pursuant to Federal Clean Air Act provisions)-The maximum capacity of a facility/stationary source to emit a pollutant under its physical and operational design. Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions, as defined in 40 Code of Federal Regulations, 51.165(viii), do not count in determining the potential to emit of a stationary source.

[Reconstruction (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)-Will be presumed to have taken place where the fixed capital costs of the new component (as cumulated from December 21, 1976) exceeds 50% of the fixed capital cost of a comparable entirely new source.

[Secondary emissions (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions) -Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the source or modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions, except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

[Stationary source (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)-Any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Federal Clean Air 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 February 22, 1993.

TRD-9319355

Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1451

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 47. Primary Home Care

General Provisions and Services

The Texas Department of Human Services (DHS) proposes amendments to §47.1903 and §47.4901, concerning staffing requirements and contracting in its Primary Home Care chapter. The purpose of the amendments is to correct the hotline telephone number for reporting abuse and neglect and to delete obsolete references in the requirements for special attendants.

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

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

Questions about the content of the proposal may be directed to Shirley Muery at (512) 450-3854 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-046, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §47.1903

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413(502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

§47.1903. Staffing Requirements.

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

(c) The two types of attendants are as follows.

(1) (No change.)

(2) Special attendants. Special attendants may be used to initiate services, prevent a break in service, or provide ongoing services. Although special attendants are required to receive the general orientation specified in paragraph (1) of this subsection, they do not have to receive it in the client's home as long as they meet the following requirements.

(A) (No change.)

(B) The special attendant must either:

(i) meet the requirements described in §115.13(a) [and (c)-(g)] of Title 25 (relating to Home Health Aides; Training Course; Duties); or

(ii)-(iii) (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 March 1, 1993.

TRD-9319625

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: June 15, 1993

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

Provider Contracts

• 40 TAC §47.4901

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413(502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

§47.4901. Contracting.

(a) (No change.)

(b) Provider agencies must:

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

(7) report suspected cases of client abuse, neglect, and exploitation within 24 hours of awareness to the local CCAD unit or to the Texas Department of Protective and Regulatory Services [department]

hotline at 1-800-252-5400 [1 (800) 262-5400];

(8)-(10) (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 March 1, 1993.

TRD-9319624

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: June 15, 1993

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

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

**Medicaid Waiver Program for
Persons with Related Condi-
tions**

• 40 TAC §48.2103

The Texas Department of Human Services (DHS) proposes an amendment to §48.2103, concerning client eligibility criteria in its Community Care for Aged and Disabled (CCAD) chapter. The purpose of the amendment is to revise the Community Living Assistance and Support Services (CLASS) program income and resource limit, and to specify that CLASS participants cannot receive CLASS and other CCAD services at the same time.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that more people will have an opportunity to receive CLASS services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Barbara Stegall at (512) 450-3228 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-043, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413(502), §16, which provide the Health and Human Services Com-

mission with the authority to administer federal medical assistance funds.

§48.2103. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Human Services (DHS) for waiver program services, an applicant must:

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

(3) be under age 18 and reside with parents or spouses, and:

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

(E) receive waiver program services for persons with related conditions; or [.]

(4) be an individual who would be financially eligible for Medicaid if residing in a Medicaid-certified institution. For these individuals, the policies specified in subparagraphs (A) and (B) of this paragraph apply.

(A) Spousal impoverishment provisions.

(i) For waiver participants with spouses who live in the community, the income and resource eligibility requirements are determined according to the spousal impoverishment provisions in the Social Security Act, §1924, and as specified in the Medicaid State Plan and subsection (a) of this section.

(ii) After the participant is determined to be eligible for Medicaid, DHS determines the amount of the participant's income applicable to payment.

(iii) To determine the amount of the participant's income applicable to payment, DHS uses the same methodology as if the participant were residing in an institution, except that the personal needs allowance is equal to the institutional cap.

(B) Calculation of participant copayment.

(i) A participant who is financially eligible based on the special institutional income limit must share in the cost of waiver services. The method for determining the participant copayment is specified in this subparagraph and is documented on DHS's Medical Assistance Only Worksheet form. When calculating the copayment amount for a participant with income that exceeds the SSI federal benefit rate, DHS deducts the following:

(I) the cost of the participants maintenance needs, which

must equal the special institutional income limit for eligibility under the Texas Medicaid program;

(II) the cost of the maintenance needs of the participant's dependent children. This amount is equivalent to the Aid to Families with Dependent Children (AFDC) program basic monthly grant for children or for a spouse with children, using the recognizable needs amount in the AFDC Budgetary Allowance Chart; and

(III) the costs incurred for medical or remedial care that are necessary, but not covered by Medicare, Medicaid, or any other third party. This includes the cost of health insurance premiums, deductibles, and coinsurance.

(ii) The copayment amount is the participant's remaining income after all allowable expenses have been deducted. The copayment amount is applied only to the cost of home and community-based services which are funded through the Community Living Assistance and Support Services (CLASS) waiver program and specified on the participant's individual plan of care. The copayment amount must not exceed the cost of services actually delivered.

(iii) Participants must pay the copayment amount to the provider contracted to deliver authorized waiver services.

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

(e) Participants [Clients] may be enrolled in only one waiver program at a time. Participants may not receive both CLASS waiver services and other DHS community care services at the same time.

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 March 1, 1993.

TRD-9319624 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: June 1, 1993

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

In-Home and Family Support Program

• 40 TAC §48.2707

The Texas Department of Human Services (DHS) proposes an amendment to §48.2707, concerning program restrictions, in its Community Care for Aged and Disabled chapter.

The purpose of the amendment is to prevent individuals from receiving Community Living Assistance and Support Services (CLASS) and In-Home and Family Support (IH/FSP) services at the same time.

Burton F. Raiford, 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. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide IH/FSP services to individuals on the IH/FSP waiting list, instead of individuals who are receiving CLASS services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Linda Lamb at (512) 450-3199 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-033, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 35, which provides the department with the authority to administer public and support services for persons with disabilities programs.

§48.2707. Program Restrictions.

(a)-(g) (No change.)

(h) Individuals eligible to receive benefits in the Community Living Assistance and Support Services program are not eligible to receive benefits in the IH/FSP.

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 February 25, 1993.

TRD-9319527 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: June 1, 1993

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

Part IX. Texas Department on Aging

Chapter 255. State Delivery Systems

• 40 TAC §255.41

The Texas Department on Aging proposes new §255.41, concerning targeting of individuals eligible under the Older Americans Act,

as amended, to receive services. This chapter establishes definitions, policies, and procedures to facilitate and enhance the targeting process for individuals mandated by the OAA to be served to more effectively promote the health and independence of the elderly of Texas.

Ann Ammons, Director of Field Operations, Texas Department on Aging, has determined that for the first five year period the rule will be in effect, there will not be fiscal implications as a result of enforcing or administering the rule.

Ms. Ammons also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be greater understanding of the processes required of area agencies on aging to assure proper components of this service are included in contract stipulations and that monitoring of contracting programs is based on clear requirements established by the department. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the section as be none.

Request for public comments on the proposal may be submitted to Ann Ammons, Director of Field Operations, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The new section is proposed under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§255.41. Targeting of Services.

(a) Purpose. The purpose of these targeting standards is to set policies for the provision of Title III services to older persons in the targeted population; insure that those most in need receive services; and to reduce individual and social barriers to economic and personal independence for older persons.

(b) Scope. These standards shall apply to all area agencies on aging and all service providers which provide services funded through the Texas Department on Aging and the Older Americans Act of 1992, as amended. These standards shall apply to all area agencies on aging and service providers, including those in areas whose 60+ minority population constitutes a majority of the total 60+ population. Particular attention must be paid to reaching unserved older persons within ALL targeted populations. When funding is not sufficient to serve everyone seeking services, need shall be the principle criteria for prioritization.

(c) Targeted populations. Preference for services shall be given to the targeted populations as listed below:

(1) older individuals with greatest economic need (with particular attention to low-income minority individuals);

(2) older individuals who have greatest social need (with particular attention to low-income minority individuals);

(3) older individuals with severe disabilities;

(4) older individuals with limited English-speaking ability;

(5) older individuals with Alzheimer's Disease or related disorders with neurological and organic brain dysfunction and the caretakers of such individuals; and

(6) older individuals residing in rural areas.

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

(1) Targeting—Efforts made to identify, outreach, and serve those populations identified by the Older Americans Act and these standards.

(2) Outreach—A variety of interventions to identify and reach older individuals in the targeted population.

(3) Minority—A person in one or more of the following four racial/ethnic groups: Black, Hispanic, Asian/Pacific Islander, and Native American.

(4) Black—A person of African-American descent, including those from the Caribbean Islands, the Dominican Republic, or Haiti.

(5) Hispanic—A person with a heritage originating from Mexico, Spain, Puerto Rico, Central America, South America, or any other area where Spanish is the native language.

(6) Asian American and Pacific Islander—Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(7) Native American—American Indian, Alaskan Native, and Native Hawaiian.

(8) Indian—A person who is a member of an Indian tribe.

(9) Native Hawaiian—A person any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(10) Indian Tribe—Any tribe, band, nation, or other organized group or community of Indians which:

(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(11) Significant Indian population—At least 50 Indians over the age of 60.

(12) Indian Organization—The recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body.

(13) Reservation—Any federally recognized Indian tribe's, reservation, pueblo, or colony.

(14) Greatest Economic Need—The need resulting from an income level at or below the poverty line.

(15) Poverty Line—The official poverty line as defined by the federal Office of Management and Budget.

(16) Low-income—A level of income, below which a person or persons is considered to be living in poverty. (see Poverty Line).

(17) Greatest Social Need—The need caused by non-economic factors, which include:

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographical isolation including that caused by racial or ethnic status that:

(i) restricts the ability of the individual to perform normal daily tasks or

(ii) threatens the capacity of the individual to live independently.

(18) Frail—An older individual is determined to be functionally impaired because the individual:

(A) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision;

(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious safety hazard to the individual or to another individual.

(19) Severe Disability—A severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

(A) is likely to continue indefinitely;

(B) results in substantial functional limitation in three or more major life activities;

(20) Disability—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of an individual;

(B) a record of such an impairment; (which means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities);

(C) being regarded as having such an impairment, which means:

(i) an individual may have an impairment which is not substantially limiting but is perceived as constituting a substantially limiting impairment;

(ii) the individual may have an impairment which is only substantially limiting because of the attitudes of others toward the impairment; or

(iii) the individual may have no impairment at all but is regarded as having a substantially limiting impairment).

(21) Developmental Disability—A severe, chronic disability attributable to a mental or physical impairment, or combination of both:

(A) that is manifested before age 22;

(B) is likely to continue indefinitely;

(C) results in substantial limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and results in the need for individually planned and coordinated services lifelong or over an extended period of time.

(22) Alzheimer's Disease—A progressive, degenerative disease that attacks the brain and results in impaired memory, thinking, and behavior.

(23) Related disorders (dementia)—The loss of intellectual functions, not caused by Alzheimer's Disease (such as thinking, remembering, and reasoning) of sufficient severity to interfere with an older individual's daily functioning. Examples:

multi-infarct dementia, Huntington's disease, Pick's disease, Creutzfeldt-Jakob disease, and Parkinson's disease.

(24) Qualified individual with a disability—An 60+ individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

(25) Substantially limited—

(A) unable to perform a major life activity that the average older person in the general population can perform; or

(B) significantly restricted as to the condition, manner or duration under which an older individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average older person in the general population can perform that same major life activity.

(26) Impairment (Physical or Mental)—

(A) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. \

(27) Major Life Activities—Functions such as:

(A) self-care which are daily activities which enable a person to meet basic life needs for food, hygiene and appearance. Examples: able to eat, drink, use utensils, use the restroom, bath, keep

clothes clean, dress, hair and nail care, etc., without the aid of another person;

(B) receptive and expressive language which is communication involving verbal and/or non-verbal behavior enabling the individual both to understand others and to express ideas/information to others. Examples: use of oral or sign language or other intelligible gestures of sounds, use of letter boards or typewriters, voice control, lip reading, understanding through listening, reading, etc;

(C) learning ability to acquire new behaviors, perceptions and information, and to apply experiences in new situations. Examples: memory, knowledge, reading, writing, ability to see relationships among pieces of information, etc;

(D) mobility ability to use fine and gross motor skills. Ability to move one's person from one place to another with or without mechanical aids. Examples: walking, climbing, use of mobility aids such as crutches, wheelchair, cane or walker, balance, precision movements, eye-hand coordination, manual dexterity, etc;

(E) self-direction management and taking control over one's social and personal life. Ability to make decisions affecting and protecting one's own interests. Examples: social awareness, emotional stability, decision making, and awareness and responsiveness to surroundings;

(F) capacity for independent living ability to live without extraordinary assistance from other persons, especially to maintain normal societal roles. Examples: cleaning house, cooking, laundering, maintaining relationships, budgeting, purchasing, using money, selecting appropriate clothing for the weather, recreation, cultural activities, using transportation, telephone, post office, etc;

(G) economic self-sufficiency and absence of dependence on family or welfare for financial support;

(H) cognitive functioning and general cognitive competence. Examples: recognition, ability to understand information, ability to generalize, to conceptualize, to use abstract concepts, etc;

(I) emotional adjustment—self-esteem, self-confidence, emotionally stability, etc.

(28) Adult Child with a Disability—A child who:

(A) is 18 years of age or older;

(B) is financially dependent on an older individual who is a parent of the child; and

(C) has a disability.

(29) Caregiver—An individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment; for care, or as a result of the operation of law.

(30) Caretaker—A family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

(31) Substantial Number of Limited English-Speaking Participants—one-fourth of the total number of participants and/or 25 participants, whichever is lower.

(e) Outcomes.

(1) Groups, organizations, and agencies which deal with persons with disabilities, as well as older persons with disabilities, will have been consulted for assistance with the identification and outreach of older persons with disabilities and their needs.

(2) Each AAA will have developed a written report on the needs of the targeted population(s) in their area.

(3) Each AAA will have analyzed each service provider's outreach plan, the efforts made and reported to TDOA on the results.

(4) Each AAA will have a written targeting strategy in place which outlines how the AAA plans to insure that the targeted groups are reached.

(5) TDOA will have received information detailing each AAA's outreach and targeting strategies, efforts, and results.

(6) The number of targeted older persons served will increase.

(f) Service Provider Responsibilities. Each service provider shall be required to:

(1) Identify the number, location, and needs of targeted older persons in the service area and provide that information to the AAA on an annual basis. This may be accomplished through a needs assessment process, public hearings, contacts with minority and/or disability organizations and groups, a local task force on targeting consisting of concerned citizens from

the targeted groups or other methods. Needs may be:

- (A) self-declared;
- (B) provider observation; or
- (C) reasonable perception.

(2) Means testing is strictly prohibited. Providers may not require older persons to disclose information about income or resources as a condition for providing services.

(3) Set specific written objectives for providing services to low-income minority individuals within the service area, based on need. These objectives should be established through a dialog with the area agency on aging and should be written into the provider contract.

(4) Describe methods the provider intends to use to outreach those identified older targeted persons in greatest need.

(5) The information identified in subparagraphs (A), (B), and (C) in this subsection relating to needs, shall be maintained in the provider and AAA files at all times and made available to TDOA upon request.

(6) Monthly reports shall be provided to the AAA on the extent to which the provider has met the objectives of providing services to older individuals in the targeted population.

(7) Each service provider must insure that sites are accessible to persons with disabilities, in accordance with the Americans with Disabilities Act. This means that when an individual service provider's services are viewed in their entirety, persons with disabilities shall have equal access to services. Violation of this requirement will result in the withdrawal of TDOA funding.

(8) Each provider must maintain an accurate record of participants and report them to the AAA monthly.

(g) Client Application (Intake) Requirements.

(1) All policies shall be established with the dignity and privacy of all participants as a goal. This is especially important for targeted individuals who may feel uncomfortable in a new and unfamiliar setting.

(2) Policies (whether formal or informal) of discrimination or segregation shall not be allowed. This includes, for example, the "grouping" together of individuals with disabilities or persons who speak a language other than English solely for the convenience of the staff or the preference of

other participants.

(3) A policy shall be established that insures confidentiality regarding each participant. Staff will not discuss or reveal any personal aspects of a participant's life or condition with anyone outside the staff, AAA, or TDOA, and only then when necessary for reporting, administrative, or monitoring purposes.

(4) All activities shall be inclusionary. No participant shall be discouraged in any way from participating in any activity in which he or she choose to participate.

(5) There shall be no policies (formal or informal) which allow for assigned seating during activities, unless there is a safety reason for doing so.

(6) As a general rule, self declaration, observation, and/or reasonable perception may be used to identify targeted individuals. However, according to the Americans with Disabilities Act, the following factors should be considered in determining whether an individual is substantially limited in a major life activity:

(A) the nature and severity of the impairment;

(B) the duration or expected duration of the impairment; and

(C) the permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.

(7) Participant contributions shall be handled in a confidential manner. No pressure shall be put on any participant to contribute and no services shall be denied due to the lack of a contribution. All participants shall be treated equally whether they have made a contribution or not.

(8) All signs and brochures should be printed in English and Spanish and/or other languages as appropriate.

(h) Administrative Requirements.

(1) These standards apply to all services provided by services providers and area agencies on aging which are funded through the Department and the Older Americans Act of 1992, as amended.

(2) Those AAAs which have a significant Native American population in their area, or have an Indian Tribe, tribal organization and/or providers in their area shall develop and enter into cooperative agreements with those groups.

(i) Area Agency on Aging Responsibilities. Each AAA shall include in the area plan a comprehensive section on iden-

tification of need which will include the following.

(A) The extent of need for services and multipurpose senior centers taking into consideration the number of older individuals with low incomes residing in the area, the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area, and the number of older Indians residing in such area shall be documented in the area plan. This may be accomplished through a formal needs assessment process, public hearings, contacts with minority and/or disability organizations and groups, a local task force on targeting consisting of concerned citizens from the targeted groups, as well as other methods (formal or informal).

(B) Whatever method(s) is used, there must be a written document in the AAA files supporting the need for services in the PSA for the targeted population as stated in the area plan. That document shall include, at a minimum:

(i) methods used to ascertain need;

(ii) persons and groups contacted and results;

(iii) public hearings results;

(iv) number persons and needs identified;

(v) identification by target group; and,

(vii) geographic location of targeted populations.

(C) Needs may be:

(i) self-declared;

(ii) provider observation;

or

(iii) reasonable perception.

(D) Documentation of this needs assessment shall be maintained in the AAA office and shall be made available to TDOA when requested.

(2) Outreach efforts will be specific and shall inform or cause to be informed targeted individuals eligible for services and/or their caretakers of the availability of AAA services. Examples of outreach efforts may include, but are not limited to: public service announcements on

television (in Spanish and closed captioned); Spanish radio stations; contacts with minority community leaders, caregiver support groups and publications, etc.; contacts with local disability advocacy groups, public agencies, such as the Texas Rehabilitation Commission, as well as hospital personnel.

(3) Service delivery strategies will be developed. Specific strategies shall be included for providing services to targeted persons. This should be placed under the State Strategy which "provides a state-wide, locally-based system of information and assistance which includes advocacy for the removal of barriers to service access to all eligible Texans, especially frail, low-income, and minority older people." This shall include, but is not limited to:

(A) specific objectives for providing services to older individuals with the greatest economic or social needs, including specific objectives for services to low income minority individuals;

(B) identification and descriptions of specific program development, advocacy and outreach efforts which focus on the needs of targeted populations in the service area;

(C) descriptions of methods for establishing and maintaining information and assistance services. This must indicate that I & A services will be provided in such a way to insure that all older persons in the PSA will have reasonably convenient access to the services with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's Disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders).

(4) If there is a significant Indian population in the PSA, the AAA shall conduct outreach to that population. This can best be done through Indian organizations and leaders.

(5) Participant data shall be monitored by the AAA as part of an ongoing assessment of the progress of the provider in meeting objectives.

(6) Each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals, and shall be identified as such in the area plan.

(7) The methods of carrying out the provision of services to those in greatest economic and social needs shall be implemented, as described in the area plan.

(8) The area agency on aging shall require the following in the provider Request for Proposals (RFP):

(A) the number, location, and needs of targeted older persons in the service area;

(B) specific written objectives for providing services to low-income minority individuals within the service area, based on need. These objectives should be established through a dialog between the AAA and the service provider;

(C) methods the provider intends to use to outreach those identified older targeted persons in greatest need.

(9) The provider contract shall stipulate that special emphasis shall be given to serving the targeted populations.

(10) The AAA is to maintain records in the AAA Office of provider reports on the extent to which each provider has met the objectives of providing services to older individuals in the targeted population and make it available to TDOA upon request.

(11) Each AAA must comply with the provisions of the Americans with Disabilities Act and must insure that any entity with which it contracts also complies with that Act.

(12) The location of new services/nutrition sites/senior centers shall be established in areas which contain a prominent population of targeted older persons.

(13) The AAA will provide technical assistance to service providers on outreach methods and strategies.

(14) The AAA will analyze the outreach efforts of each service provider on a quarterly basis by comparing its objectives against its participation reports.

(15) The AAA Advisory Council composition will be in accordance with 40 TAC §255.35(c)(6)(v) of this title (relating to Membership In Area Agency On Aging Advisory Councils).

(j) Legal Requirements.

(1) All AAAs and service providers must comply with the provisions of The Americans with Disabilities Act of 1990 (Public Law 101-336), as amended.

(2) All AAAs and service providers must comply with the provisions of the Older Americans Act of 1992, as amended.

(k) Reporting Requirements.

(1) Each service provider shall provide a report to the AAA on targeting

efforts and the results, with particular attention to unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals).

(2) Each AAA shall include in its quarterly report to TDOA, an analysis of the effectiveness of its targeting efforts in meeting the needs of older individuals with greatest economic need (including low-income minority individuals) and older individuals with greatest social need (including low-income minority individuals, as well as the other targeted populations in these standards. This shall include information on reaching those persons in the targeted population which had been previously unserved.

(A) This quarterly area plan report should include the following:

(i) the results of the needs assessment conducted by the AAA, including how it was conducted, who was contacted, what agencies assisted, and the results. (First quarter only unless changes occur);

(ii) methods used to reach the targeted population;

(iii) an analysis of the outreach plan, including revisions;

(iv) analysis of provider compliance.

(l) Staff Requirements.

(1) Documentable efforts should be made to recruit and hire qualified staff persons who are bilingual and/or bicultural when there is a significant minority population in the area.

(2) Qualified persons with disabilities should receive equal consideration for staff positions and shall have reasonable accommodations made in compliance with Title I of the Americans with Disabilities Act.

(3) AAAs are encouraged to make every effort to work with minority service providers.

(m) Staff In-service Training.

(1) AAAs should provide the following training to its service providers at a minimum of once a year:

(A) cultural diversity and sensitivity;

(B) outreach techniques;

(C) disability issues and etiquette;

(D) pertinent laws and implications, such as:

(i) Older Americans Act, as amended;

(ii) Americans with Disabilities Act.

(2) Training should also be provided on United States Census data and its implications, when changes occur.

(n) Monitoring.

(1) Area Agency on Aging.

(A) The effectiveness of the targeting and outreach efforts of the AAA and their service providers will be an important part of the monitoring process. The AAA's monitoring records will be reviewed for compliance.

(B) The AAA area plan quarterly reports and the participant tracking information on targeted populations served will become part of TDOA's monitoring report.

(C) The annual TDOA program review process shall include, but not be limited to, a review of the following:

(i) participant data analysis;

(ii) quarterly area plan reports;

(iii) needs assessments;

(iv) service provider targeting information and reports;

(v) an analysis of outreach efforts;

(vi) AAA monitoring reports;

(vii) Advisory Council representation;

(viii) number of minority service providers.

(2) Service provider.

(A) The service provider shall be monitored by the AAA on the provisions of the request for proposals and the contract.

(B) The AAA will conduct periodic on-site visits to providers to insure compliance with these standards.

(C) Participant data shall be monitored by the AAA as part of an ongoing assessment of the progress of the provider in meeting objectives.

(D) The AAA must monitor each service provider to insure that sites are accessible to persons with disabilities, in accordance with the Americans with Disabilities Act. This means that when an individual service provider's services are viewed in their entirety, persons with disabilities shall have equal access to services. Violation of this requirement will result in the withdrawal of TDOA funding.

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 February 24, 1993.

TRD-9319480

Mary Sapp
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: April 5, 1993

For further information, please call: (512) 444-2727

◆ ◆ ◆
**Chapter 273. Transportation
Service Standards**

• 40 TAC §§273.1, 273.3, 273.5

The Texas Department on Aging proposes the repeal of §§273.1, 273.3, and 273.5 con-

cerning Transportation Service Standards as a result of the development of a new chapter pertaining to this service.

Ann Ammons, Director of Field Operations, Texas Department on Aging, has determined there will not be fiscal implications as a result of enforcing or administer this rule.

Ms. Ammons, also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of this repeal will be greater understanding of the processes required of area agencies on aging as a result of publishing an updated version of these standards. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the chapter as proposed will be none.

Request for public comments on the proposal may be submitted to Ann Ammons, Director of Field Operations, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The repeals are proposed under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§273.1. Title III Transportation Service Standards.

§273.3. Qualifications of Vehicle Operators.

§273.5. Vehicle Operational Consideration.

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 February 24, 1993.

TRD-9319479

Mary Sapp
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: April 5, 1993

For further information, please call: (512) 444-2727

◆ ◆ ◆
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 notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the

Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance, at a Board meeting scheduled for 9 a.m. April 15, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed on behalf of the Texas Workers' Compensation Insurance Facility (the Facility). The Facility proposed a rule on procedures for redistribution of assessments made on insurance carriers that are in liquidation.

The rule was proposed in a petition (Reference Number W-0293-73), filed by the Facility on February 1, 1993.

According to the Facility's petition, the proposed rule would allow for an equitable redistribution of the assessment among all members of the Facility. The proposal is to apportion the redistributed amount among the members on the same basis as their individual member assessments for such year. The proposed rule further provides that, in the event the company in liquidation can later repay the assessment so distributed, appropriate debits can be made to all members who participated in the initial redistribution. If approved by the Board, the rule will become a part of the Texas Basic Manual of Rules, Classification and Rates for Workers' Compensation and Employers' Liability Insurance.

A copy of the petition containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Ms. Angie Arizpe (512)322-4147, refer to (Reference Number W-0293-73).

This notification is made pursuant to the Insurance Code, Article 5.96, which ex-

empts it from the requirements of the Administrative Procedures and Texas Register 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 February 25, 1993.

TRD-9319537

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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



The State Board of Insurance, of the Texas Department of Insurance, at a Board meeting scheduled for April 15, 1993, at 9 a.m., will consider the adoption of amendments to the Texas Workers' Compensation Statistical Plan. These amendments consist of deleting the requirement that certain serial card numbers be reported to the Texas Department of Insurance; requiring that each insured's four-digit classification code be reported; deleting the reporting of losses while on strike duty; requiring the separate reporting of direct expenditures by an insurer to influence public policy and any amounts paid by an insurer as damages in a suit against the insurer for malice or bad faith or as fines or penalties; reporting of premium credits and negotiated

deductible amounts; reporting of small employer premium incentive discounts, surcharges and small premium policy plan penalties; reporting of maintenance tax surcharges; and other editorial changes to ensure the proper gathering of statistical information.

Copies of the full text of the Texas Workers' Compensation Statistical Plan are available for review in the Office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas, 78714-9104. For further information or to request copies of the text, please contact Angie Arizpe, at (512) 322-4147, (refer to Reference Number W-0193-74-I).

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.

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 February 25, 1993.

TRD-9319536

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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



Adopted Sections

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 I. State Finance Commission

Chapter 3. Banking Section

Subchapter A. Securities Activities and Subsidiaries

• 7 TAC §3.7

The Finance Commission of Texas adopts an amendment to §3.7, without changes to the proposed text as published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6079).

This amendment is proposed to correct a typographical error in the existing rule. The Finance Commission is empowered to promulgate rules regarding the operations of bank subsidiary corporations under the Texas Banking Code, Article 342-513.

The rule allows bank subsidiary corporations to engage in those activities in which a bank holding company may engage under federal law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Banking Code, Article 342-513, which provides the Finance Commission with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of Texas.

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 February 23, 1993.

TRD-9319471 Ann Graham
General Counsel
Department of Banking

Effective date: March 17, 1993

Proposal publication date: September 4, 1992

For further information, please call: (512) 475-1300



TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 3. Landscape Architects

Subchapter C. Written Examinations

• 22 TAC §3.46

The Texas Board of Architectural Examiners adopts an amendment to §3.46, concerning scoring, without changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 9067).

This amendment is necessary to comply with a contractual agent of exam security for purchase and grading the national exam used in the registration process.

This amendment will delete the provision that allowed reproduction of the graphic performance problems.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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 February 24, 1993.

TRD-9319561 Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 19, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 458-1363



Chapter 5. Interior Designers

Subchapter B. Registration

• 22 TAC §5.31

The Texas Board of Architectural Examiners adopts an amendment to §5.31, concerning

the registration of applicants, without changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 9067).

The amendment is necessary in order to explain subsection (a) regarding requisite qualifications for registration.

The amendment will function to clarify the requirements and more fully describe the qualifications under this subsection.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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 February 25, 1993.

TRD-9319518 Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 18, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 458-1363



Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

• 22 TAC §461.14

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.14, concerning conflict between state and federal laws, with changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7572).

The Board determined that clarification was needed to clarify that in the event of a conflict between the Board's rules and Ethical Principles, the Board's rules control.

The amendment will clarify to the public which rules or statutes apply in the case of a conflict.

Section 2c of the Psychologists' Certification and Licensing Act states that "the practice of

psychology is based...on the standards of ethics established by the profession." Consumers of psychology in the State of Texas are better served when psychologists follow the ethical principles of the professional rather than the rulings of a specific board.

Jeannerret and Associates, Inc. commented against the amendment.

The ethical principles are in the process of becoming a part of the Board's rules. The Board reviewed the Ethical Code of the American Psychological Association and will adopt it as a Board Rule with two changes. The Board felt that these changes better serve the consumers of psychological services and therefore wanted their rule to take precedence over the national ethics code.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§461.14. Conflict between State and Federal Laws. In the event of conflict among state or federal statutes of psychologists and Board Rules, state or federal statute(s) control. In the event of conflict between Board Rules and the Ethical Principles of Psychologists, the Board's Rules control.

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 February 24, 1993.

TRD-9319517 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: March 18, 1993

Proposal publication date: October 27, 1992

For further information, please call: (512) 835-2036

Chapter 463. Applications

• 22 TAC §463.6

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.6 concerning experience, with changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7572).

The amendment is needed in order to clarify that the Board requires two full time equivalent psychologists and interns to be on staff; clarify how consortia may be created in order to be acceptable to the Board; and clarify the status of persons under the supervision of a psychologist under an Agreed Order or Order of the Board.

The amendment will clarify the Board's requirements for licensure so that potential applicants will place themselves in appropriate work settings to obtain experience that will be acceptable to the Board.

There was concern that the requirement of a minimum of two full-time equivalent psychologists, two full-time equivalent interns, and one half-time psychologist be on staff would eliminate many programs as viable internship settings for industrial/organizational psychologists.

Jeannerret and Associates, Inc. commented against the amendment.

Paragraph (11)(C) specifically exempts individuals enrolled in an industrial/organizational doctoral degree program from this requirement.

The amendment is adopted under Texas Civil Statutes, Article 4512c which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.6. Experience. Supervision may be obtained only in a full-time or half-time setting.

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

(11) For applications for licensure received after August 31, 1995, the one year of pre-doctoral experience must be an internship certified by the Director of internship training and must be satisfied by either:

(A) (No change.)

(B) the successful completion of an organized internship meeting the following criteria:

(i) (No change.)

(ii) the internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the State Board of Examiners in Psychology and present at the training facility for a minimum of 20 hours a week;

(iii) the internship agency had two or more full-time equivalent psychologists on the staff as primary supervisors, at least one of whom was actively licensed as a psychologists by the State Board of Examiners in Psychology;

(iv)-(viii) (No change.)

(ix) the internship agency had a minimum of two full-time equivalent interns at the internship level of training during applicant's training period;

(x) the internship level psychology trainees have title such as "in-

tern," "resident," fellow," or other designation of trainee status;

(xi)-(xii) (No change.)

(xiii) consortia may be created if they follow the guidelines of the current American Psychological Association Committee on Accreditation Handbook.

(C) (No change.)

(12) All applicants obtaining experience for the purpose of certification and licensure must adhere to the Board's supervision guidelines currently in effect in §465.18 of this title (relating to Time Period for Appealing a Decision) regardless of setting.

(13) Experience received from a psychologist who is simultaneous under an Agreed Order or Order of the Board does not qualify for licensure consideration, regardless of setting. The psychologist must inform all supervisees of the Agreed Order or Order and assist his/her supervisees in finding appropriate alternate supervision.

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 February 24, 1993.

TRD-9319515 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: March 18, 1993

Proposal publication date: October 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆ • 22 TAC §463.14

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.14 concerning cutoff scores, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7574).

The amendment sets the cutoff scores for both the Examination for the Professional Practice of Psychology and Board Jurisprudence Examination.

The amendment informs the public and applicants of the minimum acceptable scores for the Examination for the Professional Practice of Psychology and Jurisprudence Examination for doctoral and masters level applicants.

Comment was received that using a specified percentage correct without regard to the psychometrics or the content domain sampling structure of the specific test is inappropriate; and that there is no empirical or rational basis for the use of 70% as the minimum passing score, other than the argument of "tradition."

Jeanneret and Associates, Inc. commented against the amendment.

At the Annual Meeting of the Association of State and Provincial Psychology Boards, the delegates voted to recommend a uniform pass point of 140 (70% of 200 items) for the Examination for the Professional Practice of Psychology.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 February 24, 1993.

TRD-9319516

Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: March 18, 1993

Proposal publication date: October 27, 1992

For further information, please call: (512) 835-2036

TITLE 28. INSURANCE

PART I. Texas

Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter C. Texas Medical Liability Insurance Under- writing Association

• 28 TAC §§5.2001-5.2004

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§5.2001-5.2004, concerning membership in, and meeting of, the Texas Medical Liability Insurance Underwriting Association, without changes to the proposed text as published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6093).

The amendments are necessary to conform the plan of operation of the association with legislation which amended the Insurance Code, Article 21.49-3. This litigation changed the composition of the board of directors and the timing of its election. The rules conform the timing of the annual meeting of the association with the election and selection of board members. The amendments are further designed to make the plan of operation clear in its meaning and to improve the administration of the association.

The amendment to §5.2001(b)(6) and §5.2002(a) is to clarify that the writing of either automobile liability, or liability other

than automobile insurance, not both, makes an insurer a member. The amendment to §5.2002(c) (2)(A) is to conform the plan of operation to changes enacted by the Texas Legislature, House Bill 2, 72nd Legislature (1991). The amendment to §5.2003(b)(2) allows the investment of the association's funds in bonds of the United States of America. This amendment corrects an oversight in the writing of the original plan of operation, which prevented the association from investing in United States government bonds. Such investment would allow the association to take advantage of long term interest rates during periods when an interest rate advantage exists. The amendment to §5.2003(d)(3)(A) more clearly describes and limits the maximum aggregate assessment per policyholder. This is consistent with previous interpretations used by the association and the Texas Department of Insurance. Earned premium is a more accurate measurement of annual premium, and, by citing calendar year, matches the statutory reporting period of the association. The amendment to §5.2004(a)(4) (C)(vi) makes the rule applicable to any health care professional with hospital staff privileges, regardless of his or her specialty. The amendment to §5.2004(a)(4)(C)(vii) and §5.2004(a)(4)(D) makes the rule applicable to any allied health care professional with hospital staff privileges, regardless of specialty, and also makes the rule applicable to independent contractors as well as employees. The amendment to §5.2004(b)(4)(iii) clarifies that the personnel utilized by the association in conjunction with insurance matters such as underwriting are authorized representatives, not licensed insurance agents.

No comments were received regarding adoption of the amendments.

The amendments to the plan of operation are adopted under the Insurance Code, Articles 21.49-3 and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.49-3, §3(c), authorizes the State Board of Insurance to promulgate a plan of operation of the Texas Medical Liability Insurance Underwriting Association. Article 1.04(b) authorizes the State Board of Insurance to determine rules and regulations in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency. The proposed amendments affect regulation of the Texas Medical Liability Insurance Underwriting Association through the promulgation of a plan of operation under the Insurance Code, Article 21.49-3.

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 February 25, 1993.

TRD-9319532

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: March 18, 1993

Proposal publication date: September 4, 1992

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

TITLE 31. NATURAL RE- SOURCES AND CON- SERVATION

Part III. Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §101.1, §101.29

The Texas Air Control Board (TACB) adopts an amendment to §101.1, concerning Definitions, and a new §101.29, concerning Emissions Banking, with changes to the proposed text as published in the September 11, 1992, issue of the *Texas Register* (17 TexReg 6259). The revisions to §101.1 were made in response to the need for an emissions banking program which has intensified with the more stringent new source review (NSR) requirements for new and modified sources in ozone nonattainment areas. The NSR rules were mandated by Title I of the 1990 Federal Clean Air Act (CAA) Amendments, and their effective date was November 15, 1992. The amendments are intended to be in effect as soon as possible after that date and will apply only to designated ozone nonattainment areas within Texas.

The amendments to §101.1 add three new definitions to support the banking rule, add one new definition for "stationary source," and modify two other existing definitions for consistency with NSR requirements of the CAA. The new §101.29 establishes an emissions banking program to support the emissions offset provisions in the CAA.

Public hearings were held in Houston and in Beaumont on September 30, 1992; in El Paso on October 7, 1992; in Arlington on October 8, 1992; and in Austin on October 22, 1992, to consider the proposal. Testimony was received from 78 commenters during the comment period which ended on October 30, 1992. The following discussion initially addresses the more general comments and then addresses the comments which deal with specific definitions in §101.1 and subsections of the new §101.29.

A major issue raised in the public testimony was whether or not the banking proposal should be adopted or rejected. The numerous and varied comments fell into three basic categories. The first category, commenters who favored adoption, included industry and the nonattainment area economic organizations charged with attracting new business to the area. The second category, commenters who opposed adoption, included the environmental watch groups and individuals affiliated with those watch groups. The third category included commenters who felt that an emissions bank is inevitable and, therefore, wanted a banking program which was as good as possible. The United States Environ-

mental Protection Agency (EPA), supported the emissions banking proposal and stated that with Texas' adoption of revised NSR rules, as required by the FCAA, more sources are expected to fall under the nonattainment NSR program. New or modified sources will need to obtain emissions reductions from existing sources to offset their projected emissions increases. EPA stated that a banking program helps companies locate potential sources of offsets, thus helping them to meet the requirements of the revised NSR provisions. EPA, therefore, supported Texas' efforts to develop offset banking programs.

Economic development organizations strongly supported the emissions banking proposal, although, some entities recommended changes. The Greater Houston Partnership (Partnership), Greater Fort Bend Economic Development Council (Fort Bend EDC), Destec Energy (Destec), City of Missouri City (Missouri City), and City of Houston (Houston) supported the establishment of an emissions banking program. Since the TACB promulgated regulations earlier this year implementing the federal requirements which place further restrictions on new source construction and modifications to existing sources, these commenters recommended that the proposed banking rule be implemented as soon as practicable and with the greatest degree of flexibility possible to allow the nonattainment areas to attract new industry while meeting the goals of the federal and state clean air acts. Missouri City asked that the implementation of those regulations go forward in the most expedient and cost-effective manner. Houston supported the banking proposal as an essential step in bringing marketplace forces to bear in addressing the air quality problems in their nonattainment region.

Industry representatives strongly supported the emissions banking proposal, although, some companies recommended changes. The Dow Chemical Company, Texas Operations (Dow); Texas Mid-Continent Oil and Gas Association (TMOGA); Star Enterprise (Star); Texas Utilities Services, Inc.; ENTEX Gas; Enterprise Products Company (Enterprise); Texas Instruments (TI); Vought Aircraft Company (Vought); Amoco Oil Company, Texas City refinery (Amoco); ISK Biotech (Biotech); Houston Lighting & Power (HL&P); Monsanto Corporation (Monsanto); Gulf States Utilities Company (GSU); and El Paso Refinery strongly supported the implementation of effective emissions banking rules as an essential element in the process of attaining the ozone air quality standard while preserving the economic viability of the ozone nonattainment areas. Dow recommended that the TACB develop and implement more comprehensive banking rules than the limited-scope proposed rule to address, among other issues, the important need to include all emission reduction credits (ERC) in the TACB attainment demonstrations, whether the ERCs are saved in a formal or informal bank, and options regarding the lifetime of offset ERCs. Star stated that the proposal is consistent with other types of considerations like the marketable permits programs being considered in California and other states.

Enterprise stated that they will be directly and substantially impacted by the TACB implementation of the FCAA provisions, particularly those provisions which will require emissions offsets or netting for the construction of new and expanded facilities. Enterprise stated that they foresee continued growth of their business in large part due to the demand for clean fuels that are required to meet federal air quality milestones. Amoco complimented the TACB for developing a rule which creates market-based incentives for emissions reductions. El Paso Refinery stated that it is good to see some of the environmental regulations moving toward giving industry a target, in other words, an emission limit to meet, and then allowing industry flexibility in how to meet that limit.

There was one organization which did not give a firm stand about approval or rejection of this proposal. The San Jacinto Area American Lung Association (San Jacinto ALA) believed that the emissions banking rule would not result in a significant step forward in its efforts to reduce the levels of air pollution in nonattainment areas of the state or to protect Texas residents from the adverse health effects of exposure to air pollutants. The commenter stated, however, that because the establishment of such a program is allowed in the FCAA and because this proposed program has such strong appeal to the business community of the state at this time, it seemed clear that the TACB will go forward with it.

Most of the environment watch groups or special interests groups, and individuals are strongly opposed to the rule. The Golden Triangle Group of the Sierra Club (Golden Triangle Sierra), Clean Air & Water, Inc. (CA&W), Texas Campaign for the Environment (Texas Campaign), and 19 individuals requested that the TACB reject the emissions banking proposal. Texas Campaign requested that the TACB return the grant money awarded by the EPA to the Marketable Permits Advisory Committee (MPAC). One individual stated that if industry favors this banking proposal so much, the TACB methodology should be questioned. Another individual requested that the TACB reject emissions banking even if there were safeguards to prevent abuses.

As stated in the preamble and by numerous commenters, Texas' adoption of revised NSR rules was required by the 1990 FCAA Amendments and will cause more sources to fall under the nonattainment NSR permit review. Those new or modified sources will need to obtain emissions reductions from existing sources to offset their projected emissions increases. This banking program will help companies locate potential sources of offsets, thus assisting them in meeting the requirements of the revised NSR provisions. This rule is an essential element in the process of attaining the ozone air quality standard while preserving the economic viability of the ozone nonattainment areas. It is a mechanism which will allow flexibility in addressing Title I of the FCAA Amendments for ozone nonattainment areas in Texas and is consistent with banking programs which are already established in several states. Furthermore, the bank provides reduction incentives by enhancing a facility's ability to market its

reduction credits. The concept of emissions credit banking is not a new idea, as there have been banking programs in other states for the past 10 years. The bank provides an administrative mechanism to assist sources in identifying available credits for use as offsets. The bank will provide a mechanism that would simplify the transaction process by having the TACB pre-approve the reductions which are inherent to the permitting process in nonattainment areas.

There were several commenters who responded to various aspects of the role of the TACB MPAC and the purpose of the proposal. The Partnership stated that substantial confusion exists concerning the role of the MPAC and the banking rule. The Partnership stated that the proposed rule is merely an administrative mechanism to assist sources in identifying available credits for use as offsets, no more, no less. Further, the Partnership stated that many of the critics of the banking program believe the rule is creating a marketable permit system and is an attempt to circumvent the work of the MPAC. The Partnership believes that these charges are untrue and misrepresent the work of the MPAC, especially in light of current permitting rules which allow a source in the Houston area to reach agreement with another source in the nonattainment area to provide offsets. The banking rule neither inhibits nor encourages this practice. The bank will merely provide an administrative mechanism that would simplify the transaction process by having the TACB pre-approve the reductions. Meanwhile, the MPAC has selected four specific projects to develop over the next several months to include a nitrogen oxide (NO_x) Reasonably Available Control Technology (RACT) trading program, a clean air trust fund, an old vehicle scrapage program, and alternative fuel conversions for motor vehicles. The Partnership stated that the MPAC continues to pursue these programs and its work will be unaffected by the banking rule.

Allen Beinke, Jenkens & Gilchrist (Beinke) stated that they have been participating in the MPAC meetings for the last few months. Beinke stated this task force has been focusing on the nature of the administrative body that would have control over the Clean Air Trust Fund. Beinke was very impressed with the efforts of the TACB staff to develop an emission reduction credit and banking program that will benefit both the environment and the economic climate in Texas.

The Lone Star Chapter of the Sierra Club (Lone Star Sierra) stated that they are not really against emission banking, because they are participating in the marketable permit study, but that this proposal "hijacks" the MPAC work. The El Paso Group of the Sierra Club (El Paso Sierra) stated that they were not completely opposed to an emissions banking program, but that the rule is a very simplistic approach for emission banking. El Paso Sierra believed that the TACB should allow the MPAC, which the board established in the summer of 1992, to study the issues and to make its recommendations prior to approval of any plan.

The Galveston-Houston Association for Smog Prevention (GHASP) stated that they were

totally against the banking rule because the MPAC study was currently determining the need for a banking system and this rule would undermine the study. GHASP felt that the banking rule has prejudiced the outcome of the study by answering the question before any research has been done. GHASP stated that the public participation, which was gathered by the MPAC on August 12, 1992, was for show only and the TACB had broken a bond with the public by letting the staff actions tell the public that the TACB does not want to hear what the public has to say or seriously consider their input. GHASP finally stated that if the TACB adopts the rule, then the TACB should return the MPAC grant money to EPA and apologize for deceiving the public about their ability to influence the TACB actions. GHASP felt that the TACB is bowing to pressure from industry and the Partnership to give industry a break, while the citizens will be required to contribute almost the entire 15% volatile organic compound (VOC) reductions through the vehicle inspection and maintenance program.

As stated by the Partnership, the MPAC has been working on many other aspects of the marketable permits concept, such as a NO_x RACT trading program, a clean air trust fund, an old vehicle scrappage program, and alternative fuel conversions for motor vehicles. The MPAC will continue to pursue these programs and its work will be unaffected by the banking rule. The MPAC will also review and make improvements to this rule after it has been in operation for a period of time. The TACB disagrees with the other commenters who felt that public participation in the marketable permits process, which was gathered on August 12, 1992, was for show only and that the TACB had broken a bond with the public by letting the staff actions tell the public that the TACB does not want to hear what the public has to say or seriously consider their input. Any public comment is valid and will be seriously considered in the rulemaking process. In addition, all public comments have been shared with the MPAC so that they are analyzed in both the marketable permits and the banking review processes. The banking rule is a key ingredient in a marketable permits program and has been utilized in other states. It provides a market-based incentive for emissions reductions supported by EPA, the FCAA Amendments, and the Governor of Texas; it supports progress toward attainment of the National Ambient Air Quality Standards (NAAQS); and it allows the economic entities in each nonattainment area to attract industry even with the more stringent NSR rules.

A sub-issue of the adopt-or-reject issue was that of rewriting the proposal to focus on the cleanup of the air and opposition to the idea of selling pollution credits. All comments regarding this sub-issue were received from environmental watch groups and individuals. The Coalition Advocating a Safe Environment (CASE) and one individual stated that the FCAA was written with the intent of being strict to protect people from hazardous air. The Galveston Regional Group of the Sierra Club (Galveston Sierra), Golden Triangle Sierra, El Paso Sierra, and 21 individuals requested that the TACB rewrite the proposal to focus on cleaning our air, not continued pollu-

tion. The Red River Chapter of the Sierra Club (Red River Sierra) requested that the TACB develop an integrated and far-sighted policy for encouraging companies to clean up their pollution as soon as possible. Texas Campaign and an individual stated that the TACB's responsibility is to the people of Texas, not to the industry of Texas. American Lung Association of Houston (Houston ALA) stated that the FCAA requires that nonattainment areas achieve the national air quality standards as expeditiously as practicable, which means the attainment deadlines are an outer limit rather than a minimum time frame. Houston ALA also recommended that the state only credit those emissions reductions that would have already occurred under the FCAA, i.e., reductions that are permanent and verifiable.

One individual stated that the citizens in nonattainment areas deserve clean air, because they do not have personal choices over the air they breathe other than to move out of the area. Another individual requested a complete revamping of the TACB program concerning air pollution from every source. The individual requested the TACB to get back to a zero base, rather than adding more convoluted regulations.

Red River Sierra requested the rejection of the industry-initiated proposal to set up a market system for pollution rights. Galveston Sierra asserted that it is sheer negligence on the part of the state and its regulatory agencies to accept, in a state statute, that any such right to pollute ever has, should now, or ever will exist. CA&W, Texas Campaign, GHASP, and several of the individual commenters stated that the TACB should not approve the buying and selling of the right to pollute. CA&W stated that this proposal produces a profit for pollution, i.e., a profit for things that have been required of industries. CA&W believes that certain industries will applaud this rule because they have been reducing emissions which they can now sell for a profit. CA&W further stated that some refineries and petrochemical industries in the Beaumont area were the first ones in the state and happen to be the filthiest, most worn-out polluting plants in the area. The plants are just now being refurbished and with a baseline date of 1990, a lot of these required things can go into the emissions bank.

Amoco stated that in the course of the public hearings, this proposed rule was assailed by some critics as conveying a fictitious "right to pollute." Amoco disagreed with that perception and stated that they believe the proposed regulation allows conveyance of a "right to economic growth." Biotech recommended that the TACB clarify in the final rule that the proposed banking system is simply a more open and efficient way to handle the offset trades which already must occur under existing nonattainment rules. These rules do not create a new pseudo property which allows companies to buy and sell pollution rights, as some have alleged.

Destec stated that conceptually, offset trading as a market incentive is an extremely useful tool, if properly designed. It needs to include specific elements to support the process of

doing business, while producing a desired environmental improvement. The move from the Draconian command and control relations are clearly necessary and the market incentive program has great merit; however, the most insidious form of command and control is to have a set of market incentives that are not achievable and allow for no growth. Destec argued that if the citizens were allowed to vote on no-growth command and control regulations, the impact of which could be more clearly measured, they would probably not approve them because they could see the adverse socioeconomic impact. This must be kept in mind when writing these regulations and presenting them as market incentive regulations. The banking rule is focused on the cleanup of the air in each nonattainment area and does not grant a "right to pollute." With the signing of the 1990 FCAA Amendments, the people and industry in ozone nonattainment areas have been tasked to shoulder a very heavy burden. One of the heaviest burdens is compliance with very strict NSR rules. These NSR rules dictate that industry will be required to ensure that a net reduction in air emissions occurs in a nonattainment area before they will be allowed to build or modify a source which increases emissions. For the severe nonattainment areas, the required reduction is 30% more than the increase. For the serious nonattainment areas, the net reduction is 20%, and for moderate nonattainment areas, the net reduction is 15%. Industry historically has been able to escape the net reduction (offset) clause by using concomitant internal reductions (netting out) applied toward reducing the projected emissions increase, thereby not triggering the minimum emissions increase threshold for NSR rules. The 1990 FCAA Amendments also drastically lowered the minimum emissions increase threshold and expanded the years of concern to a contemporaneous five-year period rather than netting out within an individual proposed change. As a result, the state anticipates a great increase in the number of projects which trigger the NSR rules, many of which will be the result of relatively small increases. In addition, any project which is built under NSR rules is required to implement the lowest achievable emissions rate (LAER) control technology which means even further emissions reductions in the area. Without the emissions reduction bank, industry will be reluctant to release their internal emissions reductions and instead retain them for internal netting purposes. The staff believes that the emissions bank will encourage industry to deposit many of those reductions, thereby allowing the net offset and LAER reductions to occur. The end result of a high bank transaction activity will be a resultant lowering of actual air emissions in each nonattainment area. In response to the comments of the TACB getting back to a zero base, rather than adding more regulations, the staff believes that if we rely on our historical command and control regulations, industry will do their best to meet the minimum requirements of those regulations. However, if we move to market-based regulations, industry will be encouraged to do more than just the minimum.

One individual recommended keeping the air emission credits, which are going to be sold,

within the seller's property boundaries. The individual also stated that the TACB should maintain the programs that currently exist, before taking on more. This process of internal netting (using credits within the property boundaries) does not require greater than one-to-one offsets or LAER. Allowing the emissions to be traded across the entire nonattainment area will result in greater net reduction within the area than if limited to netting and is consistent with the 1990 FCAA Amendments.

Another sub-issue of the adopt-or-reject issue was that of determining the impact of the banking rule upon attainment of the NAAQS in each of the nonattainment areas. Most comments regarding this sub-issue were received from environmental watch groups and individuals; although, one comment came from a government agency in one of the nonattainment areas.

El Paso City-County Health and Environmental District (El Paso City-County) was concerned with the air quality problems that El Paso has had for many years. The commenter stated that the area continues to violate air quality standards for ozone, carbon monoxide (CO), and inhalable dust (PM₁₀) even though they have implemented some of the strictest controls of any city in Texas. They further stated that they will continue to implement additional controls as required by EPA and the TACB, but that they were opposed to the banking of any emissions for El Paso until compliance with the NAAQS can be demonstrated. El Paso City-County believes that compliance with the NAAQS must be demonstrated by ambient monitoring data and not by modeling for those pollutants or precursors to ozone, such as hydrocarbons (HC) and NO_x. The commenter stated that their population should not continue to be exposed to unhealthy air from any pollutant; therefore, a reduction of HC or NO_x should be considered forgotten and not held in the banks. They believe this is necessary so that, in a future time, these reductions cannot accumulate and continue to cause the area to be in noncompliance. The commenter asked the TACB not to implement the emissions banking system for HC and NO_x in El Paso until NAAQS is demonstrated by ambient monitoring data.

Galveston Sierra and Golden Triangle Sierra stated that the TACB should determine the impact of emissions banking on efforts to attain the NAAQS before adopting any banking rule. CASE questioned how the state intends for the area to meet air quality standards and how the state plans to help Southeast Texas meet these standards in the future. Sixteen individuals stated that the TACB should determine the impact of emissions banking on efforts to attain the NAAQS before adopting any banking proposal.

Determination of the impact of the banking rule upon attainment of the NAAQS for ozone is an issue for the development of the SIP for ozone nonattainment areas and is not an issue in the banking rule. The two methods by which the staff can determine the impact are through the use of the Urban Airshed Model (UAM) and by ambient monitoring. The TACB staff is currently using the UAM to

determine the impact of changes of emissions in each nonattainment area. The results of this modeling effort will give indications regarding the effectiveness of the banking rule along with numerous other control measures being considered for each nonattainment area. In the case of ambient monitoring, the success of any control measure, including a banking program for offset purposes, will be revealed only after the control measure is implemented and begins to effect reductions. The staff, therefore, does not recommend that the banking rule be held in abeyance until after the results of the UAM are known or until ambient monitoring results is analyzed.

The Partnership recognizes that with a banking program comes the responsibility for the business community to produce actual emissions reductions and to assure that these reductions are accurately accounted. The Partnership believes the TACB has the expertise to verify emission reductions deposited in the bank. The TACB already performs this analysis when a company uses reductions for offsets on either an internal or external basis. The staff has procedures to assure emission reductions are permanent, quantifiable, surplus, and enforceable as required by EPA. The commenter believes that the staff has the expertise to continue this verification without compromising the integrity of the system. Houston stated that the banking proposal will minimize the impact on the TACB staff during the first year of operation.

Biotech stated that the 1990 FCAA Amendments substantially modified the rules governing new source permit review in nonattainment areas. The TACB has recognized that the new nonattainment rules will cause a substantial increase in the number of nonattainment type air permits. The current system for verification and enforcement of emissions offsets is cumbersome and inefficient. This system was manageable when the TACB processed fewer than 10 nonattainment permits a year. However, if the TACB's nonattainment work load jumps to over 100 permits a year as anticipated, this review process will present a severe impediment to timely permit review. Clearly, a system to pre-verify emissions reductions and bank these emissions makes a lot of sense. By separating the two primary tasks (emissions reduction verification and NSR), this system should make both the agency and regulated community more efficient. GHASP agreed that the TACB must be the emissions banking authority and keep the records; although, GHASP has concerns that the TACB does not have the personnel and resources to fully track industry self-reported information.

GSU stated that the emissions bank is a good idea because it will serve as a clearinghouse for emission reductions enabling the TACB to more easily track and more accurately certify and account for emission offsets. It is important to note here that offsets are already a part of federal NSR programs in all nonattainment areas. Dow recognized that the previous recommendations will entail a significant increase in agency and industry resources devoted to ERCs and banking. However, Dow also firmly believed that this work load increase would be less than would

otherwise be needed later under the combined requirements of the proposed banking rules and TACB's permitting provisions pertaining to ERCs. Dow's recommended approach eliminates the enormous potential for confusion and delay that would be shifted, under the TACB's proposed rule, into the new source permitting process.

The TACB understands that an increased work load will result from the addition of emissions reduction certification and tracking requirements. However, the TACB has requested staff resources for the 1994-1995 biennium to assist with the implementation of such efforts. Additional staff will be added to areas, such as permits and emissions inventory, which will be most affected by the banking proposal. The TACB staff is also determining the effect of the emissions trading programs on the agency and is working with the legislature for additional funding to operate the emissions trading programs. This rule was written with provisions in §101.29(e), concerning ERG Certification or Registration, to minimize the personnel impacts during the first year of operation. One of the tasks required by the banking proposal is certification of the actual reductions made by industry. This task is currently required of the permits staff as they review the internal netting calculations and the external offset calculations. In addition, §101.29(e) limits the size of each certified bank account and sets the minimum level of the deposit to be certified to minimize the impact on the permits' staff. Another task which will be required is tracking emissions reductions in the point source data base (PSDB) files, which will require adding some data fields to the PSDB. Adding those fields and tracking the new information will actually improve the task of developing a SIP for each nonattainment area. Therefore, the staff believes that there are ancillary benefits from adding banking requirements.

Texas Campaign opposed the banking proposal because it is not required by the FCAA Amendments. Biotech stated that the TACB should also clarify that this system is almost entirely voluntary. Offset trades are already a necessary part of a nonattainment permit. The banking system will provide one way for companies to exchange offsets. It is Biotech's understanding that the system will not displace offset trades between companies which do not go through the bank (i.e., the existing case-by-case system). An exception within the new rule is offsets for shutdowns. As proposed, these offsets must be banked within six months of the shutdown to be creditable. Although Biotech does not believe this new requirement is unreasonable, it clearly represents a significant new restriction.

Although the staff agrees that the 1990 FCAA Amendments do not require a banking program, the FCAA Amendments and the EPA encourage banking and stress economic incentives as a viable means of reducing air emissions. The supportive guidance is published in the EPA's "Emissions Trading Policy Statement" (*Federal Register*, December 4, 1986), EPA's nonattainment NSR permit requirements (40 CFR 51.165), EPA's "Emissions Offset Interpretive Ruling" (40 CFR 51, Appendix S), and EPA's "General Preamble for the Implementation of Title I" (*Federal*

Register, April 16, 1992). The General Preamble requires states to treat ERCs as part of the emissions inventory for SIP planning purposes, which implies that a method, such as banking, is needed to account for the emissions reductions which have been made by industry. Regarding the shutdown provision of the proposal, the EPA "Emissions Offset Interpretative Ruling" will not allow a shutdown to be creditable for an external offset trade, unless the shutdown is immediately contemporaneous to the trade of those shutdown emissions for a new project or the shutdown trading policy is specifically detailed in a state banking rule. Therefore, even though the banking proposal is not required by the FCAA Amendments, the lack of a banking proposal will seriously hamper the development of SIPs in those areas where the TACB needs to account for those emissions reductions as part of the demonstration of reasonable further progress toward attainment. The staff agrees that the proposed rule language is vague regarding the issue of this being a voluntary program, with the exception of the statement in §101.29(g)(2) concerning mandatory banking of credits from shutdown for external offset purposes. The language in §101.29(l)(1) is changed to plainly state that the banking program is voluntary.

Lone Star Sierra gave an example of a company which recently changed its reported emissions estimates by a factor of 300% and stated that this is an example of what can happen without a standardized method of estimating emissions. Lone Star Sierra then asked how the TACB will give credit for estimates with this much uncertainty. El Paso Sierra stated that air emissions cannot be accurately measured or even estimated, thereby opening the plan to abuse. Texas Campaign stated that the banking system lacks credibility in that there is no way to verify industry's baseline emissions or reductions, and that the TACB will have to rely on industry to provide volume of emissions they emit and have reduced. Texas Campaign further stated that there is a built-in financial incentive for industries to fudge the numbers, and the TACB is proposing to allow industry to guess their emissions and then sell or trade the right to pollute as if accurate quantities were known. One individual stated that they did not trust industry to guess its emissions and then to sell or trade its right to pollute. Two other individuals stated that they felt it was impossible to accurately measure air emissions from industrial sources and that these sources are highly unlikely to honestly estimate the emissions. The staff believes that the uncertainty in reporting emissions has been drastically reduced by the October 16, 1992, change to the General Rules, §101.10, concerning Emissions Inventory Requirements. One new emissions inventory requirement is the initial and annual reporting of actual emissions with continuous emissions monitors (CEM) as the preferred method to determine emissions. Another requirement is a certifying statement signed by the owner(s) or operator(s) of the emissions source. Failure to submit emissions inventory data, as required, or submitting data which is known to be false, shall result in formal enforcement action and possible criminal penalties against the company. Furthermore, the banking pro-

posal requires emission reductions to be based on actual, preferably measured emissions which are then certified by the TACB staff.

One individual stated that industry in Victoria releases its pollutants in the middle of the night to avoid monitoring. The staff believes that the issue of a company releasing its pollutants at night to avoid monitoring is not related to the banking proposal. However, this situation has been referred to the TACB Region 5 office in Corpus Christi for investigation.

San Jacinto ALA felt that no ERCs should be traded to businesses who are out of compliance with their permit requirements or in violation of TACB Board Orders. ERC trading to businesses who are out of compliance is covered adequately as part of the permitting process as defined in §116.12, concerning Review and Renewal of Permits, and §116.14, concerning Compliance History Requirements. A compliance history exclusion provision will not be added to the proposed banking rules.

Red River Sierra stated that a market system in pollution rights does not make good economic sense. Red River Sierra gave an example that pollution induced health care costs in the Los Angeles basin total an estimated \$10 billion per year. CASE stated that while jobs are important, industry has to learn to work within the FCAA limits. CASE believes that we should attract cleaner industries with air which meets the NAAQS. Enterprise, a substantial contributor to the Houston area economy, believes that for lack of an emissions banking program, companies such as Enterprise were now to be disadvantaged by having built new, low-polluting facilities and prevented from increasing the capacity to produce environmentally beneficial products in the Houston area. One individual pointed out that previous laws requiring pollution control did not cause unemployment, but rather, increased employment. CA&W stated that this proposal could encourage industry to leave the area for less strict regions. Texas Campaign believed that citizens in nonattainment areas are shouldering the burden for clean air, through new smog checks and other FCAA requirements, while industry will actually make money by increasing emissions.

The staff agrees that the banking rule is a trade-off between the costs of air pollution, such as higher health care costs and potential loss of business, and the benefits, such as a better economy and cleaner air. Regarding health care costs, an improved air quality will directly result in lower health care costs, therefore, any program must have the basic goal of improving the air quality. Regarding potential loss of business, making the task of doing business in a nonattainment area so high that a business cannot afford to operate there may cause the business to take flight and therefore fewer jobs and a poorer economy. This trade-off is especially important when an industry which is directly impacted produces environmental products which help clean the air. Finally, the cost of cleaning the air must be equitably shared between the sources of the pollution, e.g., automobiles

and industry. The staff believes that the banking rule does not discriminate against the consumer by allowing industry some flexibility, nor against industry by driving business away, while it still provides a positive net improvement to air quality.

The Partnership and the Fort Bend EDC stated that with the major source and major modification rule changes, ozone nonattainment areas need flexibility to assist business to meet these more stringent requirements. The Partnership and Missouri City believe that the bank will allow regional economic development groups to clearly identify available offsets and potential businesses seeking to locate in nonattainment areas to secure those offsets. The Partnership and Missouri City also stated that the emissions bank will allow nonattainment areas to avoid what other areas have suffered, namely, business flight due to unnecessarily burdensome regulations. The Partnership, the Fort Bend EDC, Houston, and GSU believe that areas with established emissions banks, such as other states (New Jersey, Pennsylvania, Missouri, and Colorado) and cities (San Francisco, San Diego, Los Angeles, Louisville, and Seattle) will be a step ahead of regions without a bank to identify offsets and attract new business. Houston stated that the banking proposal encourages innovative marketplace solutions to air quality problems, and does not require a choice between clean air or new jobs.

Chevron U.S.A. Products Company (Chevron), EGA, GSU, HL&P, Monsanto, Star, and TMOGA stated that with offset requirements for future VOC or NO_x emissions increases in Texas' ozone nonattainment areas, emissions banking is necessary for the long term viability and economic development, and essential for industry to be able to modernize, expand capacity, add additional processes or tankage, or build new facilities. Chevron and Star further stated that without the bank, it would be impossible for small family or independent businesses to enter an ozone nonattainment area. Biotech stated that a public banking system should also insure a more efficient usage of the limited pool of offsets within a nonattainment area by allowing the open market to set the distribution of the offsets.

Destec stated that advocates for the most stringent control possible will say that businesses try to avoid the social obligations and pursue profit in the community. Business extremists, on the other hand, would argue that the jobs are more important than the slight inconvenience of smog. Destec believes that both sides are wrong, and that the TACB needs to find the rational middle ground with a set of regulations that provide for both controlled economics and a controlled environment. Destec stated that the most practical way to do this is to provide market incentives for industry to improve by modifying its operations, not by leaving. Destec stated that recently, the New Jersey Chemical Council announced that 8.0% of its chemical processing jobs between 1980 and 1990 were lost compared to the 2.0% national average. New Jersey attributed that, in part, to the regulations that had been promulgated in the state. The staff believes that this

banking rule has found the middle ground regarding the issue of a controlled environment versus a controlled economy. Without an emissions banking program, industry seeking to locate or expand in a nonattainment area would have a difficult time finding sufficient offsets to satisfy the NSR requirements. By making this program voluntary, the market incentives will induce industry to implement better controls on its emissions and deposit those emission reductions into the bank. As the deposits are withdrawn from the bank, the offset ratio will show a net improvement of the air quality. As one commenter stated, clean air regulations can provide more jobs, and the decisions for cleaner air or a better economy do not have to be mutually exclusive. This rule is adopted as an economically viable, yet environmentally sensible program in ozone nonattainment areas.

Lone Star Sierra stated that NO_x contributes to the formation of ozone smog which seems to form in a plume and that this discrete plume means that NO_x emissions are not equally contributing to the formation of ozone. Lone Star Sierra suggested that the trading of NO_x emissions be from sources in the same geographical area, no more than five air miles apart, so that trades do not adversely effect the ozone plume.

The staff agrees that NO_x contributes to the formation of ozone, but that there are many complex variables which determine to what extent NO_x affects ozone formation. Some of the variables include the relative concentrations of VOC and NO_x, the proximity of other VOC and NO_x sources, the wind speed and direction in the vicinity of the NO_x source, the height of the atmospheric mixing layer, and the height of the NO_x emission point in relation to the height of the mixing layer. The actual effect of any specific NO_x emission source toward the production of ozone may be determined through the use of the UAM. Although the UAM is currently being prepared for nonattainment area analyses, the TACB will not know the contributions of NO_x emissions toward the production of ozone for several months. Even then, the UAM would have to be run (a very difficult, time consuming, and expensive exercise) to determine the effect of a proposed NO_x trade on the overall nonattainment air quality. Restrictions on NO_x offsets may be considered in future rulemaking based on the UAM results. Therefore, there will not be any distance restrictions placed on NO_x trading in the rule.

EGA stated that NO_x offset requirements for new sources should be implemented only when a mechanism for obtaining such offsets exists. EGA also stated that they welcome any opportunity to assist in developing workable offset banking and trading programs. The state regulations concerning the NO_x offset requirements were promulgated in May 1992 and became effective on November 15, 1992. The primary purpose of the banking proposal, as stated in §101.29(a) and (h), is to provide a mechanism for obtaining the required offsets for both VOC and NO_x. Section 101.29(h) states that ERCs can only be withdrawn for the purpose of providing offsets for new or modified sources. Another potential use of NO_x ERCs would be to substitute

those credits in the place of NO_x RACT. The TACB staff is exploring that option as part of future revisions to the NO_x RACT rules and the emissions banking rules. However, the staff does not recommend changing the banking proposal at this time.

Lone Star Sierra requested that all NO_x emissions trades be verified by CEM. One individual suggested that factories be emissions-tested just like cars. The individual stated that there should be specific guidelines for industry and that industry should be held to those guidelines. One individual stated that a banking system must be based on a demonstrated potential to reduce measured polluting emissions. The individual further stated that only actually measured VOC and NO_x emissions determined by either the TACB staff assay or an independent accredited laboratory using valid quality controlled procedures should be used in tradings. The individual finally stated that a valid permit is not evidence of actual (as measured) VOC and NO_x emissions and that mechanisms for emissions determinations, monitoring, and enforcement must be precisely disclosed in writing as an integral part of any contract.

The staff agrees that a CEM system would be the best method to verify emissions reductions and that the next best method is to perform sampling using valid, quality controlled procedures. This belief is reflected in §101.29(e) which states: "The emissions reduction amounts shall be determined based on actual monitoring results, when available, or otherwise calculated using good engineering practices." The existing rules require CEMs only in certain cases. Current TACB permitting policy requires emissions determinations, monitoring, and enforcement as an integral part of any permit. As the staff develops the rules and regulations to implement the provisions of the FCAA Amendments for NO_x RACT, Title III (Air Toxics), and Title V (Operating Permits), CEMs will be required in more and more applications. The banking rule will not be modified to require CEMs as the exclusive method of verifying emissions reductions.

The American Lung Association of Texas (Texas ALA) stated that while the overall concept of emissions banking or trading to support the emissions offset requirements of the FCAA Amendments is not new, the execution of similar banking programs are rife with examples of paper trades which did not achieve any additional air pollution reduction. This is the concern of the Texas ALA with regard to the Texas program. The staff emphasizes that the rule does not allow the trading of paper emissions. Section 101.29(f) states that: "A qualified reduction is a reduction in emissions of an applicable pollutant from an eligible source located in a designated area, which results in an actual and permanent emissions decrease" The staff agrees with the commenter that paper trades will not help any nonattainment area make progress toward attainment of the ozone NAAQS and, therefore, should not be allowed.

Lone Star Sierra stated that it is important that credits taken for early toxic emissions reductions not come back to haunt us as toxic emissions in the banking program. The staff

agrees that early toxic emissions reductions made under the provisions of the FCAA Amendments Title III, concerning Air Toxics, should not be used as part of an emissions trading program. The purpose of the early toxic emissions reduction program is to provide an extension of the maximum achievable control technology (MACT) compliance schedule, not to provide offsets for new sources in ozone nonattainment areas. The staff, therefore, does not recommend allowing an early toxic reduction to qualify as an ERC in §101.29(f).

Lone Star Sierra stated that the Texas Legislature passed a bill which was intended to help clean up the air by encouraging the use of alternative fuels. Lone Star Sierra believed that if the TACB allows industry to "hijack" these improvements for continued toxic and smog pollution, the legislative intent will have been circumvented. Lone Star Sierra suggested that one way to avoid this problem would be to require a greater offset ratio when trading mobile source emissions reductions for fixed source emissions increases.

The staff disagrees that the banking rule violates the legislative intent regarding the use of alternative fuels. The provisions for alternatively-fueled mobile sources in §101.29(c) and (f)(6) were included in this proposal as a notice of intent to encourage early development of the alternative fuel infrastructure, such as fueling stations, and to encourage conversion of fleets beyond those specified by the Legislature to convert to alternative fuels. The actual methodology of calculating the amount of credit, determining the length of time the credit is viable, and in what manner in which the credit may be used has not been specified in this proposed rule. The MPAC is developing the methodology for the alternative fuels credit use and will recommend revisions to the banking rules at a later date.

Lone Star Sierra and two individuals expressed a concern that fugitive emissions are not easy to quantify because of a lack of standardized estimation, measurement, and monitoring techniques. Lone Star Sierra felt that fugitive emissions should not be allowed in the banking rules until we have a way to accurately assess them. Lone Star Sierra, Golden Triangle Sierra, and 17 individuals suggested that a scientific/engineering panel be convened to determine a consensus on a standardized and accurate method of estimation of fugitive emission losses. One other individual requested that the panel be composed of analytical chemists not working for the petrochemical companies.

Red River Sierra stated that toxics and smog-forming petrochemical vapors are difficult to measure and monitor, and no standard method has yet been devised by any state to accurately estimate even the quantity of leaks from industrial plants. Red River Sierra also stated that one cannot sell that which cannot be measured or quantified. Two individuals requested that the TACB ensure that measurements of fugitive emissions can be accurately done before agreeing to any program to sell "pollution rights."

One individual stated that emissions arising from start-up, shutdown, and maintenance

may not be part of any emissions trading program, and that the current plant "estimated" (guessed) emissions are merely delusional and speculative and cannot be the basis of any form of banking.

The staff agrees that fugitive emissions are not easy to quantify because of a lack of standardized estimation, measurement, and monitoring techniques. Within this state, fugitive emission monitoring is covered by the TACB fugitive monitoring program (28M) at this time, and monitoring at a specific source could be improved by implementing the more stringent intensive, directed monitoring program (28MID). The issue is not whether the implementation of 28MID by a source will make a net reduction in the emissions, but rather a question of how much that reduction will be. In addition, progress in the improvement of the fugitive estimation, measurement, and monitoring techniques is occurring by scientific/engineering personnel under the auspices of the EPA. As part of this banking proposal, any emissions reduction certification would be performed by the TACB permits engineering staff who will use all the data available in order to make a valid engineering decision. Not all fugitive emissions reductions will be disallowed by this banking program, but they will be limited to only those which have a preponderance of valid engineering data.

CASE stated that if the TACB adopts a rule to bank emissions, the TACB will be removing the incentive to replace old technology with new technology because, with this bank, industry will be preserving the very chemicals that put us in the nonattainment category. CASE further stated that industry should be encouraged to reduce emissions; however, this proposal allows industry to use the reductions within the next one to five years and never have to worry about improving the quality of air beyond the legal limits. CASE also suggested that larger companies would use this "bank," not to help new industry come into the area, but to aid them in maintaining current levels, without the pain of implementing newer technology, where possible. Finally, CASE stated that the larger companies, who have high emission levels due to size of production activity, could jeopardize neighborhoods further if allowed to purchase credits from this bank to expand. Two individuals stated that the proposal ignores the fact of unhealthy air and focuses on an almost perpetual trading scheme of pollution rights allowing companies to continue to pollute when making plant improvements.

Enterprise stated that the creation of a banking program is especially important, because most of the company's facilities were built within the past 15 years and, therefore, employed from their inception the most modern and effective emissions control technologies and design features. As a result, Enterprise does not have available the internal emissions reduction opportunities that companies with older facilities and less effective emissions controls find readily at hand to generate the credits required for expansion under the new law. There is, essentially, no emissions "fat" in Enterprise's facilities, so if the company cannot look outside itself for reductions to support the construction of new and ex-

panded plants, Enterprise's operations cannot continue to grow in the Houston area.

Biotech stated that offset trades have been and will continue to be an important part of the SIP process. What the new rules will do is add efficiency and predictability to the processing of new source nonattainment permit applications. Biotech requested the TACB to clarify that sources seeking a nonattainment permit are subject to review of their emissions based upon a LAER technology standard. LAER is the most stringent emissions abatement standard available under the FCAA Amendments and, because of this standard, plants built under a nonattainment permit are the cleanest, most efficient plants in the market. Biotech stated that the banking system will not promote delays in the reduction of emissions by industry. Instead, because of the streamlined nonattainment permitting process, it should promote the replacement of older, dirtier plants with newer, cleaner plants.

Fort Bend EDC stated that the emissions bank would provide a means of assessing the availability of offsets for both local industries and industries considering locating in the Houston area. The mandated offset ratio of 1.3:1 guarantees that emissions are reduced. This program requires the reduction of pollution rather than merely trading the right to pollute. Yet, at the same time, it allows a nonattainment area to contribute to the economic growth of Texas by providing jobs and wealth to the state's economy. HL&P stated that the federally-mandated offset ratio of 1.3:1 ensures that emissions are, in fact, reduced, not merely traded. The flexibility afforded by this scheme with respect to voluntary participation, maintenance of reductions for internal netting, and choice of reduction technology is commended. HL&P stated that this will be an attractive incentive for industries who would consider locating in Houston.

EGA stated that new independent power producer (IPP) facilities use state-of-the-art emission controls and emit much lower levels of pollutants than older, existing utility sources which they often replace. For example, from 1985 through 1988, emission rates from utility fossil fuel boilers in Massachusetts averaged over 13 tons of NO_x per megawatt hour (MWh). By comparison, the Ocean State Power plant, a new IPP facility, has NO_x emissions of 1.1 tons per MWh. For each megawatt generated, the Ocean State plant emits less than one-tenth as much NO_x as the average Massachusetts electric utility.

The staff disagrees that the banking rule will remove the incentive to replace old technology with new technology and create a perpetual trading scheme of pollution rights or a shell game. As stated in the rule in §101.29(h), the only time a company can use the banked credits is to satisfy the requirement for an offset of emissions under the NSR rules. When a company triggers the NSR rules, they not only must ensure a net reduction of 15-30% in the nonattainment area, but they must also construct the new source using LAER technology. LAER technology is by definition the best technology available without regard to cost. The staff also disagrees

that large companies will use the bank to maintain current emissions levels, rather than help new industry locate in the area. In accordance with current TACB permitting rules, the large companies can hold those emissions reductions for internal use to avoid triggering the NSR rules. Once a company banks the reductions, it would have to use them in the NSR process and pay the offset and LAER price. In addition, once emissions reductions are placed in the bank, the TACB will discount the credit by 3.0% per year until the credits are withdrawn to assist in achieving reasonable further progress towards attainment of the NAAQS.

The staff agrees that without safeguards a large emissions source could jeopardize neighborhood air quality by purchasing additional credits from the bank and increasing its production activity. The staff believes that an adequate safeguard exists in the permitting process. If the company uses credits from the bank, then it must meet the requirements of the nonattainment review permit process. This process not only will require the modification be constructed with LAER technology, but also will require the permit revision to go through a health effects screening process. This screening process will keep the ground level concentrations of pollutants at the plant boundary within levels that safeguard public health and property. If necessary, additional controls will be added to safeguard the public health and property. As stated in the industry and economic development agency comments, the staff believes that this rule will provide an incentive for companies to bank reductions of their air emissions so that new industry can locate in the area or existing industry can expand. The staff also believes that industry will voluntarily implement state-of-the-art technology in hopes of benefiting from that effort by being able to sell the banked credits and also to improve the air quality in its neighborhood.

Texas Campaign stated that its nonattainment area needs to have an overall reduction of emissions, not an offset program that keeps emissions levels at current or higher rates. Houston stated that the banking rule requires actual emissions reductions prior to any approval of a transaction occurring. Therefore, Houston stated, the banking rule will not allow backsliding from air reduction goals, but will encourage additional emissions reductions to achieve marketable credit reductions. Monsanto stated that this rule is a voluntary program and allows banking of excess reductions, not just required reductions, which is important. Monsanto also stated that even though companies will be drawing credits from the bank for economic development, the companies are still reducing overall emissions because of the offset provisions that require a greater than one-for-one trade-off. The staff disagrees that an offset program will keep emissions levels at current or higher rates, because, by definition, an offset program requires an emissions increase to be offset by a larger emissions reduction. In addition, any source which is constructed under the nonattainment review rules, using banked emissions credits for offset purposes, will require LAER technology in addition to the offset. Therefore, the tangible benefits of more

banking transactions are lower emissions from modernized plants which are located in areas with fewer total emissions.

Lone Star Sierra stated that the banking program is valuable in serving industry needs, but that the program should not be made available free of charge, paid for by the citizens of the state, or paid for by the rest of industry not participating in the program. Lone Star Sierra suggested a sliding fee based on the size of the offset, such as \$100 per ton, to be paid upon registration of any credits for internal or external offsetting purposes. San Jacinto ALA urged the TACB to set up the program so that it pays its own way at the TACB, because the state estimated that it will incur costs of approximately \$15,000 to implement the program and annual costs of at least \$45,000 to administer. San Jacinto ALA proposed that user fees, application fees, and transfer fees be established which will fully cover these costs, that program costs be reviewed annually, and that the fee structure be revised if needed to meet the expenses involved in running the program. Golden Triangle Sierra stated that it does not believe that it is the responsibility of taxpayers and the TACB to finance the proposed emissions banking system and recommended that participating industry members pay for each use.

Monsanto stated that because the TACB is 100% fee-funded, industries are really the ones bearing the cost of this program. Monsanto also stated that the TACB is currently running a surplus on the fees that are collected; therefore, this should not really be an economic burden on the agency budget. The staff agrees with all the commenters regarding the necessity of banking transaction fees. Because the TACB is fee-funded, industry should bear the cost of this and the other TACB programs which affect them, however, the TACB does not have legislative authority to collect and spend banking fees. Therefore, the banking program will be administered with existing resources until additional funding is available. The rule will not be amended to collect banking fees, but a fee structure and methodology will be developed by the MPAC during future rulemaking. The MPAC may choose to petition the Legislature for authority to apply any fees collected toward the management of the emissions trading program.

EGA stated that as the regulations are currently understood, the potential pool of available NO_x offsets would be limited primarily to offsets created by existing utilities which "over control" below RACT requirements. Under present law, there are no requirements that utilities make offsets available to IPPs. EGA recommended that states adopt SIP provisions which develop and reserve or otherwise guarantee that offsets will be available to new IPPs. Moreover, in states that delay RACT, no baseline will exist against which to measure the amount of any offset that results from "over control." Additionally, the narrow pool of sources for NO_x offsets leaves little opportunity for market forces to regulate the price. Lack of certainty as to the price and availability of NO_x offsets will inevitably delay FCAA Amendments permits for new IPP projects. This will, in turn, result in delays or denial of project financing and the loss of

jobs. In revising their SIPs, states should consider the fact that this lack of certainty may cause them to lose the significant environmental benefits of replacing older plants with new IPP facilities which use state-of-the-art emission controls. The staff believes that this comment is not within the scope of this rulemaking. The current rule creates the mechanism by which ERCs can be generated, deposited, and withdrawn, but it does not guarantee that a utility or any other entity which has generated ERCs will sell or trade those ERCs to an IPP. Furthermore, the staff is not delaying the development of NO_x RACT rules, but rather is working diligently to promulgate NO_x RACT rules within the next few months. The proposed NO_x RACT rules should help alleviate the uncertainty of IPPs regarding the availability and market price of NO_x credits.

Southern Union Gas (Southern) requested that the TACB fully explain how it has determined that natural gas-fueled stationary engines are the leading cause of NO_x in Texas. The commenter stated that according to official TACB comments, natural gas-fueled stationary engines contribute the majority of NO_x emissions in Texas. Southern seriously doubted this conclusion. In December of 1988, the TACB issued a report entitled "Air Quality in Texas." Page 15 of this report stated that: "Texas has never had a violation of the NAAQS for nitrogen dioxide (NO₂); nor does it appear likely one will occur." Southern stated that this report went on to say that: "The need to consider control of NO₂ for its effect on ozone is not clear at this time." The commenter felt that the TACB's "Air Quality in Texas" report apparently contradicts this recent determination that natural gas fueled stationary engines contribute the majority of NO_x emissions in Texas. The staff believes that this issue of which source produces the most NO_x within Texas is irrelevant to the subject of emissions banking. The staff recommends this issue be studied as part of the NO_x RACT rule development.

Southern stated that the TACB should consider the incremental "fuel cycle" effects of supply-side and demand-side energy alternatives to ensure a level playing field between natural gas and electric utility sectors. Coal is still the dominant fuel used in this country to generate electricity and nearly half of the coal-fired plants are not equipped with scrubbers. Although natural gas slightly exceeds coal in Texas for electrical power generation (much of which is non-utility cogeneration), the amount of coal-fired power plants without scrubbers is also higher than the national average. Natural gas end-use technologies, such as cogeneration, compete with such power plants. Southern recommended that if cogeneration and other on-site engine drive alternatives to electric motors incrementally reduce emissions, then proportional credits should be awarded. Conversely, if incremental emissions are increased, incremental credits based on proposed offsets should be required. The staff believes that this issue is not directly related to the subject of emissions banking. The staff believes that electric drive motors produce less pollution than would a similarly sized natural gas engine at the facility of an emissions source. In addition, the

difficulty of calculating the corresponding emission credits is too great, assuming that the natural gas engine is cleaner than a utility producing a proportional amount of electricity. Texas utilities do burn more natural gas than coal, and some of this coal is low sulfur western coal which has not required the use of scrubbers in the past. Therefore, any increase in electricity requirements would probably be met by natural gas-fired boilers or combined cycle cogeneration plants and not from coal-fired units. The issue of calculating the emissions credits from cogeneration and other on-site engine drive alternatives to electric motors will be studied as part of the NO_x RACT rule development.

El Paso City-County expects a disastrous environmental impact from growth in the area due to the North American Free Trade Agreement, especially in the air quality. It further stated that this impact will be very obvious in uncontrolled growth in the number of vehicles coming to the area. Fifty-six percent of the VOCs in El Paso are from mobile sources, 9.0% from stationary sources, and 35% from area sources. With this in mind, El Paso City-County stated that the biggest impact will be from mobile sources, many of which are uncontrolled. The staff believes that this issue is not pertinent to the banking rule.

GHASP objected to the proposed definitions because they undermine clean air attainment in a timely fashion. The staff disagrees that the definitions undermine clean air attainment because the definitions "actual emissions," "potential to emit," and "stationary source" were taken almost verbatim from the Code of Federal Regulations, 40 CFR 51.165. The definitions "emissions banking," "emissions reduction credit," and "emissions reduction credit certificate" simply define the terms used in the banking proposal. These definitions will not be deleted as a result of this comment.

One of the TACB staff suggested that the parenthetical statement "applies only to nonattainment area, NSR rules pursuant to FCAA provisions" be removed from the definitions "emissions banking," "emissions reduction credit," and "emissions reduction credit certificate" because the definitions are not mandated by the FCAA Amendments.

The staff agrees that the definitions are not federally mandated, and has removed the parenthetical statement from the banking definitions.

GHASP believed that all upsets and other releases that are not part of normal operations must also be included in the definition of "actual emissions," because the emissions will be underestimated without the inclusion of upsets and other releases. GHASP also requested that all actual emissions be measured, not estimated. The definition was taken almost verbatim from 40 CFR 51.165. The staff believes that adding upsets and other releases to the federal definition of "actual emissions" would be inappropriate and may not be approved by EPA during the SIP review process.

EPA recommended that the definition of "actual emissions" include the phrase "e.g., when the allowable limit is reflective of actual

emissions," to the end of the sentence, "The Executive Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions." EPA recommended the additional wording to clarify when this presumption can be used. The staff agrees with the suggested clarification and the language has been modified to add the clarifying statement.

GHASP objected in the definition of "emissions banking" to the transfer of credits, except from one facility to another in the same company. The staff disagrees that the transfer of credits should be limited between facilities of the same company. This type of transfer is allowed under existing regulations regarding external offsetting in nonattainment areas so that a new or modified source can satisfy the requirements of the nonattainment review rules. The concept of emissions banking is based on the premise that emissions credits can be traded between companies, which provides an economic incentive for making greater emissions reductions than are required. The "emissions banking" definition will not be deleted or modified in this manner.

Red Star Yeast & Products (Red Star) stated that in §101.29(e) the term "bank" is unclear and appears to refer to an individual account instead of the administrator of the program. Red Star recommended that the term "bank" be defined. The term "bank" as used in this proposal refers to a set of accounts which contain certified ERCs. There will be two bank accounts in each nonattainment area, one for VOC ERCs and one for NO_x ERCs, for a total of eight bank accounts. However, a definition cannot be added to this proposal without an additional public hearing. The staff will consider a definition of the term "bank" in the next revision of the banking rules.

GHASP objected to the definition of "potential to emit" because only federally enforceable limitations can be treated as part of the design limitation and argued that state design limitations must be allowed since they may be more stringent than federal limitations. The staff disagrees with the commenter regarding state design limitations, because state limitations which are specified in a nonattainment area NSR permit are federally enforceable.

Southern stated that the TACB should revise the phrase "potential to emit" to not assume that all point sources are base loaded. For example, a 300 horsepower engine puts out 19 grams of NO_x (0.042 pounds) per horsepower-hour while powering a refrigerant compressor 2,000 "equivalent full load" hours per season. Therefore, actual NO_x emissions equate to 12.6 tons per year (tpy). However, due to the phrase "potential to emit," it is automatically assumed that the engine is operated continuously (8,760 hours per year) and will be charged with emissions of 55.2 tpy. Consequently, the owner of this system will opt for electric motors or be subject to hundreds of thousands of dollars of additional first-time expenses for CEMs, several thousands of dollars of additional yearly operating expenses for maintaining CEMs, and the need to purchase and/or develop NO_x offsets with no guidance on how, when, or where to go about this process. The definition "potential to emit" was taken almost verbatim from

40 CFR 51.165. The staff believes that making a change to the federal definition of "potential to emit" for a special situation would be inappropriate and may not be approved by EPA during the SIP review process. In addition, permitting conditions placed on a source are based on "actual emissions" which, by definition, are representative of normal source operation and "allowable emissions" which can be adjusted through the application of federally enforceable limits in the permit process. Therefore, the staff does not recommend that the proposed definition be changed.

Southern requested the TACB to reevaluate the cause and effect relationship between NO_x, VOC, and ozone and use relationship as the stated basis for developing NO_x emissions offsets and credits. Southern stated that according to the July 2, 1992, issue of the Clean Air Report, "lowering industrial emissions beyond the current level of control may prove to be counterproductive and actually increase ozone concentrations in certain areas."

Southern felt that the TACB's apparent concentration on NO_x reduction versus VOC reduction, although allowed by EPA, may unjustly discriminate against certain technologies. In addition, Southern believes that the impact of TACB's regulations has the potential of permanently tilting the playing field in favor of electric utilities.

The staff disagrees that the banking rule is discriminating against certain technologies. The state regulations concerning the NO_x offset requirements were promulgated as required by the FCAA Amendments in May 1992 and became effective on November 15, 1992. The primary purpose of the banking proposal, as stated in §101.29(a) and (h), is to provide a mechanism for obtaining the required offsets for both VOC and NO_x. The proposed banking rules, §101.29(h), state that ERCs can only be withdrawn for the purpose of providing offsets for new or modified sources. Another potential use of NO_x ERCs would be to substitute those credits in the place of NO_x RACT. The TACB staff is exploring that option as part of future revisions to the NO_x RACT rules and the emissions banking rules. However, the staff does not recommend changing the banking rule at this time.

Beinke stated that the rule, as proposed, limits the compounds that are eligible for banking to VOCs, as defined in §101.1, and to NO_x. Beinke stated that in the definition of VOC, certain compounds that are widely used by many of its clients and which may contribute to ozone depletion are not eligible for ERCs. The compound 1,1,1 trichloroethane (TCA) is an example of a compound which contributes to ozone depletion, is widely used in nonattainment areas, but is not included in the banking program. Beinke believes that because EPA has targeted TCA for massive reductions over the next several years, it seems reasonable that the reduction incentives offered by the banking program would contribute to this effort. As a result, Beinke believes that eligible compounds for ERCs should be expanded to include TCA and other compounds that are currently excluded from the VOC definition.

Vought stated that even though TCA is an exempt VOC, the 1990 Emissions Inventory for stationary sources included TCA emission sources, for example, vapor degreasers, that use TCA. Given the current emphasis being placed by EPA on elimination of ozone depleting substances, TCA has been targeted for reduction by the EPA Industrial Toxics Reduction Program and eventual elimination during this decade. Industry, in order to respond to these EPA initiatives, will spend millions of dollars in research, development, and capital equipment qualifying and placing into service aqueous emulsion cleaners and other ozone-friendly TCA substitutes. Vought stated that this proposed emissions banking program will not allow credits to be issued to an industry for the phase-out of TCA degreasers. Thus, in the Dallas/Fort Worth nonattainment area, a significant decrease in emissions will be attributable to the phase-out of TCA vapor degreasers, and this decrease will have a positive effect on bringing the Dallas/Fort Worth area into attainment for ozone. Vought suggested that if the SIP data base uses stationary source data which contains TCA emissions, then these emissions should be creditable under the TACB's proposed emissions banking rules. Vought also questioned whether any reductions in TCA emissions will be creditable toward the 15% VOC reduction by 1996.

The Dallas Environmental Advisory Committee expressed a concern that TCA is excluded from the proposed rules, and stated that the TACB should establish scientifically-based general criteria for ozone depleting compounds (ODCs) that will provide for the inclusion of compounds such as TCA in the emissions banking program. The staff disagrees that TCA and other nonreactive ODCs should be included in this banking rule. The intent of the proposal is to provide a means for new or expanding industry in ozone nonattainment areas to acquire emissions offsets which are required in the nonattainment review permitting process. The emissions offsets are required to reduce the amount of reactive VOC emissions which contribute to the production of tropospheric ozone, not the amount of nonreactive VOC which contribute to the depletion of stratospheric ozone. The ODCs, such as TCA, are not included in the definition of VOC because they are essentially nonreactive in the tropospheric ozone chemical process. Therefore, their reduction will not contribute to bringing an ozone nonattainment area into attainment. The UAM does not use the nonreactive VOCs in the modeling calculations, and the EPA will not grant credit for ODC reduction toward the 15% VOC reduction. The rule will not be changed to allow the nonreactive ODCs in the bank, but the issue may be studied by the MPAC as another venue of the emissions trading program.

TMOGA and Chevron stated that §101.29(a) disallows interpollutant trading between NO_x and VOC, although, the pollutant of concern is ozone, which is formed by the chemical reaction of NO_x and VOC. To encourage responsible industrial modernization and growth, industry should be allowed to seek the most cost-effective methods. Furthermore, when MACT is applied in the near

future, very few VOC emissions offsets will be available. Therefore, the rule should be changed to allow NO_x and VOC interpollutant trading unless and until further UAM studies show that such interpollutant trading does not benefit our ozone situation. TI also stated that interpollutant trading should be allowed since both VOC and NO_x are identified as ozone precursors. Star stated that it's area has a high VOC to NO_x ratio, thus, both VOC and NO_x reductions will probably be required to attain the ozone standard. The City of Fort Worth requested that interpollutant trading between VOC and NO_x be allowed because both pollutants are identified as precursors to ozone formation. On the other hand, GHASP stated that VOC and NO_x should not be intertraded because of the uncertainty of how much of each pollutant will reduce the ozone level. The staff agrees that the UAM will indicate the beneficial or detrimental effects of NO_x reductions toward the reduction of ozone in each nonattainment area. Until the UAM modeling is completed for each nonattainment area, the staff cannot make a realistic determination as to whether or not a VOC reduction can be beneficially traded and used to offset a NO_x increase, or vice versa. In any event, EPA guidance regarding the development of SIPs in ozone nonattainment areas will not allow interpollutant trading until after November 1996. Therefore, the staff does not recommend changing the banking rule to allow interpollutant trading at this time.

One individual stated the assumption that all VOCs are equal as oxidant producers and its relationship to environmental toxicity is not valid. The individual believed that a banking system should be weighted to reduce the most toxic chemicals first. Lone Star Sierra stated that all VOCs are not equal, and this proposal treats them as equal. El Paso Sierra believes that the banking proposal has not adequately considered the difference between toxicity, reactivity, and volatility. The staff agrees that a banking system should ideally be weighted to reduce the worst chemicals first and account for their differences between toxicity, reactivity, and volatility. These factors are considered in the permitting process which will verify that the use of banked emission credits for offsetting purposes will not result in a condition of air pollution. The best method to determine the effects of the different characteristics of VOCs involved in various trading scenarios is the UAM, which would be a very lengthy and costly process. The staff, therefore, recommends that the banking rule not inhibit VOC trading because of differences in VOC characteristics at this time, but that the MPAC address this issue for future rulemaking.

Red Star noted that EPA guidance, dated December 4, 1986, states that sulfur dioxide, particulate matter, CO, and lead emissions are also eligible for banking programs. Red Star recommended that the TACB should consider their inclusion in the banking program. The intent of the banking proposal is to provide a mechanism for new or modified sources in ozone nonattainment areas to acquire ERCs for use as emissions offsets in a nonattainment permit review. The FCAA does not require emissions offsets as a requirement of nonattainment permit reviews for cri-

teria pollutants other than ozone, and furthermore, the state has limited potential applicability because there are few non-ozone nonattainment areas. The staff recommends that the development of banking programs for the other criteria pollutants be addressed by the MPAC at a later time.

TI strongly agreed with the banking proposal that emission reductions can be aggregated from different sources under common ownership within contiguous ozone nonattainment counties. However, TI suggested the section be reworded to improve clarity. The staff believes that §101.29(b) is clear when combined with §101.29(c), which states that sources eligible to participate in the emissions banking program for a designated ozone nonattainment area include any stationary source, any area source, and any mobile source registered in the designated area. The staff does not recommend that this section be reworded.

Red River Sierra stated that this proposal would allow industrial plants located in low-pollution areas, such as Wichita Falls, to sell their rights to plants located in high-pollution areas, such as Houston, Dallas, El Paso, and Beaumont. The staff disagrees because §101.29(b) states that eligible sources must be located in federally designated ozone nonattainment areas, and §101.29(i) prohibits trading ERCs between different designated ozone nonattainment areas. Wichita Falls and other attainment areas would not be allowed to participate in the banking program.

Houston opposed any limitation of reduction credits to the local jurisdiction in which they were generated, since this would significantly limit any potential transactions and the impact of the banking program. Houston does support the limitation of credits to each specific nonattainment area, i.e., no trading between nonattainment areas. The banking rule does not limit reduction credits to the local jurisdiction, such as city or county, in which they were generated. The reduction credits are only limited to the confines of the federally designated ozone nonattainment areas.

El Paso Electric Company (EPE) discussed the geography of the El Paso area and stated that the three distinct air emission inputs to the El Paso airshed include El Paso emissions, Juarez emissions, and New Mexico emissions. EPE requested that the El Paso/Dona Ana County, New Mexico/Juarez airshed be viewed as a single entity, including appropriate regulatory consideration of emissions from all three airshed areas. EPE realizes the complexity of incorporating interstate and international emissions into the TACB regulatory framework; however, regulatory consideration of all emissions within the total airshed, realized by implementing a creative regulatory approach, represents the only logical way for El Paso to attain compliance with the ozone NAAQS. EPE believes that the banking rule in its current form, does not represent a viable or cost-effective strategy to achieve attainment, because the rule only allows emissions banking in one of the three areas which contribute emissions to the total airshed. Logically, the TACB should allow the banking of legitimate reductions from all three areas. To remedy the concerns EPE has with

the banking rule, it first suggested that the proposed rule be modified to allow the banking of emissions through verifiable agreements of international parties. Such agreements could be evaluated and approved by the TACB Executive Director on a case-by-case basis. Second, with regard to emission reductions achieved from sources in New Mexico that are part of the total airshed, the proposed rule should allow the banking of such reductions if a federally enforceable provision requiring reduction is included in the New Mexico air permit for the facility. The staff agrees that the total El Paso ozone nonattainment area is unique and that the most effective method of achieving compliance will entail a combination of international and interstate agreements and rules. However, the banking rule did not cover international and interstate situations, and therefore, cannot be amended to add international and interstate rules at this time. Additionally, New Mexico does not have a designated ozone nonattainment area adjacent to El Paso. This would preclude the trading of emissions credits between El Paso and New Mexico. The staff recommends that the MPAC consider this situation in later rulemaking.

Houston strongly supported the inclusion of stationary, area, and mobile sources in the banking program, because including all the sources increases the flexibility and impact from a banking program. TMOGA and Chevron stated that the provision of §101.29(c), pertaining to mobile source eligibility encourages innovation and the use of cost-effective approaches to gain credits.

Lone Star Sierra and Houston ALA stated that another area of concern is the ability of the TACB to quantify and verify mobile source emissions reductions. They believe the science of quantifying mobile source emissions is much more primitive than that for stationary sources, and if mobile sources reduction are allowed into the program, the ERC should be challenged to reflect the uncertainty in the emissions reductions calculation. Lone Star Sierra requested that §101.29(c)(3) be deleted to remove mobile sources from the list of eligible trading sources. The Texas ALA stated concern that ERCs from scrappage programs are accessible for five years, because the majority of these old vehicles would have been off the road prior to that time, anyway. The Texas ALA also stated that ERC from transportation control measures, such as trip reduction strategies, will be very difficult to quantify and even more difficult to enforce.

EPA stated that if the TACB allows emission reductions from area and mobile sources, the TACB will need to ensure that the banking of those reductions are accounted for in the attainment demonstration plans. Since emissions growth from area and mobile sources is largely unregulated and attainment plans are not yet in place, the TACB may want to consider appropriate discount factors to apply to these reductions. Also, the TACB will need to make the emission reductions from these sources federally enforceable through a SIP revision. The staff agrees that any emissions reductions from banking should be accounted for in the attainment demonstration SIPs and that the reductions should be federally en-

forceable through SIP revisions. The provisions for mobile source credits in §101.29(c) and §101.29(f)(6) were included in this rule as a notice of intent to encourage early development of the infrastructure, such as fueling stations, and to encourage innovative ideas in the reduction of mobile source emissions. The actual methodology of calculating the amount of credit, determining the length of time the credit is viable, and determining what manner the credits may be used has not been specified in this rule. The MPAC is developing the methodology for mobile source credits use and will recommend banking rule revisions at a later date. The staff does not recommend prohibiting mobile source initiatives from the banking rule.

TU Services, Vought, and ENTEX stated that a credit should be usable more than five years. TI suggested 10 years. The purpose of emissions banking is to allow for economic growth in nonattainment areas while still reducing emissions. Businesses will need emission credits in order to expand an existing plant or open a new business. TU Services stated that before making the capital investment for a business, there must be some assurance that it will be able to remain in operation for the useful life of the facility, which may be 20 or 30 years. The business must have the opportunity of having a 20 or 30-year stream of credits to operate the plant. EGA and Destec stated that §101.29(d) is vague and pointed out that projects are typically financed for 15 years.

Dow stated that the program will discourage, rather than encourage, early emission reductions and industrial modernization by unnecessarily limiting the life of ERCs to a period which is too short to enable their reasonable trading and use. The proposed program further discourages early reductions by not certifying non-shutdown ERCs until withdrawal, thus clouding their potential value to a user. Dow and TU Services have concluded that EPA rules and policies allow states to adopt, or not adopt, a lifetime limit on ERCs used for offset purposes. Dow recommends that the TACB eliminate the five-year limit on the lifetime of ERCs and suggests an unlimited lifetime or at a minimum a 10-year life, in order to encourage sources to make earlier reductions and to assure that an adequate supply of ERCs exists to maintain the viability of the Houston-Galveston area economy. Dow states that the lifetime of an ERC must be sufficient to include time for certification by TACB, negotiation of an ERC sale (if traded), inclusion in a permit application for a new project, the TACB review of and action on the permit application, possible public hearings, and up to 18 months after permit issuance until the commencement of project construction. TMOGA requested that the rule clarify that banked emissions may be used within or beyond the five-year life provided that the source submits an administratively complete permit application within five years. This provision is necessary due to the often long and unpredictable time periods needed to obtain construction permits.

Phillips opposed the issuance of ERCs with expiration dates. ERCs branded with an expiration date will create a strong disincentive for industry to participate in early reduction pro-

grams such as Clean Texas 2000 or EPA's Industrial Toxics Project. ERCs with expiration dates will, in essence, penalize "cleaner" companies who are proactive in reducing emissions. A "use it or lose it" policy such as this could force industry to delay making any reductions until required to do so by regulation or until it is absolutely necessary in order for a new project to obtain approval. Regulations are already in effect which require offsets. Both Dow and Phillips believed that the provisions of §101.29(j)(1) regarding 3.0% per year depreciation of credits and offset ratios provide sufficient demonstration of reasonable further progress towards ozone attainment.

Star asserted that once a credit is certified it should remain in the bank until used or sold. It did not support placing a five-year moratorium on the sale or use of certified credits. As part of this proposal, industry will voluntarily make real reductions in VOC and NO_x beyond those required by permit or regulation beginning January 1, 1990. In addition, due to the SIP and regulatory changes to comply with the ozone standard, there will be substantial additional NO_x and VOC reductions in the area.

San Jacinto ALA stated that any efforts to extend the length of time that ERCs are available for use as an offset should be rejected. Lone Star Sierra felt that the federal practice of a five-year life span does not have to be extended to the banking program and that a shorter life span would avoid pollution perpetuation and enhance speedy compliance with air quality standards in nonattainment areas. Lone Star Sierra suggested that a three-year life span for emissions reduction credits would be in the interest of health and the environment. An individual stated that in order to maintain the focus on cleaning up the air, there should be an age limitation on how long a "right (to pollute)" can exist. Another individual stated that retroactive reductions made before the rule is issued should have a one-year limit.

The TACB staff agrees that the five-year lifetime of ERCs is not required by EPA or federal regulations. EPA has long maintained the ability of states to be more stringent than EPA rules to allow states the flexibility in making rules to fit their needs. The staff has selected the five-year life for ERCs to maintain consistency with definitions regarding a contemporaneous period and to ensure that credits are not carried forward indefinitely. The limited life of credits will assist the TACB and industry in meeting the goal of attainment and maintaining attainment status once it is reached. The staff believes that five years is sufficient time for deposits to be made, trades negotiated, and the withdrawal to take place and be submitted with a permit application. If the ERC has been withdrawn within five years of their occurrence, the TACB will consider the credit as having been used. The processing of a permit application can take place after if the application for use of the ERC is submitted within the five-year life of the credit. The staff has added language to clarify that once ERCs are withdrawn from the bank, they will remain usable for the lifetime of the new facility or modification.

TMOGA and Chevron requested clarification of when the five-year life starts for pre-bank emissions credits. TMOGA requested that the beginning of the five-year ERC life be the effective date of this rule. Life for pre-banked ERCs will be the same as all banked emissions to maintain consistency and progress towards attainment. Pre-banked ERCs would expire five years after the actual reduction occurred.

AF Disposal stated that the proposed revision to ERCs, allowing them to be available for a period of only five years, would be detrimental to the reuse of Carswell Air Force Base. AF Disposal projects that it will take 10 or more years to completely redevelop the base. If the limit is only five years, it would be forced to sell this asset to another company for use elsewhere. This could possibly extend the redevelopment period which would be extremely harmful to the local communities surrounding Carswell. The staff believes that five years is sufficient time to deposit the credits and submit an application for use of the credits. If five years is insufficient time to submit an application, sources would need to take advantage of ERCs that are deposited at a later date.

Dow stated that the proposed program will create substantial uncertainty as to whether banked ERCs are of value (i.e., creditable), because the proposed program will not certify shutdown ERCs of less than 50 tpy, the program will not certify other ERCs (non-shutdowns) until withdrawal, and when a balance of 1,000 tpy or more is present in the bank, the program will not certify any ERCs. Dow further stated that up-front certification will avoid the possibility that an ERC would be disapproved by the agency in the permitting process and, thereby, disrupt and delay future permitting.

Chevron, Destec, TMOGA, and Star stated that the minimum certification levels of 50 tpy VOC or 100 tpy NO_x will effectively limit the banking program to emissions reductions incurred only by very large facilities and virtually closes out smaller industries and family businesses from being able to generate bankable emissions. Chevron requested that the rule be changed to bank (certify) all credits greater than or equal to 1 tpy, Red Star proposed a 10 tpy limit, while Destec and TI believed there should be no lower limit.

Chevron, Star, and TU Services stated that limiting the size of the banks to the range of 700 to 1,000 tpy may result in many credits never getting into the bank before their useful life ends in five years. Therefore, the company may never have the opportunity to use or to sell the credits, which is very unfair to those who are not first in line to get into the bank. Many companies may never want to sell their ERCs, but may want to bank at one location and draw from the bank at another location, within the same nonattainment area. Further, the cap may artificially inflate the cost of ERCs, rather than allowing the free market to set a reasonable and fair price. Therefore, the rule should be changed such that the TACB will bank all qualified reductions.

Phillips strongly disagreed with emission reduction certification being allowed only when

a bank balance drops below 700 tpy and can only result from the shutdown of processes which emitted in excess of 50 tpy VOC or 100 tpy NO_x. Phillips and ENTEX also opposed a certification of non-shutdown reductions only when a withdrawal of credits has been requested.

The Partnership felt that for an emissions bank to be of most value to a local community, the maximum participation level should be encouraged. It believed that the artificial caps placed on certification proposed in §101.29(e) will limit the ability of smaller companies to receive the economic benefit of having certified credits for sale in the marketplace. The Partnership requested that the caps and limits be removed as soon as practicable. Fort Worth requested that the minimum limit of 50 tpy for VOC and 100 tpy for NO_x be eliminated because of the limited emissions from stationary sources in excess of those amounts in the Dallas/Fort Worth nonattainment area.

Texas Campaign stated that the TACB currently has a staff shortage, cannot adequately police industry now, and should not consider taking on new responsibilities that will burden staff resources even further. Monsanto stated that the rule avoids an overload on the agency staff by setting a cap on the bank and by setting limits on what can be put into it. Houston and Monsanto requested that the TACB review the staffing requirements of the banking program after the initial year of operation and make appropriate adjustments to the minimum certification levels.

When the banking program was proposed, the staff recognized the potential overload which could be placed on the TACB staff. The staff believed that the minimum levels of reductions which were set for certification, when coupled with the 700 to 1,000 tpy balance set on each bank, would provide adequate working capital for each bank to operate without overloading the certification staff. In addition, shutdown reductions were selected as the reduction of choice to certify because they are relatively straightforward. The staff intent was not to allow a single large reduction to be certified and to monopolize the bank. All uncertified reductions will still be registered with the bank and can still be traded at whatever prices the market will dictate. The staff agrees that uncertified credits will not have the same guaranteed value as pre-certified credits because they will be certified during the permit process after they have been traded. As a result of the comments and data regarding the relative size of anticipated deposits, §101.29(e) is modified to allow certification of non-shutdown credits and that the certification limit of 50 tpy of VOC and 100 tpy of NO_x be lowered to 10 tpy, which is the lower limit for annual emissions inventory reporting. The staff also recommends that the certification be prioritized based upon the ease and accuracy of which the emissions reductions can be certified. The staff also recommends that the 700-1,000 tpy limit on each bank be reviewed in future rulemaking after the banking program has been in operation for a period of time. Finally, the staff recommends that the MPAC determine the best organizational structure, appropriate staffing levels, and opti-

mum funding method to operate the banking program.

Lone Star Sierra stated that some industries have requested unlimited life span for credits and the ability to reach back beyond 1990 for shutdown credits. Lone Star Sierra believes that this would not help promote attainment in the nonattainment areas and would allow circumvention of the 1990 FCAA Amendments.

Houston ALA believes that all emission reductions available for credits should have occurred after the initiation of the program. Texas Campaign stated that shutdowns should not be allowed to count as credits, regardless of the time frame.

Dow and Phillips believe that the program will penalize sources that have effected early reductions by unnecessarily restricting banking of ERCs to: non-shutdown reductions occurring after the effective date of the banking regulation; and shutdowns occurring after January 1, 1990. Dow has concluded that EPA rules and policies give states the option to elect or not elect to allow sources to use pre-enactment ERCs for netting and/or offsets. Dow recommended that the TACB allow eligibility of pre-banking rule and pre-1990 emission reductions as ERCs. TMOGA applauds the provision of §101.29(f)(1) pertaining to eligibility of permanent shutdown credits dating back to January 1, 1990. The staff specified that in order for pre-bank shutdown to be creditable, the shutdown had to occur after January 1, 1990, and the emissions had to have been reported in the 1990 emissions inventory. The 1990 emissions inventory will be used as the baseline on which to calculate the emissions reductions necessary to reach attainment in each ozone nonattainment area. To allow a pre-1990 shutdown to be deposited in the bank, would mean the emissions would have to be added to the inventory as growth.

This growth would then have to be netted out by additional reductions elsewhere in the nonattainment area and accounted for in the attainment demonstration SIP. Post-1990 shutdowns which are credited to the bank will show a net air emissions decrease, as a result of the offset requirements and, consequently, are not added to the emissions inventory as growth. Therefore, the staff recommends that pre-1990 shutdown reductions which are creditable in the banking program remain limited to post-1990 shutdowns.

Phillips commented that, although it does not appear to be explicitly stated anywhere in this rule, the company understands that emission reductions which occurred at a grandfathered source are not eligible for emissions banking. Phillips believes that reductions from a grandfathered source are as effective as those from a permitted source. Emissions reductions from a grandfathered source are not exempt from the banking rule, as long as those reductions meet the qualifications of §101.29(f) which require that they be actual, permanent, below that required by applicable law, regulation, or permit, and federally enforceable.

EPA stated that "board order" should be added to the list of restrictions which includes federal and state law, regulation, or permit in

§101.29(f). EPA requested that the state address for the public record why restrictions on hours of operation were not included with restrictions on production rate. The staff agrees and "board order" is added to the list of restrictions in the first sentence of §101.29(f). The staff also agrees that restrictions on hours of operation should be included with the restrictions on production rate in §101.29(f)(5).

Red Star questioned whether a source which was constructed after the reporting date for the 1990 Emissions Inventory are eligible for banking. Section 101.29(f)(1) is changed to read "1990 or later emissions inventory."

El Paso Refinery urged the TACB to allow non-shutdown emissions reductions to be calculated back to the January 1, 1990, deadline date for shutdown emissions. As the proposed regulation is now written, non-shutdown emissions would not be allowed to be banked until the rule becomes final. The staff specified that non-shutdown reductions would not be creditable until the regulation becomes final because of the difficulty in back-calculating non-shutdown emissions reductions which have occurred in the past. Shutdown reductions are inherently simpler to quantify, especially if the emissions inventory data was based on actual measurements. Non-shutdown emissions reductions which occur before the effective date of the regulation can still be used by industry for internal netting purposes. Non-shutdown emissions reductions which occurred prior to the effective date of the regulation will not be certified.

TMOGA strongly requested that the TACB consider allowing the purchase and retirement of "junker vehicles" as a qualified reduction credit. These junker vehicles generate a large part of the mobile source NO_x and VOC emissions in the Houston-Galveston and Beaumont-Port Arthur areas. Red Star recommended that the TACB also grant ERCs for old gasoline fueled vehicles removed from service. The ERC would be equal to the difference between the emissions from the vehicles and the emissions from new vehicles.

Texas Campaign stated that auto emissions should not be considered as credits for industry, because people will pay to have their cars emit less only to give industry the ability to pollute more. One individual stated that for motor vehicles, "old" by years or miles, does not mean "worst air polluters" on the road, for example, California Air Resources Board data shows that 10 to 20% of new vehicles are super polluters. The individual suggested that only vehicles with "on-road" measured emissions data shall be eligible for a banking program. A vehicle scrap-page program is currently being developed by the MPAC.

Houston requested that §101.29(f)(6) be amended to include the use of "clean" diesel and reformulated gasoline as options, in order to maximize impacts and options in achieving air quality improvements through the mobile source banking program. Reformulated gasoline is an FCAA-mandated requirement in Houston and, therefore, would not be a creditable reduction for banking. Clean diesel would have to be classified as an alternative fuel to be creditable.

EPA stated that §101.29(f)(7) should be changed to read: "any other actual emissions reduction which the Executive Director and/or EPA approves as a qualified reduction." or §101.29(f) should be changed to read: "The reduced emissions level must be federally enforceable for the reduction to qualify." The second sentence of §101.29(f) is changed to read "federally enforceable."

Houston stated that §101.29(f)(7) should be amended to allow regulatory action at a regional level which exceeds mandated requirements. An example would be the adoption of an enhanced vehicle inspection and maintenance program where only a basic program is required. In these instances, the credits would be allocated to the implementing agency for their use. The MPAC is currently developing a community banking proposal.

Chevron, Star, and TMOGA stated that §101.29(g)(1) requires certifying or banking pre-bank reductions within six months of the rule's effective date. If the TACB staff delays even one month after rule effectiveness in issuing the approved format for banking per §101.29(f)(1), this timing requirement will be insufficient for business and industry to prepare adequate banking applications. This will result in undue burden on industry and unnecessary TACB staff time in reviewing banking applications that are insufficiently or inadequately prepared. Chevron and Star stated that the rule should be changed to require that banking applications for pre-bank reductions be submitted within six months of rule effectiveness or six months of the TACB issuing the final approved format per §101.29(f)(1), whichever is later. TMOGA suggested the time be lengthened to one year. The staff agrees that a delay in the development of an approved format for use in applying for an ERC deposit would impact the ability of industry to adequately prepare banking applications. The staff believes that it is incumbent upon the TACB to develop the form in a timely manner and recommends that form development be expedited by the TACB staff. The staff also recommends that the language be changed to make the six-month time period begin after the rule is effective or the form is developed, whichever is later. The staff does not believe that extending the time period to one year is a viable option, because of the SIP deadlines. Any pre-bank ERCs which are deposited must be accounted for in the November 1993 SIP submittals. Therefore, there will not be an extension to one year.

TMOGA and Chevron requested clarification of the word "external" in §101.29(g)(2) which discusses banking credits for shutdown for external offset purposes. TMOGA requested that the word "external" be clarified to mean outside the contiguous property, under one private or corporate owner or operator. Red Star requested clarification of the meaning of "associated emissions increase" in §101.29(g)(2). Red Star also stated that the time allowed for ERC use for an "associated emissions increase" must be longer than six months, because many facility modifications, reconstructions, etc require more than six months. Red Star suggested that the TACB extend the proposed time to 12 months based on EPA guidance (51 FR 43849, December

4, 1986) which states that ERCs may be used for replacement facilities if the permit application is filed within 12 months after the original shutdown. Lone Star Sierra recommended that §101.29(g)(2) be amended to delete the phrase "unless the shutdown occurs within six months of an associated emissions increase which will use the reduction credit." The definition of "external" means a facility or operation which is outside the contiguous property under one private or corporate owner or operator. This is the same definition of external which is commonly used in the TACB permitting process regarding internal netting versus external offsetting. The term "associated emissions increase" refers to a situation where a shutdown credit is externally traded. EPA guidance in April 1992 clarified a policy that a shutdown credit may not be traded externally to another source, unless the associated emissions increase occurs in the same general time frame as the shutdown is achieved or the shutdown credit is deposited into an emissions bank. The banking proposal established the same general time frame as within six months of the shutdown. The time frame will not be extended beyond the six-month period, nor will the six-month period be deleted.

GSU stated that the emission reduction credit bank should be used as an alternate method of compliance with future emission reductions under the SIP, for example, revisions to Regulation VII, concerning Control of Air Pollution From Nitrogen Compounds. As currently proposed, ERCs will only be available to new sources or sources undergoing modifications under NSR review. GSU stated that, in many cases, modifications and control retrofits to comply with future state and federal emission reductions under the SIP will not require modifications as defined under NSR. Since ERCs can only be earned by reducing emissions below levels required by state or federal regulations, these credits should also be made available to industries attempting to comply with these same state and federal regulations. Emission credits earned by an industry through the over-control of emissions could aid other industries in the area to ease their cost of compliance, allow for other pollution reduction programs, and provide incentives for facility modernization which would benefit both the environment and long-term economic vitality of area industries. The primary purpose of the banking rule, as stated in §101.29(a) and (h), is to provide a mechanism for obtaining the required offsets for VOC and NO_x in ozone nonattainment areas. The proposal states in §101.29(h) that ERCs can only be withdrawn for the purpose of providing offsets for new sources or sources undergoing modification. The staff agrees that another potential use of ERCs would be as an alternative compliance method for emissions reductions required in the SIP. The TACB staff is exploring that option as part of future revisions to the NO_x RACT rules and the emissions banking rules.

TMOGA stated that the TACB should allow ERCs generated in one ozone nonattainment area to be used in a different, lower-designated ozone nonattainment area if the emissions from the generating area contribute to the ozone problem in the lower-

designated area. TMOGA stated that there is evidence which suggests that the "transport phenomenon" between the Houston-Galveston severe area and the Beaumont-Port Arthur serious area creates such a condition most of the time. TMOGA stated that Congress considered this question when drafting the 1990 FCAA Amendments and resolved it in the FCAA Amendments, Title I, §173(c)(1), which states: "except that the State may allow...a source to obtain such emission reductions in another nonattainment area if, (A) the other area has an equal or higher nonattainment classification than the area in which the source is located, and (B) emissions from such other area contribute to a violation of the NAAQS in the nonattainment area in which the source is located." TMOGA believed §101.29(i) is confusing because it is titled "Withdrawals between adjacent nonattainment areas" but it addresses "different designated ozone nonattainment area(s)." For consistency, TMOGA suggested that the TACB retitle this provision, "Withdrawals between different designated ozone nonattainment areas" and then address adjacent nonattainment areas within the text. The staff agrees that the FCAA Amendments allow trading between nonattainment areas whenever certain conditions of ozone transport are in effect, and that the Houston-Galveston and Beaumont-Port Arthur ozone nonattainment areas potentially meet the transport conditions. However, data from the air monitoring networks in those areas indicate that the transport occurs from Houston to Beaumont and also from Beaumont to Houston. The staff is using the UAM to make a determination regarding the transport situation; however, the results of the UAM will not be available for several months. The staff does not recommend that the banking proposal be modified to allow transport region trading until the UAM results are considered. The staff agrees that the title and the text of §101.29(i) is confusing and recommends that it be retitled and the wording be changed to emphasize the prohibition regarding trading between adjacent areas.

Red Star questioned if trades can be made between states if the sites are within the same nonattainment area. Red Star stated that EPA guidance appears to allow this, although, it would require an individual SIP modification. Although the Lake Charles, Louisiana area is designated ozone nonattainment, the TACB has not made arrangements at this time to allow trades between states. This issue will be considered by the MPAC for future rulemaking regarding the banking provisions.

Chevron, Partnership, TMOGA, Star, TU Services, Biotech, EGA, and Destec opposed the 3.0% per year depreciation of ERCs for various reasons, claiming it is a disincentive to banking, that compares that reduce early will carry more of the burden of reasonable further progress (RFP), that offsets already provide RFP, that it erodes the ability for small businesses to enter the nonattainment area, and that it reduces the usefulness and flexibility of the banking program. San Jacinto ALA, Lone Star Sierra, and an individual supported depreciation to enhance progress towards attainment and suggested depreciations of 5.0

to 80%. Lone Star Sierra stated that a precedent for depreciation has been set in California. Monsanto stated that the proposed depreciation is in keeping with the Title I nonattainment provisions of the FCAA Amendments. The staff has proposed a depreciation rate of 3.0% per year for consistency with reasonable further progress goals. Any depreciation of the bank in this manner would reduce the amount of reductions required through additional rulemaking and improve the progress of each nonattainment area towards reaching attainment. The existence of a bank is incentive for its use. The staff has elected to use its voluntary efforts towards establishment of a bank as a method of achieving additional progress toward the attainment of the ozone standard in the nonattainment areas and the proposed depreciation rate will not be changed.

Chevron and Biotech stated that ERCs cannot be certified until they are banked and that credits for RFP may not be realized until several years after the reductions occur. The staff disagrees that depreciation of the bank will not be realized for several years after the reductions occur. The rule requires banking to occur within six months of the time reduction occurs. Once the ERC is banked, the TACB can depreciate the credit one year after the actual reduction occurred. As a result, the longest delay between a reduction and an RFP credit would be one year.

EPA suggested that the TACB clarify whether the annual reduction is 3.0% of the initial ERC value or 3.0% of the previous year's value. To be consistent with the FCAA Amendments RFP requirements, it needs to be 3.0% of the initial ERC value. Red Star suggested that the source need only make application for withdrawal of the credits before the annual depreciation to avoid penalties. The staff agrees with EPA and recommends language to clarify that the depreciation be based on the initial ERC value and occurs on the anniversary of the date the reduction occurred. The proposal stated that the withdrawal must have occurred before the anniversary of the reduction in order to avoid depreciation. This is consistent with EPA's requirements for RFP.

EPA suggested that the TACB may want to specify what happens to ERCs once they expire. EPA believes that expired ERCs will be deleted from the emissions inventory and credited towards the RFP demonstration. EPA states that credits that have been withdrawn from the bank for offsets cannot also be used for an RFP demonstration. EPA suggested that the TACB may want to restrict deposits of those credits generated from reductions that are anticipated to be mandated. The staff agrees that expired credits will be deleted from the emissions inventory and credited towards the RFP determination. The TACB agrees that ERCs that have been withdrawn for offsets cannot also be used for RFP. The TACB cannot add restrictions to deposits regarding reductions that are anticipated to be mandated until future rulemaking. However, there is a great disincentive for facilities to bank credits that will be lost once anticipated rulemaking is complete.

Destec and TMOGA objected to the withdrawal of credits when rules requiring those reductions occur. They believe that banked ERCs should be protected. The staff disagrees that banked emissions should be protected against withdrawal resulting from future regulation requirements. If banked emissions were to be protected, additional regulatory requirements would need to be developed to account for those ERCs that remained in the bank.

Chevron stated that the rule does not identify the point in a permit application process at which emissions are removed from the bank. This will lead to further confusion on the amount of available credits. Chevron suggested that the rule be changed to clarify that credits will be removed from the bank as soon as the ERC certificate is submitted to the TACB with a permit application. The staff agrees that the proposal does not specify the point at which ERCs are removed from the bank. In §101.29(l)(3), the Executive Director has 30 calendar days to review an application for withdrawal, and upon notification of approval, the ERC certificate shall be submitted to the Executive Director. The staff believes that after withdrawal is approved by the TACB, the certificate should be submitted to the TACB as part of the permit application for which the credits will be used. The emissions credits are then removed from the bank, and a new certificate is issued for any remaining credits at this time. Section 101.29(l)(3) is revised to state that the ERCs will be removed from the bank at the time the ERC certificate is submitted as part of the permit application.

TMOGA and Chevron requested that the TACB clarify whether a portion of a certificate may be purchased or if the entire certificate must be purchased. TMOGA requested that the rule be clarified to allow purchase of only a portion of the ERCs on a certificate because requiring the entire certificate to be purchased puts undue burden on small businesses and small industrial facilities who may need fewer type of emissions credits. Star stated that the rule should allow for the purchase or use of a portion of a certificate. The rule states in §101.29(k)(1), regarding Transfers, that the certificate may be freely transferable, in whole or in part, and may be sold or conveyed in any manner in accordance with the laws of the State of Texas.

Red Star recommended that the rule state that if a business entity legally dissolves without dispensing their ERCs, those ERCs become the property of the TACB. The regulation should also specify that the TACB dispense with the ERCs within one year after obtaining right to them or by the five-year expiration date since the company would have dispensed of the ERCs before they expired. Southern requested that the TACB establish and include monetary values for NO_x and VOC credits in its proposed regulations, as well as fully-explained methodologies for calculating potential ERCs in its proposed regulations. Language regarding the legal dissolution of entities holding ERCs and monetary values for ERCs was not contained in the proposed rule and cannot be added at this time. The staff recommends that the MPAC consider these suggestions in subsequent rulemaking.

The MPAC stated that §101.29(k)(1) refers to transferring certificates, but what is really being transferred is credits, and recommended that the language be changed to reflect that. Second, the section requires notification to the Executive Director "within 30 days of any transfer." Since the TACB is the registrar of credits, a transfer should only take place when the TACB transfers credits on its registry. The action of the buyer and seller is merely an agreement to transfer credits. This is like a stock transaction, where stock is actually transferred when it is transferred on the stockholder records of the corporation and a new stock certificate is issued. The rule should be consistent with this. Third, the section should be amended to require that the transferor disclose the cash price and/or any other consideration contracted for or received in return for the transfer of the credits to the transferee. This is vital to the efficient working of a market system. Prices must be generally available and known to the potential market participants in order for them to make efficient economic decisions. This is consistent with the operations of the stock markets and commodities markets and is possibly the most valuable contribution of this rule toward decreasing pollution. The staff agrees that §101.29(k)(1) should state that credits are being transferred, rather than certificates and the rule language is changed to reflect that. The staff also agrees that the transfer of credits takes place when the TACB transfers credits on its registry and the rule language is changed to reflect that. The suggestion that the transferor be required to disclose the price and other considerations received as a result of the transfer was not included in the proposed language and, therefore, cannot be implemented at this time. However, §101.29(l)(3) states that an application for withdrawal shall be submitted in a format approved by the Executive Director, which logically could include price information. The staff will ask the MPAC to help the staff develop an application withdrawal form which would address this request.

The Partnership stated that the TACB should assure that the banking of emission reductions is purely voluntary and that failure to bank those credits will not impact a source's ability to use those reductions on an internal basis. In support of this concept, the Partnership requests that the fourth sentence of §101.29(l)(1) be rewritten as follows: "However, such a reduction will still be available for internal netting purposes or for internal or external offsetting purposes." This statement explicitly clarifies that the only penalty for failing to timely bank an emissions reduction is that the source is foreclosed from using the bank in the future for that particular reduction. However, the source will still be able to use the reduction for internal netting or internal/external offsets as is currently allowed today. Vought stated that they were confused regarding use of a non-creditable reduction for internal netting purposes. Dow believes that the proposed banking rules, if adopted, must explicitly state that the bank governs only voluntary submittals by sources to the bank and does not preclude, supersede, or otherwise affect sources' rights to save and use "unbanked" ERCs as specified by Regulation VI, §116.3(c). The banking rules must

also state that they do not set precedent or agency policy with respect to the creditability or use of "unbanked" ERCs under Regulation VI, §116.3(c). The staff believes that the commenters have raised two separate issues which must be clarified. First, if a reduction was not registered with the bank in a timely manner, should that reduction be available for both internal netting and internal offsetting purposes? The staff believes that the reduction should be readily available for internal netting purposes as specified in the current Regulation VI, regarding permits. The staff does not believe that the reduction would be used for internal offset purposes, because the company will use the internal netting process to avoid the offset requirements of nonattainment area permit reviews. Therefore, if the company does not have a sufficient amount of reductions to accomplish an internal netting process, then the company probably would not have an additional amount of reductions to accomplish an internal offset process. The staff, therefore, believes internal offsetting with unregistered reductions is a policy issue which should be addressed with the TACB permitting staff and does not recommend changing the rule language to specifically allow internal offsetting.

The second issue concerns whether a company should be allowed to use unregistered reductions to perform external offset trading as is allowed by the current permits regulation. The staff believes that if the banking proposal prohibits the use of unregistered reductions for external offset trading, i.e., mandates that external offset trading must be performed with banked reductions, then the banking program would no longer be voluntary. Therefore, the rule language in §101.29(l)(1) will specify that unregistered reductions will be available for external offsetting purposes.

Dow was concerned that there is presently no clear procedure for the TACB to explicitly account for all ERCs in attainment demonstrations at the source where they were created. Without such a procedure, ERCs could be rendered invalid for use as emission offsets. This would create shortages of the ERCs which are essential to the economic viability of the nonattainment areas. Dow believes that a more comprehensive banking rule would address this need by requiring mandatory banking of all ERCs that a source would intend to use in future netting and offsetting transactions. The collection of all ERCs in a comprehensive bank would prevent "double counting" of ERCs and would make all ERCs available to be properly accounted for in state attainment demonstrations. Dow recommended that the TACB require mandatory banking of all ERCs that a source would intend to use in future netting and offset transactions. The staff agrees that a comprehensive bank in which all emission reductions were registered would properly account for those reductions in the SIP process. However, the banking proposal did not mandate registration of all emissions reductions and, therefore, cannot be changed at this time to make registration mandatory. This issue may be considered in future banking rulemaking.

EPA stated that it was its understanding that under the State Freedom of Information Act, information concerning banked reductions must be available to the public even if the information is not computerized. Chevron and TMOGA requested that §101.29(m) be clarified such that the TACB regional office for the given ozone nonattainment area and the TACB Austin office will both provide public access to ensure that anyone can easily view the data base.

The staff agrees that the banking information must be available to the public, even if it is not computerized. The staff also agrees that the information should be available at both the TACB Austin offices and each TACB regional office associated with the ozone nonattainment areas. The language is changed to reflect the availability of the banking information.

EGA recommended each bank or clearinghouse identify ERCs available from plant closures and control technology applications beyond RACT, including demand-side management programs and mobile source reductions.

The ERC data base will include all emissions reductions that have been registered or certified.

In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX or 1 (800) RELAY-TX (TDD), or by writing or visiting at 12124 Park 35 Circle, Austin, Texas 78753.

The amendment and new section are adopted under the Texas Clean Air Act (TCAA), §382.17, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.1. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Actual emissions (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Executive Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected

time period. The Executive Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions, e.g., when the allowable limit is reflective of actual emissions. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

Emissions banking—A system for recording emissions reduction credits so they may be used or transferred for future use.

Emissions reduction credit—Any emissions reduction which has been banked in accordance with §101.29 of this title (relating to Emissions Banking).

Emissions reduction credit certificate—The certificate issued by the Executive Director which indicates the amount of qualified reduction available for use as offsets and the length of time the reduction is eligible for use.

Potential to emit (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—The maximum capacity of a facility/stationary source to emit a pollutant under its physical and operational design. Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions, as defined in 40 Code of Federal Regulations, 51.165(viii), do not count in determining the potential to emit of a stationary source.

Stationary source (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Federal Clean Air Act.

§101.29. Emissions Banking.

(a) *Applicable Pollutants.* Qualified reductions of volatile organic compounds (VOC) as defined in §101.1 of this title (relating to Definitions) and nitrogen oxides (NO_x) shall be eligible for deposit in the bank. Interpollutant trading, for example, using a NO_x credit to offset a VOC emission is not allowed.

(b) *Applicable Areas.* The only geographical areas in which eligible sources may participate in the emissions banking program are the federally designated ozone nonattainment areas.

(c) *Eligible Source.* The following sources are eligible to participate in the emissions banking program for a designated ozone nonattainment area:

- (1) any stationary source;
- (2) any area source; and
- (3) any mobile source registered in the designated ozone nonattainment area.

(d) Length of Time Available as an Offset. A certified Emissions Reduction Credit (ERC) is available for use to fulfill an offset requirement during the five-year period after the reduction was actually achieved. The banking applicant shall identify the date the reduction was actually achieved. The ERC certificate shall indicate the expiration date for the certified reduction. If an ERC is withdrawn from the bank prior to the five-year expiration and submitted with a complete permit application for use as an offset, the ERC remains usable for the lifetime of the new facility or modification proposed for offset.

(e) ERC Certification or Registration.

(1) ERCs will be certified for any emissions reduction of a minimum of 10 tons per year (tpy) VOC or 10 tpy NO_x, and which has been registered in accordance with this section, in the following priority order:

(A) reductions resulting from shutdowns;

(B) reductions from facilities with two years of continuous emissions monitoring data prior to the reduction and a permit allowable limit with a provision for continuous emissions monitoring;

(C) reductions from facilities that have had a permit issued, amended, or renewed which included a review of the reduced source(s) no more than two years prior to the reduction;

(D) reductions from facilities with standardized calculating methods such as storage tanks, loading operations, coating operations, and alternative solvents;

(E) any other reductions as resources are available to complete the certification.

(2) When each bank has a minimum balance of 1,000 tpy of certified emissions reductions of a given pollutant in a given nonattainment area, the remaining emissions reductions applications will be registered, but not certified. Whenever any bank balance drops below 700 tpy, registered emissions reductions will be certified in the order they were received, with consideration to the priority provided in paragraph (1) of this subsection, to return the bank balance to a minimum of 1,000 tpy.

(3) The emission reduction amounts shall be determined and certified based on actual monitoring results, when available, or otherwise calculated using good engineering practices. An ERC certificate will be issued by the Executive Director which indicates the amount of certified emissions reduction which is available for use as offsets and the length of time the reduction is eligible for use.

(f) Qualified Reduction. A qualified reduction is a reduction in emissions of an applicable pollutant from an eligible source located in an applicable area, which results in an actual and permanent emissions decrease below that required by applicable state or federal law, regulation, board order, or permit. The reduced emissions level must be federally enforceable for the reduction to qualify. Emissions reductions may come from any eligible sources, including stationary, area, and mobile sources. Applications for mobile source reductions will be certified beginning January 1, 1994. The Executive Director shall have the authority to inspect and request information to assure that the emissions reduction has been actually achieved. Qualified reductions include, but are not limited, to the following:

(1) an actual emissions reduction resulting from a permanent shutdown of equipment after January 1, 1990, and which causes a loss of capability to produce emissions that were reported in the 1990 or later emissions inventory;

(2) an actual emissions reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, Board order, or State Implementation Plan (SIP) provision if the applicant accepts a permit provision specifying a lower level of emissions;

(3) an actual emissions reduction resulting from the installation of different processes or equipment which emit less than the previous processes or equipment that performed the same function if the applicant accepts a permit provision specifying a lower level of emissions;

(4) an actual emissions reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emissions;

(5) an actual emissions reduction resulting from a reduction in production rates, or a restriction on hours of operations, if the applicant accepts a permit provision specifying a lower level of emissions, a limit at that production rate, or restricted operating hours;

(6) an actual emissions reduction resulting from the utilization of alterna-

tive fuel vehicles beyond that which is required by law, regulation, or permit which has occurred after January 1, 1992; and

(7) any other actual emissions reduction which the Executive Director or United States Environmental Protection Agency approves as a qualified reduction.

(g) Deposits. There are special deposit timelines regarding pre-bank reductions and shutdowns.

(1) Depositing pre-bank reductions. Applications to deposit a qualified emissions reduction resulting from a shutdown which occurred between January 1, 1990, and the effective date of this regulation, must be received within six months after the effective date of this regulation or within six months of TACB issuing the final approved format identified in subsection (l)(1) of this section, whichever is later. All other emissions reductions shall have occurred after the effective date of this regulation to qualify for a credit. The SIP revisions, permit revisions, or regulatory amendments, which have occurred prior to the deposit registration, shall be the basis for determining the eligibility of the emissions reductions to be banked.

(2) Mandatory Banking of Credits From Shutdown For External Offset Purposes. An emissions reduction due to the shutdown of a source must be banked to be used as an external offset, unless the shutdown occurs within six months of an associated emissions increase which will use the reduction credit.

(h) Withdrawal of Credits. Certified emissions reduction credits can be withdrawn only for use within the same designated ozone nonattainment area and for the following purposes:

(1) providing offsets for new sources; or

(2) providing offsets for modifications to an existing source.

(i) Trading between adjacent nonattainment areas in transport regions. ERCs generated in one designated ozone nonattainment area cannot be traded to an adjacent ozone nonattainment area.

(j) Depreciation. The Executive Director is prohibited from depreciating any ERC, except under the following circumstances:

(1) the credit will incur an annual 3.0% depreciation on the anniversary of the date the reduction occurred based on the initial ERC value as a demonstration of reasonable further progress toward ozone attainment; or

(2) the ERC certificate has expired; or

(3) regulatory changes were promulgated after the ERC certificate has been issued which would have required reductions from the source that created the qualifying reduction. The credit shall be reduced by the amount affected by the regulatory change.

(k) ERC Use. The use of ERCs will be accomplished either through transfers or withdrawals.

(1) Transfer. The credit may be freely transferable, in whole or in part, and may be sold or conveyed in any manner in accordance with the laws of the State of Texas. The Executive Director shall be notified within 30 days of any transfer of the credit to another party. The old certificate shall be submitted to the Executive Director, who shall then issue a new certificate indicating the new owner. In the case of a partial transfer, the Executive Director shall issue a new certificate to the new owner as well as a revised certificate to the current owner reflecting the available credits to each owner.

(2) Withdrawal. Only the owner of the certificate is eligible to withdraw deposits from the bank. Once a certificate has been issued, the ERC shall be valid for the time period indicated on the certificate, unless the certificate has been depreciated in accordance with subsection (j) of this section.

(l) Program Administration. The administration of the emissions banking program includes deposit registration, deposit certification, and ERC withdrawal.

(1) Deposit Registration. A deposit registration of a qualified emissions reduction in the ERC bank is voluntary. Deposit registrations should be submitted in an approved format to the Executive Director. In order to use the bank, an emissions reduction must be registered within six months of achieving the actual emissions reduction, with the exception of the pre-bank reductions identified in subsection (g)(1) of this section. Failure to file in a timely manner will result in forfeiture of the ability to bank the emissions reduction. However, such a reduction will still be available for netting or offsetting purposes. The Executive Director shall annotate the deposit registration with the date of receipt. If the Executive Director determines that the emissions reduction does not qualify for registration, the applicant shall be notified, within 60 calendar days of receipt of the registration, with a letter which states the reasons for registration denial.

(2) Deposit Certification. The Executive Director will certify emissions reduction credits in accordance with the guidelines stated in subsection (e) of this section. The applicant shall be notified in writing of the Executive Director's certifi-

cation decision. If the decision is to grant the ERC as registered, the ERC certificate shall be mailed to the owner. If the decision is to grant less credit than the deposit registration or to deny certification, the letter shall state the specific reasons for the decision. The applicant will then have 30 days to respond in writing to the Executive Director. If the Executive Director affirms the certification decision, the applicant may appeal to the Board. The Board, at its option, may hear the appeal directly or may appoint a hearing examiner to obtain evidence from the applicant and staff and provide an advisory opinion to the Board. Such a hearing shall be conducted in accordance with the rules of evidence, but need not meet all the formal procedures for a contested case hearing. If called, the hearing shall be held within 60 days of the Executive Director's receipt of the applicant appeal. The hearing examiner report shall be submitted to the Board within 30 days of the close of the hearing.

(3) ERC Withdrawal. The owner of an ERC certificate shall submit an application for withdrawal in a format approved by the Executive Director. The Executive Director shall have 30 calendar days to review the application. Upon notification of approval, the old certificate shall be submitted to the Executive Director as part of the nonattainment review permit application that requires offsets. The Executive Director shall remove the credits from the bank and issue a new certificate if any reduction credit is remaining. If the Executive Director denies the application, the applicant may appeal to the Board. The appeal will be handled in accordance with the procedures for appeal of decisions affecting deposit applications.

(m) Public Access. It is the goal of the TACB to establish a computerized data base which will allow the public to ascertain the amount of reductions which are registered or banked in each designated ozone nonattainment area. In lieu of a computerized data base, a paper copy of the amount of reductions which are registered or banked will be available at the Austin TACB office and the TACB regional office associated with each ozone nonattainment area. The registry shall not contain proprietary information.

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 February 22, 1993.

TRD-9319354

Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: March 15, 1993

Proposal publication date: September 11, 1992

For further information, please call: (512) 908-1451

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IX. Texas Department on Aging

Chapter 255. State Delivery Systems

• 40 TAC §255.35

The Texas Department on Aging adopts the repeal of §255.35 concerning staffing of area agencies on aging, without changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 38).

Section 255.35 has been revised in its entirety and resubmitted for proposed adoption under §255.35 of this chapter concerning area agency on aging operations.

Without adoption of this repeal, duplication of rules will occur.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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 February 24, 1993.

TRD-9319490

Mary Sapp
Executive Director
Texas Department on
Aging

Effective date: March 17, 1993

Proposal publication date: January 1, 1993

For further information, please call: (512) 444-2727

• 40 TAC §255.36

The Texas Department on Aging adopts the repeal of §255.36, concerning operating an area agency on aging, without changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 47).

Section 255.36 has been revised in its entirety and resubmitted for proposed adoption under §255.36 of this chapter dealing with policies and procedures for approval of direct services applications by area agencies on aging.

Without adoption of this repeal, recodification of these rules could not be accomplished.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§255.36. Operating an Area Agency on Aging.

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 February 24, 1993.

TRD-9318491 Mary Sapp
Executive Director
Texas Department on
Aging

Effective date: March 17, 1993

Proposal publication date: January 1, 1993

For further information, please call: (512) 444-2727

◆ ◆ ◆
• 40 TAC §255.36

The Texas Department on Aging adopts the new §255.36 concerning policies and procedures for approval of direct services applications by area agencies on aging, with changes in the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 48).

The justification for the new procedures for approval of direct services is that it establishes simplified procedures and reduced documentation to support these applications by area agencies.

The rule will function to improve understanding of the processes used by the Department to analyze and validate applications by area agencies to provide direct services.

During the public comment period, comments were received from the Department Board operations committee which recommended a change to the wording in subsection (c)(1)(B)(vi) relating to transportation as a direct service.

This recommendation was incorporated into the language of the adopted rule.

The new section is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the Department.

§255.36. Policies and Procedures For Approval of Direct Services Applications By Area Agencies on Aging.

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

(c) Processing direct service applications.

(1) (No change.)

(A) (No change.)

(B) administrative functions;

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

(vi) other appropriate services provided by a grantee agency;

(C) (No change.)

(2) (No change.)

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

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

Issued in Austin, Texas, on February 24, 1993.

TRD-9318498 Mary Sapp
Executive Director
Texas Department on
Aging

Effective date: March 17, 1993

Proposal publication date: January 1, 1993

For further information, please call: (512) 444-2727

◆ ◆ ◆
Chapter 289. Procedures for Approval of Area Agency Requests to Provide Services Directly.

• 40 TAC §§289.1, 289.5, 289.7, 289.11, 289.13, 289.17

The Texas Department on Aging adopts the repeal of §§289.1, 289.5, 289.7, 289.9, 289.11, 289.13, and 289.17 concerning procedures for approval of area agency requests to provide services directly, without changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 56).

Chapter 289 has been revised in its entirety and resubmitted for proposed adoption under §255.36 of this title dealing with procedures for approval of area agency requests to provide services directly.

Without adoption of this repeal, recodification of the rules could not be accomplished.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with

the authority to promulgate rules governing the operation of the department.

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 February 24, 1993.

TRD-9318492 Mary Sapp
Executive Director
Texas Department on
Aging

Effective date: March 17, 1993

Proposal publication date: January 1, 1993

For further information, please call: (512) 444-2727

◆ ◆ ◆
Chapter 291. Area Agency on Aging Program Development Services

• 40 TAC §§291.1, 291.2, 291.3, 291.4, 291.5, 291.6

The Texas Department on Aging adopts the repeal of §§291.1, 291.2, 291.3, 291.4, 291.5, and 291.6 concerning procedures for area agency on aging program development, without changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 57).

Chapter 291 has been revised in its entirety and resubmitted for proposed adoption under §255.37 of this title dealing with procedures for approval of area agency requests to conduct program development activities.

Without adoption of the repeals, recodification of the rules could not be accomplished.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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 February 24, 1993.

TRD-9318493 Mary Sapp
Executive Director
Texas Department on
Aging

Effective date: March 17, 1993

Proposal publication date: January 1, 1993

For further information, please call: (512) 444-2727

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 State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register 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 State Board of Insurance, 333 Guadalupe, Austin.)

The State Board of Insurance, of the Texas Department of Insurance, at a Board meeting scheduled for 9 a.m. January 28, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, adopted a proposal filed on behalf of the Texas Workers' Compensation Insurance Facility (the Facility). The Facility proposed amendments to the rules and regulations governing the Employers' Rejected Risk Fund. The amendments were proposed in a petition (Reference Number W-1192-67), filed by the Facility on November 5, 1992 and published in the December 22, 1992, issue of the *Texas Register* (17 TexReg 9023).

According to the Facility's petition, the adopted amendments are designed to accomplish three objectives: first, to provide more flexibility in structuring deposit premium and payment plan terms; second, to differentiate between interim reporting plans and installment payment plans; and third, to clarify that interest is to be charged only on that premium which is deferred under installment plans and not charged on premium which is paid on monthly reporting plans.

The State Board has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.76-2 and 5.96.

The full text of the amendments adopted by The State Board of Insurance is filed with the Chief Clerk under Reference Number W-1192-67, and is incorporated by reference by Board Order 60206.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedures and Texas Register 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 February 25, 1993.

TRD-9319535 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: April 1, 1993

Proposal publication date: December 22, 1992

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



The State Board of Insurance of the Texas Department of Insurance, at a Board meeting held at 9 a.m. on February 18, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin adopted amendments proposed by the Texas Automobile Insurance Service Office (TAISO). TAISO's petition proposed amendments to the Texas Automobile Liability Experience Rating Plan (the Plan). One of the changes amends Definition 17 ("Adjusted Loss Ratio") in Section I ("Special Definitions") of the Plan to correct an error that occurred when new definitions were added and some remaining ones were renumbered. The other change amends Section II ("Eligibil-

ity Requirements and Miscellaneous Rating Rules") of the Plan, to add to Rule 2 ("Experience Period"), two words that were omitted in error when the Plan was revised effective November 1, 1987. TAISO's petition (Reference Number A-1192-69) was published in the January 15, 1993, issue of the *Texas Register* (18 TexReg 296).

The State Board of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.06 and 5.96.

The amendments as adopted by the State Board of Insurance are shown in exhibits B and D, which were filed with the Chief Clerk under Reference Number A-1192-69, and are incorporated by reference into Board Order Number 60207.

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.

Consistent with the Texas Insurance Code, Article 5.96(h), the Department will notify all insurers writing automobile insurance of this adoption by letter summarizing the Board's action.

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

Issued in Austin, Texas, on February 25, 1993.

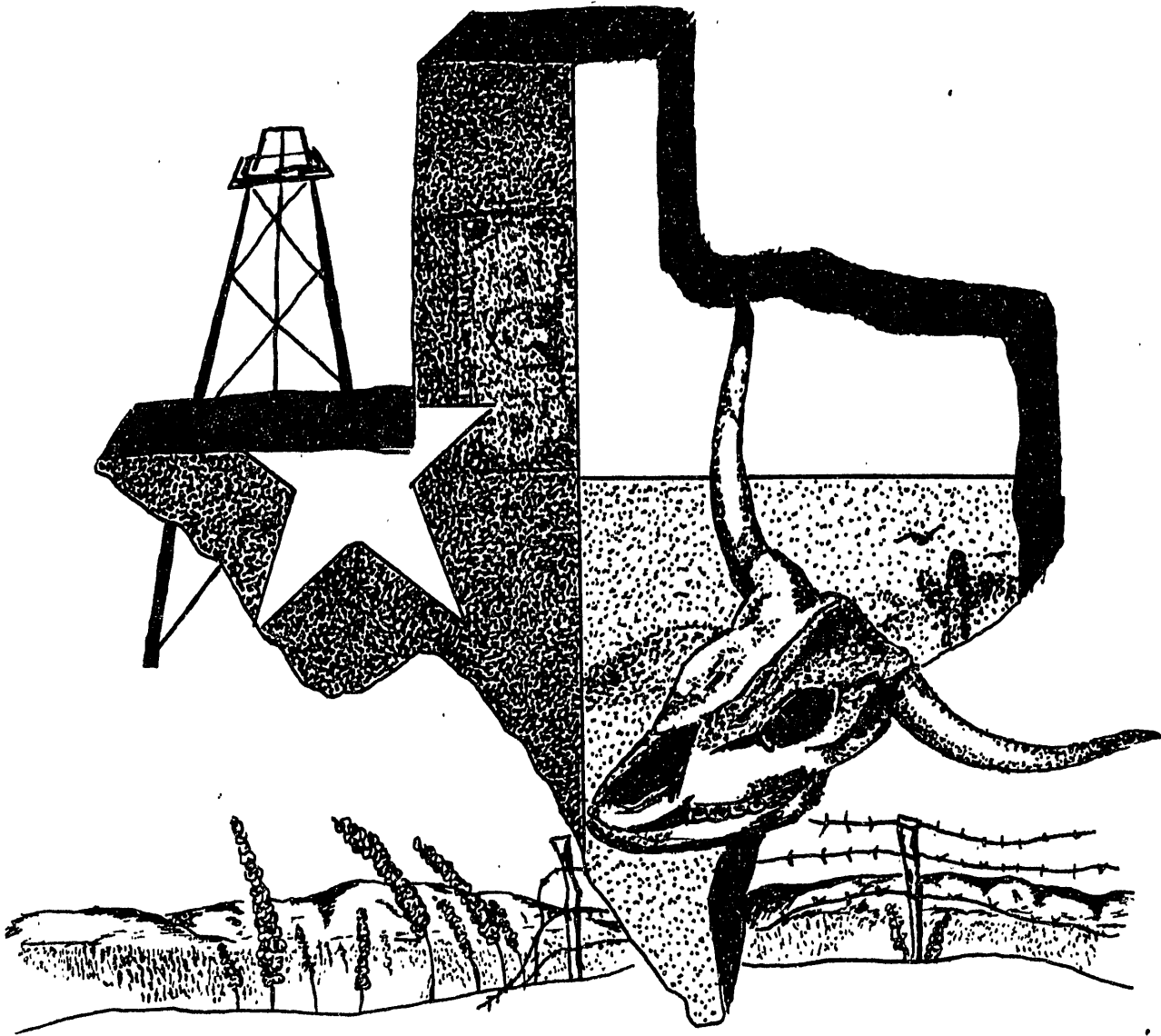
TRD-9319534 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: March 20, 1993

Proposal publication date: January 15, 1993

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





Name: Jay Hofelt
Grade: 12
School: Arlington High, Arlington ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to 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 named 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. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the Office of the Secretary of State in lobby of 221 East 11th Street, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas State Board of Public Accountancy

Thursday, March 11, 1993, 9 a.m. The Full Board of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda summary, the board will discuss pending litigation-meet in executive session; consider amendment to board Rule 519.27 (Hearings in Disciplinary Action-Administrative Costs); review correspondence regarding proposed Rule 528.1 (Nonlicensees); committee reports from the technical standards review committee, behavioral enforcement committee, examination committee, licensing committee, quality review committee, and major case enforcement committee; consider board Rules 501.11 (Independence) and 501.46 (Form of Practice) for adoption; and consider proposed board orders, consent orders, and proposals for decision.

Contact: William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: February 26, 1993, 10:22 a.m.

TRD-9319572

The Texas Board on Aging

Wednesday, March 10, 1993, 10 a.m. The Citizens Advisory Council of the The Texas Board on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room, Austin. According to the complete agenda, the council will call the meeting to order; consider and possibly act on approval of the minutes of the December 3, 1992 joint meeting of the Texas Department on Aging Board and Citizens Advisory Council

(CAC); introduction of new members; receive public testimony; presentation on "The Aging Network in the 90's"; update on Health and Human Services reorganization; report from CAC liaisons to Texas Board on Aging Committees, to include finance/internal audit, planning, networking/advocacy/legislation, and area agency on aging operations; establish goals and objectives for CAC; view videotape, "Paradigms"; make general announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: March 1, 1993, 11:42 a.m.

TRD-9319635

Wednesday, March 10, 1993, 10 a.m. The Minority Elderly Committee of the Texas Board on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; consider and possibly act on approval of the minutes of the February 10, 1993, meeting; discuss proposed topics and speakers for 1993 Minority Elderly Conference; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: March 1, 1993, 11:42 a.m.

TRD-9319636

Wednesday, March 10, 1993, 1:30 p.m. The Networking/Advocacy/Legislation Committee of the The Texas Board on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; consider and possibly act on approval of the minutes of the

February 10, 1993, meeting; work session to determine priority bills and issues to recommend to Board on Aging, Citizens Advisory Council and other advocates; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: March 1, 1993, 11:42 a.m.

TRD-9319634

Texas Department of Agriculture

Tuesday, March 9, 1993, 3 p.m. The Texas Sheep and Goat Raisers Commodity Board of the Texas Department of Agriculture will meet at the Texas A&M Agricultural Research and Extension Center, 7887 North Highway 87, San Angelo. According to the complete agenda, the board will review and discuss approval of minutes of the February 2, 1993 meeting; discuss and act on forms and procedures for collections of funds; by-laws; preliminary operating budget for 1993; other requirements for the board; employment of Greg Perrin as consultant, Animal Damage Control offer of assistance with possible animal and plant health inspection service grant; discuss other business; and discuss and possibly act on scheduling of next meeting.

Contact: Minnie Savage, 233 West Twohig, San Angelo, Texas 76902, (915) 659-8777.

Filed: March 1, 1993, 3:10 p.m.

TRD-9319655

Thursday, April 15, 1993, 10 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Con-

gress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violations of Texas Agriculture Code §§76.116(a) and 76.131 and 4 TAC §7.21 and §7.22 by Morlan C. Shuman, Jr.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: February 25, 1993, 2:19 p.m.

TRD-9319522

State Banking Board

Wednesday, March 10, 1993, 1:30 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will review and discuss approval of the minutes of previous meeting; consider conversion application for Community National Bank, Longview; consider interim charter application for Interim First Bay City Bank, Bay City; change of domicile applications for Texas A&M Trust Company, Bryan, Secured Trust Corporation, Tyler, and The Bank of the West, El Paso; review of status of other pending applications; and the board may convene into executive session for consideration of matters pertaining to applications as required by Article 342-115(6)(a) of TBC.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Filed: March 1, 1993, 3:55 p.m.

TRD-9319666

Institute of Biosciences and Technology

Thursday, March 4, 1993, 10 a.m. The Animal Care and Use Committee of the Institute of Biosciences and Technology met in Room 1106, Institute of Biosciences and Technology, 2121 West Holcombe Boulevard, Houston. According to the agenda summary, the committee discussed IACUC formation and duties; animal facility plans; protocol handling and forms; equipment plans; and tour of animal facility.

Contact: Jan LeBlanc, 2121 West Holcombe Boulevard, Houston, Texas 77030, (713) 677-7777.

Filed: February 26, 1993, 11:16 a.m.

TRD-9319584

Texas Bond Review Board

Tuesday, March 9, 1993, 10 a.m. The Staff of the Texas Bond Review Board will meet at the Clements Building, Committee Room #3, Fifth Floor, 300 West 15th Street, Austin. According to the agenda summary, the staff will call the meeting to order; discuss approval of minutes; discuss proposed issues; other business; and adjourn.

Contact: Jim Thomassen, 300 West 15th Street, Clements Building, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: March 1, 1993, 3:42 p.m.

TRD-9319665

Texas Catastrophe Property Insurance Association

Wednesday, March 3, 1993, 9 a.m. The Board of Directors of the Texas Catastrophe Property Insurance Association held an emergency meeting (via conference call) at the USAA Office, USAA Building F3W, San Antonio. According to the complete agenda, the board discussed proposed legislation. The emergency status was necessary as legislation just filed needed immediate attention.

Contact: Frank Rogers, 2801 South Interregional, Austin, Texas 78741, (512) 444-9612.

Filed: March 2, 1993, 9:30 a.m.

TRD-9319683

Texas Board of Chiropractic Examiners

Thursday, March 11, 1993, 10 a.m. The Enforcement Committee of the Texas Board of Chiropractic Examiners will meet at 8716 Mopac Expressway North, Suite 301, Austin. According to the complete agenda, the committee will conduct informal conferences for its licensees.

Contact: Patte B. Kent, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759, (512) 343-1895.

Filed: February 26, 1993, 9:45 a.m.

TRD-9319569

Texas Department of Commerce

Friday, March 5, 1993, 10 a.m. The State Job Training Coordinating Council Executive Committee of the Texas Department of Commerce will meet at the First City Centre, 816 Congress Avenue, 11th Floor Board Room, Austin. According to the

complete agenda, the committee will call the meeting to order; hear opening remarks; public comment; review the report of Comptroller John Sharp entitled "Against the Grain"; take possible action on State Job Training Coordinating Council Smart Jobs Task Force recommendations on Senator Ellis' request that the SJTCC adopt the recommendations in "A Quality Workforce: The Premier Chip in a High-Stakes Game," adopted by the Workforce Development Subcommittee of the Senate Interim Committee on State Affairs; closing remarks; and adjourn.

Contact: Alexa Ray, P.O. Box 12728, Austin, Texas 78711, (512) 320-9884.

Filed: February 25, 1993, 2:24 p.m.

TRD-9319509

Credit Union Department

Friday, March 5, 1993, 2 p.m. The Credit Union Commission of the Credit Union Department will meet at the Credit Union Department Building, 914 East Anderson Lane, Austin. According to the complete agenda, the commission will invite public input for future consideration; receive minutes of January 14-15, 1993 meetings; hear committee reports and communications reported by the commissioner; consider pending appeal of decision of hearing and request for a hearing, proposed legislation and reporting contingency rider; conduct an executive session to discuss credit unions and problem cases; and consultation with legal counsel regarding contemplated legal action, existing litigation and administrative actions.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: February 25, 1993, 2:47 p.m.

TRD-9319528

Texas Planning Council for Developmental Disabilities

Wednesday-Thursday, March 10-11, 1993, 1:30 p.m., and 9 a.m. respectively. The Grants Monitoring Committee of the Texas Planning Council for Developmental Disabilities will meet at the Crown Sterling Suites, 4650 West Airport Freeway, Irving. According to the complete agenda, on Wednesday, the committee will call the meeting to order; hear public comments; review minutes of September 17, 1992 meeting; review and discuss employment projects survey draft report-University of North Texas; discuss continued funding of policy consortium; review of grants management reports, and grants management

activities; hold discussion; and adjourn. On Thursday, the committee will discuss tours of grant projects. 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 Denese Holman at (512) 483-4087.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: February 26, 1993, 9:45 a.m.

TRD-9319570

Texas Education Agency

Wednesday, March 10, 1993, 9:30 a.m. The State Board of Education Task Force on Early Childhood and Elementary Education of the Texas Education Agency will meet at the William B. Travis Building, Room 1-104, 1701 North Congress Avenue, Austin. According to the agenda summary, the task force will make introductions' charge to the task force-review and discuss the State Board of Education's charge to the task force; review and discuss task force activities, products, and calendar-meetings, site visits and public hearings, expert speakers, policy statement, report on early childhood and elementary education in Texas; introductory discussion of issues in early childhood and elementary education; and adjourn.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: March 2, 1993, 8:22 a.m.

TRD-9319680

Advisory Commission on State Emergency Communications

Tuesday, March 9, 1993, 9:30 a.m. The Administration Committee of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the complete agenda, the committee will call the meeting to order; recognize guests; hear public comment; status report on request for proposals: market analysis for Statewide 9-1-1 awareness and usage; 9-1-1 day activities; financial report for January and February 1993; status of ACSEC request for opinion from the Ethics Commission; discuss commission activities; review comments received; consider adoption of proposed Rule 255.8, 9-1-1 district funding policy; update and discussion of legislative issues; discuss and

consider interagency emergency communications instructor training program; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318669

Tuesday, March 9, 1993, 11 a.m. The Addressing Committee of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the agenda summary, the committee will call the meeting to order; recognize guests; hear public comment; discuss commission activities; review comments and consider adoption of proposed Rule 251.3, state addressing funds distribution; review and consider approval of proposed addressing plan amendments for various Council of Governments; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318668

Tuesday, March 9, 1993, 1:30 p.m. The Planning and Implementation Committee of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the agenda summary, the committee will call the meeting to order; recognize guests; hear public comment; discuss commission activities; discuss maintenance of emergency communications equipment; consider authorizing telephone companies to begin billing fees in Colorado County, Real County, and the Cities of Leakey and Campwood; review and consider approval of proposed regional plan amendments; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318672

Tuesday, March 9, 1993, 3 p.m. The Call Box Task Force of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the complete agenda, the task force will call the meeting to order; recognize guests; hear public comment; progress report on Call Box Program; consider approval for sponsorship and installation of test sites; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:06 p.m.

TRD-9318674

Wednesday, March 10, 1993, 8:30 a.m. The Executive Committee of the Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 San Jacinto Street, Lonestar Room, Austin. According to the complete agenda, the committee will call the meeting to order; recognize guests; hear public comment; review and discuss commission activities; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318667

Wednesday, March 10, 1993, 9:30 a.m. The Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 Jacinto Street, Lonestar Room, Austin. According to the agenda summary, the commission will call the meeting to order; recognize guests; discuss and consider any action items; hear public comment; report on executive development workshop; establish COG administrative budget ad hoc committee; hear committee reports; consider and discuss approval of the January meeting minutes; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318670

Wednesday, March 10, 1993, 11:30 a.m. The Council of Governments Administra-

tive Budget Ad Hoc Committee of the Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 Jacinto Street, Lonestar Room, Austin. According to the complete agenda, the committee will call the meeting to order; introduce guests; orientation of committee assignment; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:06 p.m.

TRD-9318673

Wednesday, March 10, 1993, 1:30 p.m. The Strategic Plan Workshop of the Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 Jacinto Street, Austin. According to the complete agenda, the commission will call the meeting to order; introduce guests; discuss Phase II of the Strategic Plan; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: March 1, 1993, 4:05 p.m.

TRD-9318671

Texas Employment Commission

Tuesday, March 9, 1993, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, Room 644, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss approval of prior meeting notes; meet in executive session to discuss relocation of agency headquarters; actions, if any, resulting from executive session; consider proposed or pending legislation and possible action with respect thereto; consider possible approval of bid for sale of Marshall agency-owned building and land; internal procedures of commission appeals; consider action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 10; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 1, 1993, 1:44 p.m.

TRD-9319638

Texas Department of Health

Wednesday, March 10, 1993, 10:30 a.m. The Advisory Committee on Mental Retardation Facilities of the Texas Department of Health will meet at the Exchange Building, Room N-218, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on updates on: licensure revisions; intermediate care facilities for the Mentally Retarded and Related Conditions positions/training and initial surveys; and informed consent legislation.

Contact: Maurice Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6645. For ADA assistance, call Richard Butler at (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 1, 1993, 4:24 p.m.

TRD-9319678

Health and Human Services Commission

Friday, March 12, 1993, 9:15 a.m. The Medical Care Advisory Committee of the Health and Human Services Commission will meet at 1100 West 49th Street, Moreton Building, Seventh Floor, Room M-739, Austin. According to the agenda summary, the committee will make opening comments; hear statemedicaid director's comments; discuss approval of the minutes; report on Bienvivir Waiver Program; discuss addition of rules for children in LTC Nursing Facility requirements; amendments to PASARR process; client eligibility criteria; reimbursement for disproportionate share hospitals; home health program procedural rule changes; rehab services for persons with mental illness; changes of reimbursement methodologies for DMF under EPSDT-CCP; clarification of reimbursement methodologies for licensed dieticians; HGS-O wavier changes; eligibility changes to four waiver programs; rule change for medically dependent children; HCS waiver changes; deletion of advanced directives rule in HCS, HCS-O, and CLASS Medicaid waivers; replacement health assessment for DAHS; and exclusion of certain Medicaid qualifying trusts.

Contact: Geri Wisllems, P.O. Box 13247, Austin, Texas 78711, (512) 502-3256.

Filed: March 1, 1993, 4:32 p.m.

TRD-9319679

Texas Historical Commission

Friday, March 19, 1993, 9:30 a.m. The Texas Antiquities Committee of the Texas

Historical Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the committee will discuss approval of minutes of previous meeting of December 18, 1992; listen to chairman's report; elect officers; designate State Archeological Landmarks (SALs) in Hudspeth and Travis Counties; nominate SALs in Camp, Limestone, Red River, Rusk; San Augustine, Calhoun, and Titus Counties; hear the State Marine Archeologists's report; listen to public comments; hear staff reports; and meet in executive session to discuss litigation.

Contact: Lillie Thompson, P.O. Box 12276, Austin, Texas 78711, (512) 463-1858.

Filed: March 1, 1993, 9:12 a.m.

TRD-9319618

Texas Department of Human Services

Friday, March 12, 1993, 9 a.m. The State Advisory Committee on Child Care Programs of the Texas Department of Human Services will meet at the Balcones Research Center, University of Texas, 10100 Burnet Road, Commons Building, Room 1.122, Austin. According to the complete agenda, the committee will discuss alternatives for emergency rules to lower the income eligibility ceiling for child care services.

Contact: Mary Beth O'Hanlon, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4169.

Filed: March 1, 1993, 1 p.m.

TRD-9319637

Texas Department of Insurance

Tuesday, March 9, 1993, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether a cease and desist order should be issued against Universal Systems of America, Inc. and to consider whether the application of Universal Systems of America, Inc. for a certificate of authority to act as a third party administrator should be denied.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319654

Tuesday, March 9, 1993, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the appeal by Methodist Retirement Services, Inc., The Woodlands, of the action of the Texas Catastrophe Property Insurance Association.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319653

Wednesday, March 10, 1993, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Judith A. Grantham, Dallas, for a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319652

Thursday, March 11, 1993, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Thomas T. Nguyen, Houston for a Group I, Legal Reserve Combination or Industrial Agent's license and for a Local Recording Agent's license.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319651

Friday, March 12, 1993, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Briley Lee Shoemaker, Brenham, who holds a Group I, Legal Reserve Life Insurance Agent's license, Health Maintenance Organization Agent's license and Variable Contract Agent's license.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319649

Friday, March 12, 1993, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Leo A. Levine, Houston who holds a Group I, Legal Reserve Life Insurance Agent's license, Group II Insurance Agent's license and Health Maintenance Organization Agent's license.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: March 1, 1993, 3:03 p.m.

TRD-9319650

Monday, March 15, 1993, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete agenda, the board will consider and possibly act on adoption of proposed new 28 TAC §1.413, relating to maintenance tax assessment for the Texas Workers' Compensation Commission and for the Texas Workers' Compensation Research Center; maintenance tax surcharge for the Workers' Compensation Insurance Fund, 1993.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: February 25, 1993, 1:39 p.m.

TRD-9319514

Tuesday, March 16, 1993, 2 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 1350I, Board Conference Room, Tower I, Austin. According to the complete agenda, the board will meet with representatives of the Attorney General's Office to discuss pending and contemplated litigation matters in executive session.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 2, 1993, 8:31 a.m.

TRD-9319682

Wednesday, March 31, 1993, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number 1970 to consider the appeal from Commissioner's

Order Number 92-0655 concerning Sidney S. Bochot.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: February 26, 1993, 4:01 p.m.

TRD-9319601

◆ ◆ ◆
**Lamar University System,
Board of Regents**

Friday, February 26, 1993, 5 p.m. The Lamar University System, Board of Regents held an emergency meeting at the John Gray Institute, Chancellor's Conference Room, 855 Florida, Beaumont. According to the emergency complete agenda, the board called the meeting to order; met in executive session-held under provisions of Vernon's Texas Civil Statutes, Article 6252-17, to hear update on Lamar-Beaumont presidential search and considered appointment of president; considered appointment of Lamar-Beaumont president; and adjourned. The emergency meeting was necessary per provisions of Vernon's Texas Civil Statutes, Article 6252-17, Paragraph 3A(h).

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: February 26, 1993, 10:41 a.m.

TRD-9319571

Friday, February 26, 1993, 5 p.m. The Lamar University System, Board of Regents met at the John Gray Institute, Chancellor's Conference Room, 855 Florida, Beaumont. According to the emergency revised complete agenda, the board called the meeting to order; met in executive session-held under provisions of Vernon's Texas Civil Statutes, Article 6252-17, to hear update on Lamar-Beaumont presidential search and considered appointment of president; appointment of Lamar-Beaumont president; resolution regarding Senate Bill 485; and adjourned. The emergency status was necessary per provisions of Vernon's Texas Civil Statutes, Article 6252-17, Paragraph 3A(h).

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: February 26, 1993, 11:34 a.m.

TRD-9319585
◆ ◆ ◆

Texas Commission on Law Enforcement Officer Standards and Education

Monday, March 15, 1993, 10 a.m. The Texas Peace Officers' Memorial Advisory Committee of the Texas Commission on Law Enforcement Officer Standards and Education will meet at the TCLEOSE Headquarters, 1033 La Posada, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call of members; recognize visitors; discuss approval of the minutes of the December 14, 1992, meeting; consider and take action on Final Order 92-2POM adopting Eligibility Criteria Rule, §§229.1, 229.5, 229.10, 229.15, and 229.20; receive legislative update; discuss and take action on moving the June meeting date to June 21, 1993; receive the director's activity report; public comments on any subject without discussion will be received; introduction of regional directors present and receive their reports; and adjourn.

Contact: Edward T. Laine, 1033 La Posada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: February 26, 1993, 8:59 a.m.

TRD-9319554

Tuesday, March 16, 1993, 10 a.m. The Law Enforcement Management Institute of the Texas Commission on Law Enforcement Officer Standards and Education will meet at the TCLEOSE Headquarters, 1033 La Posada, Austin. According to the complete agenda, the commission will call the meeting to order; recognize visitors; introduce newly appointed member (if applicable); election of chairman, vice-chairman, and secretary (if new board member is appointed); discuss approval of the minutes of the December 15, 1992, board of directors meeting; discuss and act on legislative issues effecting the Management Institute; staff activity reports; discuss and act on future board meeting dates; public comments on any subject without discussion will be received; and adjourn.

Contact: Fred Toler, 1033 La Posada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: February 26, 1993, 8:58 a.m.

TRD-9319553

Texas Department of Licensing and Regulation

Friday, March 12, 1993, 10 a.m. The Property Tax Consultants Advisory Council of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, Room 1012, 920 Colorado Street, Austin. According to the agenda summary,

the council will elect presiding officer; discuss approval of continuing education; private providers; and interpretation of §3(c)(2) and 4(f).

Contact: Jimmy G. Martin, P.O. Box 12157, Austin, Texas 78711 (512) 463-7348.

Filed: March 1, 1993, 9:30 a.m.

TRD-9319621

State Medical Education Board

Saturday, March 13, 1993, 10:30 a.m. The Board of the State Medical Education Board will meet at the Chevy Chase Office Complex, Building Four, Room 4.100, 7715 Chevy Chase Drive, Austin. According to the complete agenda, the board will discuss review of accounts needing board attention; and other business.

Contact: Mack Adams, P.O. Box 12788, Austin, Texas 78711, (512) 483-6340.

Filed: February 26, 1993, 2:20 p.m.

TRD-9319596

Texas Mental Health and Mental Retardation

Thursday, March 11, 1993, 9:30 a.m. The Texas Mental Health and Mental Retardation Board Business and Asset Management Committee of the Texas Mental Health and Mental Retardation will meet at the Central Office, Auditorium, 909 West 45th Street, Austin. According to the complete agenda, the committee will hear citizens' comments; and consider approval of Fiscal Year 1993 Operating Budget Adjustments. If ADA assistance or deaf interpreters are required, notify Ernest Fuentes at TXMHMR, (512) 323-3255, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: February 26, 1993, 9:21 a.m.

TRD-9319567

Thursday, March 11, 1993, 10 a.m. The Texas Mental Health and Mental Retardation Board Planning and Policy Development Committee of the Texas Mental Health and Mental Retardation will meet at the Central Office, Auditorium, 909 West 45th Street, Austin. According to the complete agenda, the committee will hear citizens' comments; discuss legislative update; update to the board regarding community services steering committee and regarding state school closure activities; waiting list survey results; consider approval of a resolution regarding health care reform; adop-

tion of amendment and new sections to rules governing determination criteria for readmission screening and annual resident review (PASARR) (Chapter 402, Subchapter E); adoption of new rules governing deaths of persons served by TXMHMR facilities or community MHMR centers (Chapter 405, Subchapter K); recommendations from the Fort Worth State School Alternative Use Committee. If ADA assistance or deaf interpreters are required, notify Ernest Fuentes at TXMHMR, (512) 323-3255, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: February 26, 1993, 9:21 a.m.

TRD-9319566

Thursday, March 11, 1993, 1:30 p.m. The Texas Mental Health and Mental Retardation Board Audit Committee of the Texas Mental Health and Mental Retardation will meet at the Central Office, Auditorium, 909 West 45th Street, Austin. According to the complete agenda, the committee will hear citizens' comments; discuss audit activity update; and update regarding Not-for-Profit action plan. If ADA assistance or deaf interpreters are required, notify Ernest Fuentes at TXMHMR, (512) 323-3255, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: February 26, 1993, 9:21 a.m.

TRD-9319564

Friday, March 12, 1993, 10 a.m. The Texas Mental Health and Mental Retardation Board of the Texas Mental Health and Mental Retardation will meet at the Central Office, Auditorium, 909 West 45th Street, Austin. According to the complete agenda, the board will take roll call; hear citizens' comments; discuss approval of the minutes of the January 8, 1993, meeting; chairman's report; commissioner's report: announcements, program presentation-Mental Retardation Services; crossroads closure-Tarrant/Dallas Counties transitions, medical director's report; consider approval of Fiscal Year 1993 Operating Budget Adjustments; approval of a resolution regarding health care reform; approval of the adoption of amendment and new sections to rules governing determination criteria for preadmission screening and annual resident review (PASARR) (Chapter 402, Subchapter E); approval of the adoption of new rules governing deaths of persons served by TXMHMR facilities or community MHMR centers (Chapter 405, Subchapter K); and approval of recommendations from the Fort Worth State School Alternative Use Committee; and litigation (RAJ v Jones, Leisz v Kavanagh, potential

litigation). If ADA assistance or deaf interpreters are required, notify Ernest Fuentes at TXMHMR, (512) 323-3255, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: February 26, 1993, 9:21 a.m.

TRD-9319565

◆ ◆ ◆
Texas Board of Pardons and Paroles

Monday-Tuesday, March 8-9, 1993, 10 a.m., and 9 a.m. respectively. The Parole Board Panel of the Texas Board of Pardons and Paroles will meet at 1010 Cadiz, Suite 105, Dallas. According to the agenda summary, a panel (composed of three board members) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:07 a.m.

TRD-9319560

Monday-Tuesday, March 8-9, 1993, 10 a.m. The Parole Board Panel of the Texas Board of Pardons and Paroles will meet at 2821 Guadalupe Street, Suite 106, San Antonio. According to the agenda summary, a panel (composed of three board members) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:07 a.m.

TRD-9319559

Monday-Friday, March 8-12, 1993, 1:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject

to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:06 a.m.

TRD-9319558

Wednesday-Thursday, March 10-11, 1993, 1 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1212 North Velasco, Suite 201, Angleton. According to the agenda summary, a panel(s) of the Board of Pardons and Paroles (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:06 a.m.

TRD-9319557

Wednesday-Thursday, March 10-11, 1993, 1:30 p.m. and 9 a.m. (Respectively). The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, a panel(s) of the Board of Pardons and Paroles (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:04 a.m.

TRD-9319555

Thursday-Friday, March 11-12, 1993, 12:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at Route 5, Box 258-A, Gatesville. According to the agenda summary, a panel(s) of the Board of Pardons and Paroles (composed of three board members) will receive, review and consider information and reports concerning prison-

ers/inmates and administrative releasees subject to the Board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: February 26, 1993, 9:04 a.m.

TRD-9319556

◆ ◆ ◆
Board of Plumbing Examiners

Monday, March 8, 1993, 9 a.m. The Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the agenda summary, the board will take roll call; recognize visitors; discuss minutes of January meeting; report of Chris Maczka, assistant attorney general: rules to be approved for publication; attorney general on appliance dealers 1947; report on the progress of the mechanics to issue citations and it's start-up date; board committee reports; action of the Texas Department of Licensing and Regulation on air conditioning rules; administrator's report; financial report; examination report; field department report; hardship cases; and any other subject which may come before the board.

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145.

Filed: February 25, 1993, 4:48 p.m.

TRD-9319551

◆ ◆ ◆
Texas State Board of Examiners of Psychologists

Wednesday-Friday, March 10-12, 1993, 10 a.m.-Wednesday and 8 a.m. - Thursday-Friday respectively. The Closed Executive Session of the Texas State Board of Examiners of Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the agenda summary, the board will consider public comments; minutes; reports from the executive director, chair, and the personnel, complaint and enforcement, oral examination, distribution of information, and budget and newsletter committees; applications; proposed and adopted rules; agreed orders; complaints; matters pertaining to American Biodyne; opinion and information letters; planning issues; priority setting for the executive director; budget; legislative matters; and Sunset review. The board will meet with Elizabeth Richeson regarding practice issues, the Texas Psychological Association, regarding

licensure law revisions, and Gerald Osborne, regarding Jurisprudence Examination. The board will enter executive session to meet with Assistant Attorneys General to seek legal advice pursuant to Texas Civil Statutes, Article 6252-17, §(E).

Contact: Patricia S. Tweedy, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: February 25, 1993, 3:23 p.m.

TRD-9319544

Texas Public Finance Authority

Thursday, March 4, 1993, 1 p.m. The Board of Directors of the Texas Public Finance Authority held an emergency meeting at the John H. Reagan Building, Room 106, 105 West 15th Street, Austin. According to the agenda summary, the board called the meeting to order; discussed approval of the January 19, 1993 minutes; considered request for financing from G.S.S.; considered terminating Series A Commercial Paper program by combining with Series B; considered hiring bond counsel; request for financing from T.D.C.J.; report by the financial advisor; considered a report on expenditures of G.O. Bond proceeds; discussed establishing a variable rate demand not program; considered a report on the authority's administration and operation funds consolidation; approval of amended rules for the Master Equipment Lease Purchase Programs; elected officers; discussed other business; and adjourned. The emergency status was necessary to make funds available for emergency TDCJ projects.

Contact: Teresa McCleary, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

Filed: March 1, 1993, 1:53 p.m.

TRD-9319639

Texas Department of Public Safety

Monday, March 8, 1993, 1:30 p.m. The Public Safety Commission of the Texas Department of Public Safety will meet at the Department of Public Safety Office, 11612 Scott Simpson, El Paso. According to the complete agenda, the commission will discuss approval of minutes; budget matters; internal audit report; personnel matters; pending and contemplated litigation; real estate matters; miscellaneous and other unfinished business; proposed amendments and additions to vehicle inspection Rules 23.1, 23.8, 23.15, and 23.16 (station licensing), 23.91 and 23.92 (emission inspection and maintenance program), and 23.61 (cer-

tification of inspectors); and revisions to VI-50 (parameter vehicle emission inspection and maintenance rules and regulations) and VI-51 (vehicle idle emissions inspection and maintenance rules and regulations).

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, ext. 3700.

Filed: February 26, 1993, 8:06 a.m.

TRD-9319552

Public Utility Commission of Texas

Monday, March 8, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing in Docket Number 11784-application of Sugar Land Telephone Company for approval of new service-All Star.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 26, 1993, 2:14 p.m.

TRD-9319595

Wednesday, March 10, 1993, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commissioners will consider the following dockets: 11177, P-10782, P-11338, 11210, 11244, 10986, 11735, 11351, 11719, 11685, 10883, 9305, 10200, 10034, 10935, and 10920.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 4:15 p.m.

TRD-9319676

Wednesday, March 10, 1993, 9:05 a.m. The Administrative Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will discuss reports; discuss and possibly act on status report relating to pay telephone dial-around compensation (P-11445); staff's evaluation of the earnings reports submitted by telephone utilities for year ending June 30, 1992; proposed procedures for handling SWB's objections to PUC staff report on SWB's earnings sharing status under Docket 8585; discuss and possible intervention regarding TU's filing with the SEC for approval by the SEC of TU's acquisition of Southwestern Electric Service Company; consider proposed or pending legislation and possible action with respect thereto; discuss budget and fiscal

matters; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:32 p.m.

TRD-9319661

Wednesday, March 10, 1993, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11819-application of South Texas Electric Cooperative, Inc. for authority to implement economic development rider.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:32 p.m.

TRD-9319663

Thursday, March 11, 1993, 9 a.m. (Rescheduled from Monday, March 1, 1993, at 9 a.m.). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10757-application of Southwestern Bell Telephone Company to add an optional feature for Plexar-I, Alternate Answering-Outside Service.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 25, 1993, 3:10 p.m.

TRD-9319543

Monday, March 15, 1993, 10 a.m. (Rescheduled from Monday, March 1, 1993, at 10 a.m.). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11769-complaint of Charles A. Murray, III, against Big Bened Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 25, 1993, 3:09 p.m.

TRD-9319540

Monday, March 15, 1993, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite

450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11793-application by Gulf States Utilities Company to sell facilities to Sam Rayburn Municipal Power Agency.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:32 p.m.

TRD-9319662

Tuesday, March 16, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11503-application of Lower Colorado River Authority to amend certificate of convenience and necessity for a 138KV transmission line and substation within Kerr County.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:32 p.m.

TRD-9319659

Thursday, March 18, 1993, 9 a.m. (Rescheduled from Thursday, March 4, 1993, at 9 a.m.). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11566-application of United Telephone Company of Texas, Inc., for approval of Advanced Business Connection (ABC) Service.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 25, 1993, 3:09 p.m.

TRD-9319541

Tuesday, March 25, 1993, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11441-petitions of Infodial, Inc., The Austin American-Statesman, Longview New-Journal, Waco Tribune-Herald, Lufkin Daily News, Adpost, Inc., and Dallas Morning News, for assignment of abbreviated N11 dialing codes.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:32 p.m.

TRD-9319660

Wednesday, April 7, 1993, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11266-application of Guadalupe-Blanco River Authority for a rate increase for the Guadalupe Valley Hydro System.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 26, 1993, 2:14 p.m.

TRD-9319594

Thursday, May 20, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11253-complaint of the Sunmeadow Community Improvement Association of Friendswood, Texas against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 25, 1993, 3:09 p.m.

TRD-9319539

Thursday, May 20, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11777-application of Southwest Texas Electric Cooperative, Inc. for authority to change rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 26, 1993, 2:12 p.m.

TRD-9319593

Monday, August 9, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11776-application of Gulf States Utilities Company for approval of a joint venture cogeneration project and treatment of revenues (Remand).

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 1, 1993, 3:31 p.m.

TRD-9319658

Railroad Commission of Texas

Monday, March 8, 1993, 9:30 a.m. The Railroad Commission of Texas will meet in the First Floor, Conference Room (1-111), William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on 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, (512) 463-7257.

Filed: February 26, 1993, 10:58 a.m.

TRD-9319574

The commission will consider and act on the personnel division director's report on division administration, budget, procedures, and personnel matters. The commission will 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, (512) 463-6710.

Filed: February 26, 1993, 10:59 a.m.

TRD-9319580

The commission will consider and act on the office of the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss a proposed training agreement for the Gas Utilities Section of the Legal Division. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation; and consider a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Texas 78711-2967, (512) 463-7274.

Filed: February 26, 1993, 10:58 a.m.

TRD-9319577

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.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: February 26, 1993, 10:58 a.m.

TRD-9319575

The commission will consider category determinations under §§102(c)(1)(B),

102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: February 26, 1993, 11 a.m.

TRD-9319581

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 78711, (512) 463-6710.

Filed: February 26, 1993, 10:59 a.m.

TRD-9319578

The commission will consider and act on the investigation division director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo R. Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: February 26, 1993, 10:59 a.m.

TRD-9319579

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The commission 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 will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: February 26, 1993, 11:01 a.m.

TRD-9319582

The commission will consider and act on the surface mining and reclamation division director's report on division administration, budget, procedures, and personnel matters; director's plan for the reclamation of the Christmas Mountains Abandoned Mine Reclamation Project; contract extension for the ALCOA AML Area 11 Revegetation Project; and director's recommendation for amendments to the Texas Aggregate Quarry and Pit Safety Act.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: February 26, 1993, 10:58 a.m.

TRD-9319573

The commission will consider and act on the division director's report on budget and personnel matters related to organization of

the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: February 26, 1993, 10:58 a.m.

TRD-9319576

Texas Real Estate Research Center

Monday, March 8, 1993, 11 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet at the Real Estate Center, Conference Room, College Station. According to the complete agenda, the committee will hear opening remarks; discuss approval of minutes; progress reports (administrative, communications, and research); current budget report; funding for center; and adjourn.

Contact: Gary Maler, Texas A&M University, College Station, Texas 77843-2115, (409) 845-9691.

Filed: February 26, 1993, 9:15 a.m.

TRD-9319562

School Land Board

Friday, March 5, 1993, 7:30 a.m. The School Land Board will meet at the Westin Paso Del Norte Hotel, 202 South El Paso Street, Hotel Lobby, El Paso. According to the complete agenda, the board will discuss permanent school fund lands and travel to inspect permanent school fund lands in El Paso County; no action will be taken.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78711, (512) 463-5016.

Filed: February 25, 1993, 4:22 p.m.

TRD-9319549

State Committee of Examiners for Speech-Language Pathology and Audiology

Friday, March 19, 1993, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet at the Exchange Building, Room N-456, 8407 Wall Street, Austin. According to the agenda summary, the committee will discuss approval of the minutes of previous meeting; discuss and possibly act on: standing subcommittee reports on complaints, rule changes, fees and budget, public relations, continuing education, applications and renewals, agenda and meeting arrangements, correspondence, related standards and regulations, legislative review, exemp-

tions to state law covering speech-language pathology and audiology; ad hoc subcommittee reports on internship guidelines, role of supervisor, ethics, sunset review, and scope of practice; hear executive secretary's report; and consider other matters not requiring committee action.

Contact: Dorothy Cawthon, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6627. For ADA assistance, call Richard Butler at (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 1, 1993, 4:24 p.m.

TRD-9319677

Supreme Court of Texas

Thursday, March 11, 1993, 9 a.m. The Task Force on Judicial Ethics of the Supreme Court of Texas will meet at the Price Daniel, Sr. Building, Fifth Floor, 14th and Lavaca Streets, Austin. According to the complete agenda, the task force will consider possible amendments to the Texas Code of Judicial Conduct and the operation of the State Commission on Judicial Conduct; and consider report of the Supreme Court Task Force to examine appointments by the Judiciary.

Contact: Virginia Smith, P.O. Box 12248, Austin, Texas 78711, (512) 463-1344.

Filed: March 1, 1993, 3:39 p.m.

TRD-9319664

Teacher Retirement System of Texas

Tuesday, March 9, 1993, noon. The Medical Board of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Room 420E, Austin. According to the complete agenda, the board will discuss the files of members who are currently applying for disability retirement; and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: March 1, 1993, 9:40 a.m.

TRD-9319627

The Texas A&M University System, Board of Regents

Friday, March 5, 1993, 3 p.m. The Board of Regents-Special Telephonic Board of the Texas A&M University System will meet at the Board of Regents Meeting Room, Col-

lege Station. According to the complete agenda, the board will consider and act on regarding the change of names for Laredo State University, Corpus Christi State University, West Texas State University, and Texas A&I University.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: February 26, 1993, 11:14 a.m.

TRD-9319583

Texas Southern University

Tuesday, March 2, 1993, 4 p.m. The Buildings and Grounds Committee of the Board of Regents of the Texas Southern University met at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee considered construction change orders; payments to architects contractors and engineers; authorized and ratified contracts and awards; and heard status of on going construction and current contractual relations.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 25, 1993, 11:55 a.m.

TRD-9319508

The Texas State University System

Tuesday-Wednesday, March 2-3, 1993, 4 p.m. and 7:30 a.m. (Respectively). The Board of Regents of the Texas State University System held a revised agenda in the Court Room, Criminal Justice Center, Sam Houston State University, Huntsville. According to the revised agenda summary, the board discussed review of matters of the board and the four Universities in the System including all matters reviewed by the building committee, the curriculum committee, and the finance committee as submitted to the full board for review and approval; personnel actions including new employees, promotions, resignations, terminations, salary-supplements, and special appointment of any system employee including the Presidents and Chancellor; discussion of litigation; budgetary changes at each university and the system office; approvals at each university and the system office; acceptance of gifts; contract admission requirements and fees; room rates; land leases, purchases and sales; considered the final report and recommendation of the system review committee; and adoption of further actions implementing the recommendations of the system review committee,

including the establishment of a task force and interim organization of the system administrative office. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, Box 3810, Austin, Texas 78701, (512) 463-1808.

Filed: February 26, 1993, 3:42 p.m.

TRD-9319599

Texas Department of Transportation

Monday, March 15, 1993, 10 a.m. The Public Transportation Advisory Committee of the Texas Department of Transportation will meet at 4140 Governor's Row, Wyndham Southpark Hotel, Austin. According to the agenda summary, the committee will discuss approval of minutes; presentation on the Laredo Transit System; final review of proposed rulemaking concerning transportation enhancement program; preliminary review of proposed rulemaking concerning an amendment to 43 TAC §31.57; disposition of property; and briefing of proposed public transportation legislation.

Contact: Richard Christie, 125 East 11th Street, Austin, Texas 78701, (512) 483-3650.

Filed: February 26, 1993, 1:54 p.m.

TRD-9319591

Monday, March 15, 1993, 10 a.m. (Revised agenda). The Public Transportation Advisory Committee of the Texas Department of Transportation will meet at 4140 Governor's Row, Wyndham Southpark Hotel, Austin. According to the revised agenda summary, the committee will discuss rural transit funding issues; and hear remarks from member of Texas Transportation Commission.

Contact: Richard Christie, 125 East 11th Street, Austin, Texas 78701, (512) 483-3650.

Filed: March 1, 1993, 9:48 a.m.

TRD-9319630

Texas Turnpike Authority

Tuesday, March 9, 1993, 4 p.m. The Contract Awards Committee of the Texas Turnpike Authority will meet at the Texas Turnpike Authority Administration Building, 3015 Raleigh Street, Dallas. According to the complete agenda, the committee will take roll call of directors; consider Award of Contract DNT-196; approval of Supplemental Agreement Number 1 to Contract DNT-

202; Interlocal Agreement with the City of Plano; and adjourn.

Contact: Harry Kabler, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: February 26, 1993, 12:08 p.m.

TRD-9319589

The University of Texas Health Center at Tyler

Thursday, March 4, 1993, 11:30 a.m. The Animal Research Committee of the University of Texas Health Center at Tyler met at the Biomedical Research Building, Room 116, Highways 155 and 271 North, Tyler. According to the complete agenda, the committee discussed approval of minutes; heard chairman's report-Dr. Peterson; veterinarian's report-Dr. Schmid; discussed old business-followup on handbook; new business-inspection of Vivarium, and annual review of protocols; and adjourned.

Contact: Barry Peterson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Filed: February 25, 1993, 3:06 p.m.

TRD-9319538

Texas Water Commission

Friday, March 5, 1993, noon. The Texas Water Commission will meet at the Joe C. Thompson Conference Center, Room 3.122, The University of Texas, Austin. According to the agenda summary, the Permit Hearings Process Task Force of the Texas Water Commission, consisting of private industry and environmental groups, will meet with the commissioners of the commission to identify improvements and enhancements to the permit hearings process.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: February 25, 1993, 1:27 p.m.

TRD-9319513

Wednesday, March 10, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: new permits; amendments; renewals; district matters; rate matters; water right matters; examiner's memorandums; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, resched-

uling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: February 25, 1993, 1:26 p.m.

TRD-9319512

Wednesday, March 10, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: enforcement actions; examiner's proposal for decisions; meet in executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: February 25, 1993, 1:26 p.m.

TRD-9319511

Wednesday, March 10, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by the City of Laredo for an amendment to Certificate of Adjudication Number 23-3997, as amended.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: March 1, 1993, 10:58 a.m.

TRD-9319632

Thursday-Friday, March 11-12, 1993, 8:30 a.m. The Texas Water Commission will meet at the Joe C. Thompson Conference Center, Room 3.106, The University of Texas at Austin, Austin. According to the agenda summary, the commissioners and executive staff of the commission will meet for training on total quality management tools for problem solving and continuous improvement.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: March 1, 1993, 10:58 a.m.

TRD-9319633

Monday, March 22, 1993, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Holiday Inn, 1500 Dallas Drive, Denton. According to the agenda summary, the commission will consider an application by Sentry Environmental, L.P. for a proposed Permit Num-

ber MSW2171 to authorize a Type I municipal solid waste management facility. The facility is to be located on a 352.68-acre site east of Justin, 1.9 miles west of the intersection of IH-35 West and FM 407, 1.5 miles east of FM 156, southeast corner of the intersection of FM 407 and Florence Road in Denton County.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 2:17 p.m.

TRD-9319520

Thursday, March 25, 1993, 5:30 p.m. The Texas Water Commission will meet at the Copperas Cove City Hall, City Council Chambers, 507 South Main Street, Copperas Cove. According to the agenda summary, the commission will hold a public meeting to consider an application for a municipal solid waste facility permit the the City of Copperas Cove, Proposed Permit Number MSW2210. The facility is to be at 305 Constitution Drive, approximately 2,000 feet south of U.S. Highway 190 in the City Limits of Copperas Cove, Coryell County.

Contact: Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 908-6688.

Filed: February 25, 1993, 2:17 p.m.

TRD-9319521

Tuesday, April 13, 1993, 9 a.m. The Office of Hearing Examiners of the Texas Water Commission will meet at the Rolling Hills Water Treatment Plant Classroom, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider an application for a municipal solid waste management facility permit by Laidlaw Waste Systems (Fort Worth), Inc., Proposed Permit Number MSW2145, to authorize a Type I facility. The site is to be at the east end of Elliott Reeder Road, approximately 800 feet east of the intersection of Elliott Reeder Road and Carson Street, and approximately 2.5 miles northwest of the intersection of Interstate 30 and U.S. Highway 820 in the City of Fort Worth, Tarrant County.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 2:51 p.m.

TRD-9319530

Wednesday, April 14, 1993, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the City of Palestine City Hall, Council Chambers, 504 North Queen Street, Palestine. According to the agenda summary, the commission will consider an application to authorize a discharge of treated domestic wastewater effluent by Daytop Village, Inc. (Proposed Permit Number 13645-01).

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1993, 9:23 a.m.

TRD-9319619

Thursday, April 15, 1993, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Wood County Courthouse, Commissioners Courtroom, Quitman. According to the agenda summary, the commission will consider an application to authorize disposal of wastes and wastewater from a dairy by Jochem Johnsmma Proposed Permit Number 03431.

Contact: Elizabeth Bourbon, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1993, 2:16 p.m.

TRD-9319641

Thursday, April 15, 1993, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Henderson County Courthouse, County Courtroom, Athens. According to the agenda summary, the commission will consider an application to amend current Permit Number 11890-01 to a discharge permit and to increase the volume of treated domestic wastewater effluent by East Cedar Creek Fresh Water Supply District.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 1, 1993, 2:16 p.m.

TRD-9319642

Texas Water Development Board

Friday, March 5, 1993, 10:45 a.m. The Texas Water Development Board will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 513-F, Austin. According to the agenda summary, the board will consider authorizing the executive administrator and the development fund manager to take all actions necessary for the sale of assets in the TWRFA portfolio and implementation of an Interim Finance Program; and consider timing of policy and finance committee consideration of economically distressed area financial assistance applications.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: February 25, 1993, 4:22 p.m.

TRD-9319548

Texas Water Resources Finance Authority

Friday, March 5, 1993, 10:45 a.m. The Texas Water Resources Finance Authority will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 513-F, Austin. According to the complete agenda, the authority will consider authorizing the executive administrator and the development fund manager to take all actions necessary for the sale of assets in the TWRFA portfolio and implementation of an Interim Finance Program.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78701, (512) 463-7847.

Filed: February 25, 1993, 4:21 p.m.

TRD-9319547

Regional Meetings

Meetings Filed February 25, 1993

The Heart of Texas Region Mental Health and Mental Retardation Center Board of Trustees met at 110 South 12th Street, Waco, March 4, 1993, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9319545.

The Johnson County Rural Water Supply Corporation Annual Membership met at the JCRWSC Office, Highway 171 South, Cleburne, March 2, 1993, at 7 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9319507.

The Johnson County Rural Water Supply Corporation Board met at the JCRWSC Office, Highway 171 South, Cleburne Civic Center, 1501 West Henderson, Cleburne, March 2, 1993, at 9 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9319510.

The Region IV Education Service Center Board of Directors met at the Region IV Education Service Center, Board Room, 7145 West Tidwell, Houston, March 4, 1993, at 11 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534. TRD-9319523.

The West Central Texas Council of Governments Private Industry Council met at 1025 East North 10th Street, Abilene, March 4, 1993, at 10 a.m. Information may be obtained from Tom Smith, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9319506.

Meetings Filed February 26, 1993

The Dallas Area Rapid Transit Administrative Committee met at the DART Headquarters, 1401 Pacific Avenue, Conference Room B, Dallas, March 2, 1993, at 10 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9319602.

The Dallas Area Rapid Transit Public Affairs Committee met at the DART Headquarters, 1401 Pacific Avenue, Conference Room C, Dallas, March 2, 1993, at 1 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9319604.

The Dallas Area Rapid Transit Rail Committee met at the DART Headquarters, 1401 Pacific Avenue, Conference Room C, Dallas, March 2, 1993, at 3 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9319603.

The Dallas Area Rapid Transit Board of Directors met at the DART Headquarters, 1401 Pacific Avenue, DART Board Room, First Floor, Dallas, March 2, 1993, at 5 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9319605.

The East Texas Council of Governments JTPA Board of Directors met at the Kilgore Community Inn, Kilgore, March 4, 1993, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9319597.

The East Texas Council of Governments Executive Committee met at the ETCOG Office, Kilgore, March 4, 1993, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9319588.

The Hays County Appraisal District Board of Directors will meet at 632 A East Hopkins, Municipal Building, San Marcos, March 11, 1993, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9319598.

The Lavaca County Central Appraisal District Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, March 8, 1993, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9319563.

The Sharon Water Supply Corporation 22nd Annual Members will meet at the Winnsboro City Auditorium near the Rodeo

Arena, Winnsboro, March 15, 1993, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9319587.

Meetings Filed March 1, 1993

The Creedmoor Maha Water Corporation Board of Directors met at 1699 Laws Road, Mustang Ridge, March 4, 1993, at 7 p.m. Information may be obtained from Charles P. Laws, 1699 Law Road, Buda, Texas 78610, (512) 243-1991. TRD-9319614.

The Golden Crescent Private Industry Council, Inc. Worker Adjustment and Planning Committee met at 2401 Houston Highway, Victoria, March 4, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9319648.

The Gray County Appraisal District Board of Directors met at 815 North Sumner, Pampa, March 4, 1993, at 5 p.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9319675.

The Gregg County Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, March 8, 1993, at 9 a.m. Information may be obtained from Bill Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9319646.

The Hansford Appraisal District Board will meet at 709 West Seventh Street, Spearman, March 10, 1993, at 9 a.m. Information may be obtained from Alice Peddy, P.O. Box 519, Spearman, Texas 79081, (806) 659-5575. TRD-9319643.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business, One Block West of FM 765 and FM 2134, Millersview, March 9, 1993, at 7 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9319645.

The Millersview-Doole Water Supply Corporation Annual Membership will meet at the Corporation's Business, One Block West of FM 765 and FM 2134, Millersview, March 9, 1993, at 7:30 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9319644.

The TML Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool met at 211 East Seventh Street, First

Floor Conference Room, March 3, 1993, at 11 a.m. Information may be obtained from Suzanne Steindorf, 211 East Seventh Street, Austin, Texas 78701, (512) 320-7861. TRD-9319613.



Meetings Filed March 2, 1993

The Brazos Valley Development Council Criminal Justice Planning Advisory Committee will meet at the Brazos Valley Development Council Conference Room, 3006 East 29th Street, Door Two, Bryan, March 5, 1993, at noon. Information may be ob-

tained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9319686.

The Canyon Regional Water Authority Board will meet at the Cibolo City Hall, 109 South Main Street, Cibolo, March 8, 1993, at 7:30 p.m. Information may be obtained from David J. Davenport, Route 2, Box 654 W, New Braunfels, Texas 78130, (210) 608-0543. TRD-9319681.

The Kendall Appraisal District Board of Directors will meet at 121 South Main Street, Kendall Appraisal Office, Boerne, March 11, 1993, at 5 p.m. Information may be obtained from J. P. Davis, P.O. Box 788,

Boerne, Texas 78006, (210) 249-8012. TRD-9319688.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, March 22, 1993, at 9 a.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9319687.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Board Room, Decatur, March 11, 1993, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-0381, ext. 4. TRD-9319689.



In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Notice of Intention to Let Contracts

This is a formal notice to potential bidders of the Texas Air Control Board's (TACB's) intention to let contracts for an integrated set of ambient air monitoring and emission inventory studies to improve the assessment of required control strategies for ozone pollution in the Upper Texas Gulf Coast. The combined project will include an intensive data collection period from July 15, 1993 to August 28, 1993. The TACB intends to issue requests for information for the studies. Some or all of these requests may result in invitations for bids.

The TACB anticipates that the ambient air monitoring work will include contracts for project management work including development of a quality assurance (QA) project plan, conducting systems audits, QA oversight, and assembling the data set; for volatile organic compound (VOC) monitoring using automatic gas chromatographic analysis; for sampling and analysis for VOCs using canisters and for carbonyl compounds using cartridges at approximately six ambient sampling sites (plus taking many samples to establish source profiles); for continuous monitoring for ozone (O₃), NO, NO₂, meteorological parameters, nitrogen dioxide (NO₂), and nitric oxide (NO) at a downtown Houston building-top site and at six or more new continuous monitoring station sites; for monitoring wind flow and mixing height using three acoustic sounders; for aircraft monitoring for O₃ (and possibly continuous monitoring for nonmethane organic compounds, NMOCs) plus sampling for VOCs and carbonyls.

The emissions inventory aspects may include contracts involving the following: long range analysis of emissions inventory requirements to support future TACB activities; a protocol for collection of emissions data during the enhanced monitoring period and development and presentation of workshops to train people in collecting and preparing data developing these emissions inventories; QA of existing data in the 1990 emissions inventory; development of rule effectiveness adjustments by source category; resolution of compatibility issues between various emissions inventories; development of bottom up estimations approaches for a limited number of area and non-road mobile source categories; collection of specific data to develop vehicle miles traveled during the intensive study period; development of adjustments for on-road mobile emissions factors for the study area and study period; for the intensive study period, development of area specific biogenic emission factors.

The TACB requests each potential bidder who wishes to receive requests for information for these studies to notify the TACB of its interest in receiving the requests for information. Notifications should be sent to Kathy Robbins by mail or delivery service at this address: Texas Air Control Board, 12124 Park 35 Circle, Austin, Texas

78753 or by fax at (512) 908-1212. The notifications should include the bidder's name, mailing address, parcel delivery address, contact person, contact phone number, and fax number.

The TACB may issue requests for information for some or all of the studies within two business days after the date of publication of this notice. Responses to each request for information will be due seven calendar days after that request is first sent to potential bidders who are on the notification list at the time the request is issued.

If, after some or all of the requests for information have been issued, a potential bidder requests to be added to the notification list, the already issued requests for information will be sent to that potential bidder, but the previously established deadlines for response will not be changed.

All potential bidders and bidders, as well as their agents, liaisons, advocates, lobbyists, representatives, and others promoting their position, are limited to the following communications with the TACB personnel: Written inquiries directed to Kathy Robbins at the address and fax number shown.

By September 1, 1993, the TACB expects to merge with the Texas Water Commission to form a new environmental and natural resources agency. After the merger, the new agency shall assume all authority and obligations of the TACB arising from the contracts for ambient air monitoring and emission inventory studies announced in this notice.

All of the costs and expenses incurred by any prospective bidder or bidder in connection with or arising out of its possible or actual response to any request for information or request for bids issued pursuant to this announcement, including, but not limited to, the cost of developing and preparing a response to a request for information and/or a proposal, shall be entirely the responsibility of the prospective bidder or bidder and shall not under any circumstances be borne or reimbursed directly or indirectly by the TACB.

Upon their submission to the TACB, all responses to requests for information and all proposals of each bidder shall become the property of the TACB and will not be returned to the bidder or potential bidder. After the deadline for submission of bids for all projects, responses to requests for information and all bids shall be available for inspection and copying as provided by the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a. For this reason, the TACB cautions bidders and potential bidders not to disclose information they do not wish to have become public information.

Issued in Austin, Texas, on February 26, 1993.

TRD-9319617 Lane Hartssock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: March 1, 1993

Texas Antiquities Committee Notice of Hearing Date Amendment

The Texas Antiquities Committee issued notice of a hearing, scheduled for March 9-10. The notice was published in the February 9, 1993, *Texas Register* (18 TexReg 903). These proceedings were scheduled to hear a challenge to the Committee's permitting related to the South Austin Outfall Project Phase II. With the continuation of the prehearing to reconvene on March 9, the hearing is now rescheduled for 10 a.m. on March 16, and may continue through March 17-18. The hearing will be held at 300 West 15th Street, in Room 410A, William P. Clements Building, Austin, Texas 78701.

Refer to (18 TexReg 903) for other information pertaining to this notice.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319590 Lillie Thompson
Administrative Technician
Texas Antiquities Committee

Filed: February 26, 1993

Office of the Attorney General of Texas Notice of Amendment to Consulting Services Contract

In accordance with the provisions of the Consulting Services Act, Texas Civil Statutes, Article 6252-11c, §7(a)(1), the Office of the Attorney General hereby gives notice that it has executed an amendment executed pursuant to the Act for advice concerning the enhancement, design, development, and installation of a computerized system for the initiation, management, accounting, and enforcement of child support obligations. The contract so amended originally was executed by the Attorney General and Andersen Consulting, 701 Brazos Street, Suite 1020, Austin, Texas 78701. The consulting services rendered pursuant to the contract commenced on August 26, 1991, and per this amendment shall end on July 1, 1994, or upon final and unconditional certification that the system developed with the advice of the consultant meets all of the requirements of the Social Security Act of 1935, as amended, whichever is later. The value of the amendment is reasonably foreseeable to be less than \$10,000.

The maximum liability of the Office of Attorney General to the consultant as specified in the contract as executed is \$4,000,000. The Attorney General expects to be reimbursed under federal law for ninety percent of the maximum liability to the consultant. The amendment of which notice is hereby given does not increase the maximum liability of the Attorney General to the Consultant.

The principal result of the contract as amended shall be the design of an automated system for child support enforcement. This design will be evidenced by written documentation of the design as well as by actual electronic computer programming necessary to implement the design of the system. The written documentation of the design will be due prior to final and unconditional certification by the federal government that the system meets the requirements of the federal Social Security Act of 1935, as amended.

Issued in Austin, Texas, on February 26, 1993.

TRD-9319531 Jerry Benedict
Assistant Attorney General
Office of the Attorney General of Texas

Filed: February 25, 1993

Central Texas Council of Governments Request for Proposals

The Central Texas Private Industry Council (CTPIC) through its administrative entity, the Central Texas Council of Governments (CTCOG) is soliciting proposals for an educational software system to be located in and operated by the Temple Alternative Laboratory in behalf of youth and adults who are eligible for programs funded by the Job Training Partnership Act (JTPA).

Proposal specifications may be obtained from the Employment and Training Division of CTCOG by contacting Michael Gaspard at (817) 939-3771 or at 200 North Main, Box 729, Belton, Texas 76513.

The deadline for receipt of proposals is close of business, 5 p.m., CDT, March 19, 1993. Proposals received after this deadline will not be considered. Proposals should be sent to: Employment and Training Division, Central Texas Council of Governments, 200 North Main Street, P.O. Box 729, Belton, Texas 76513 (Attention RFP Staff).

The CTPIC reserves the right to accept or reject any or all proposals received as a result of this request, or to negotiate with all qualified vendors, or to cancel in part or in its entirety the Request for Proposals, if it is in the best interest of the CTPIC.

Issued in Belton, Texas, on February 26, 1993.

TRD-9319620 Susan Kamas
Employment and Training Director
Central Texas Council of Governments

Filed: March 1, 1993

Texas Department of Commerce Product Commercialization Fund Application Announcement

The Texas Department of Commerce is now accepting applications for the third round of the Product Commercialization Fund.

The Texas Product Commercialization Fund provides working capital to assist small companies taking an innovative, new technology-based product or process to the marketplace. Companies are selected for investment in a competitive process based on the product's potential for commercial success and the product's potential economic impact on Texas.

Technologies to be considered for funding in this round are limited to the following: innovative recycling or waste minimization-related products or processes; and innovative renewable energy or energy-saving products or processes.

Funding will be in the form of a loan or loan guaranty. The size of each investment may not be less than \$25,000, or exceed \$200,000. Applicants are required to have a minimum 1:1 matching funding commitment from a co-investor. Loans for recycling/waste minimization products

will be made at market rate; loans for renewable energy/energy-saving products will be made at a zero interest rate. Collateral will be required.

The deadline for application is April 30, 1993.

Copies of the Application are available from the following sources: Austin-Texas Department of Commerce Office of Advanced Technology (512) 320-9561; Dallas-North Texas Small Business Development Center, (214) 565-5822; Houston-University of Houston Small Business Development Center, (713) 752-8400; Lubbock-Northwest Texas Small Business Development Center, (806) 745-3973; San Antonio-South Texas Border Region Small Business Development Center, (512) 224-0791.

For further information, please contact Annette Argall at the Texas Department of Commerce of Advanced Technology, (512) 320-9561.

Issued in Austin, Texas, on February 26, 1993.

TRD-9319615 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: March 1, 1993

Request for Proposals

The Texas Product Commercialization Fund is a loan and loan guaranty funding program which provides working capital to assist companies taking an innovative, new technology-based product to the marketplace. The Department opened its third round of applications for the Product Commercialization Fund in March 1993 and will close the application period April 30, 1993. The Texas Department of Commerce is seeking assistance in evaluating the applications for this loan program.

I. Purpose. The Texas Department of Commerce (the Department) is seeking consultant services (from an individual, company, or organization) to review and rank applications/business plans made to the Texas Product Commercialization Fund. The offeror will provide a thorough, objective analysis of the applications to assist Department staff and the Product Commercialization Fund Advisory Board in making its recommendations for funding. The offeror will provide reviews for as many as 30 applicants. The offeror selected to prepare these reviews must demonstrate the necessary qualifications and experience and will be required to perform the various services listed in the "Scope of Services" section. The acceptance of an offer by the Department made in response to this request will be based on demonstrated competence, knowledge, and qualifications of the offeror and reasonableness of the offeror's proposed fee.

II. Scope of Services. The successful candidate will be required to provide the following: a thorough and objective written evaluation of each application based on each applicant's eligibility, managerial and financial soundness, technical viability of the product, market potential for the product, and ability to repay the loan. Evaluations should include discussion of the strengths and weaknesses of each application, as well as the economic impact the company and its product will have on Texas; 30-day turnaround on each review; a representative at the Product Commercialization Fund Advisory Board meeting to answer questions related to the offeror's review process and findings.

III. Requested Information.

Reviewer Qualifications. The offeror shall provide a description of the proposed review process and the scope of the review; resumes or other documentation of the qualifications of the reviewers; and a summary of the past experience of this organization in the areas of business plan review and assessment.

Fee Schedule. The offeror shall provide a per application fee schedule based on a 30-day turnaround time for all applications. The amount of the offeror's fee may not exceed \$10,000. The Proposer must disclose and identify on the face of the proposal whether: an officer, employee, or paid consultant of the Proposer is a member of the Commerce policy board, PCF advisory board, the executive director, or an employee of the Texas Department of Commerce, an officer, manager or paid consultant of the Proposer is married to a member of the Commerce policy board, PCF advisory board, the executive director, or an employee of the Texas Department of Commerce, a member of the Commerce policy board, PCF advisory board, the executive director, or an employee of the Texas Department of Commerce directly owns, controls, or has any interest in Proposer; and a member of the Commerce policy board, PCF advisory board, the executive director, or employee of the Texas Department of Commerce receives compensation from Proposer for lobbying activities as defined in the Texas Government Code, Chapter 305. If none of the previous apply, the Proposer shall so state in the proposal submitted in response to this RFP. PLEASE NOTE THAT A PROPOSAL MAY BE DISQUALIFIED BASED ON THE RESPONSE TO THE PREVIOUS ITEMS. Governmental entities are exempt from this requirement.

Prior State Employment. The offeror shall disclose whether any of the personnel whom the offeror proposes to use in performing the requested services have been employed by an agency of the State of Texas at any time during the two years preceding the date of submission of this proposal. If such employment has existed, the offeror shall disclose: the agency and the nature of the previous employment with such agency; the date of termination of the employment; and the annual rate of compensation for the employment at the time of termination. If such employment has not existed then the offeror shall so state in the proposal.

Please be advised that any responding organization which has clients that would present actual or potential conflicts of interest with the Department may be disqualified for participation on this solicitation. Should your organization have any clients or other relationships which appear, on the face, to present a possible conflict of interest, please list any and all such instances so that the Department may make a determination as to whether an actual or potential conflict exists.

IV. Terms of Agreement. The Department will retain the right to terminate the contract for any reason and at any time upon the payment of the then-earned fees and expenses.

V. Costs Incurred in Responding. All costs directly or indirectly related to preparation of a response to this request or any oral presentation required to supplement and/or clarify a proposal which may be required by the Department shall be the sole responsibility of and shall be borne by the offeror. In addition, costs associated with negotiating a contract with the Department (including a

scope of work and fee schedule) will be borne by the offeror.

VI. Release of Information. Information submitted relative to this request for proposal shall not be released by the Department during the proposed evaluation process or prior to contract award. All information submitted to and retained by the Department becomes public record and subject to disclosure under the Texas Open Records Act, unless an exception under such Act is applicable.

VII. Proprietary Information. If an organization does not desire proprietary information in the proposal to be disclosed under the Texas Open Records Act or otherwise, it is required to clearly identify (and segregate, if possible) all proprietary information in the proposal, which identification shall be submitted concurrently with the proposal. If such information is requested under the Texas Open Records Act, the organization will be notified and given an opportunity to present its position to the Texas Attorney General, who shall make the final determination. If the organization fails to clearly identify proprietary information, it agrees, by the submission of a proposal, that those sections shall be deemed non-proprietary and made available upon public request after the contract is awarded.

VIII. Other. Responses should be sent to: Annette Argall, Office of Advanced Technology, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, (512) 320-9561, Fax: (512) 320-9544.

Responses should be submitted no later than April 8, at 5 p.m.

Issued in Austin, Texas, on March 5, 1993.

TRD-9319616 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: March 1, 1993

Texas Education Agency Notice of Public Hearing

The State Board of Education Committee of the Whole will hold a public hearing to obtain public input on the development of the Update of the Master Plan for Career and Technical Education. The hearing will be held on Wednesday, March 10, 1993, beginning at 3:30 p.m. in Room 1-104 of the William B. Travis Building located at 1701 North Congress Avenue in Austin.

Those wishing to testify at the public hearing may register by calling the Division of Vocational and Applied Technology Education at (512) 463-9454 no later than 5 p.m. on Tuesday, March 9, 1993. Presenters will be assigned times consecutively as they call. Three minutes will be allowed for each presenter. Twenty-five copies of written testimony to be presented are requested at the time of the hearing.

Individuals who do not pre-register will be able to register on site the date of the hearing. If time permits, these individuals will be allowed to give testimony on a first come, first served basis following those who have pre-registered.

Additional information concerning this public hearing may be obtained from the Division of Vocational and Applied Technology Education, Texas Education Agency, 1701 North Congress Avenue, Austin at (512) 463-9454.

Issued in Austin, Texas, on February 24, 1993.

TRD-9319494 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 24, 1993

Employees Retirement System of Texas Consultant Contract Renewal Flexible Benefits Program

The Employees Retirement System of Texas (ERS) published a Request for Proposals in the December 7, 1992, issue of the *Texas Register* (15 TexReg 7051) to obtain a private consultant to assist the Employees Retirement System of Texas with a flexible benefits program. The consultant services consist of the following: Provide on-going support and technical assistance in the maintenance of a flexible benefits program for state employees.

The proposal selected was that of the Wyatt Company; Actuaries and Consultants; Suite 2400, Lock Box 58; 2121 San Jacinto Street; Dallas, Texas 75201. The initial contract was effective from February 1, 1991-January 31, 1992, with a total cost of \$30,000 and was renewed under the same terms and conditions for the period February 1, 1992-January 31, 1993. The Employees Retirement System of Texas has entered into a contract with the Wyatt Company under the same terms and conditions for a one-year period beginning on February 1, 1993, and ending on January 31, 1994.

Issued in Austin, Texas, on February 24, 1993.

TRD-9319475 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: February 24, 1993

Contract Award for Consulting Services

This award for consulting services is being filed pursuant to Texas Civil Statutes, Article 6252-11(c). The consultant will provide design and general construction administration services for the Employees Retirement System of Texas. The consultant is Burr Computer Environments, Inc.; 3355 West Alabama; Suite 600; Houston, Texas 77098. The total cost of the contract will not exceed \$32,000, and the term of the contract is February 8-August 31, 1993.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319550 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: February 25, 1993

Texas Employment Commission Consultant Contract Amendment

Pursuant to Texas Civil Statutes, Article 6252.11c, the Texas Employment Commission (TEC), announces its intent to amend the consultant contract it has with Andersen Consulting unless a better offer is received.

Background. The Texas Employment Commission proposes to amend the consultant contract it has with Andersen Consulting, which was originally entered into through a competitive bid process. Under this contract, Andersen Consulting is assisting the Texas Employment Commission with implementation of a comprehensive, integrated redesigned Unemployment Insurance Tax System. The UI Tax Redesign Project and contracts are nearing completion; however, the 73rd Texas Legislature recently passed Senate Bill (SB) 130 creating the Smart Jobs Fund related to the establishment and funding of employment training programs. Under the new law, TEC will be collecting an employment training investment assessment in conjunction with its ongoing collection and administration of the Unemployment Insurance Tax. Compliance with SB 130 will require TEC to modify about one quarter on the 725 computer programs developed as part of the UI Tax Redesign Project and to develop approximately 21 new tax programs.

Project Description. The scope of the UI Tax Redesign Project is being expanded to address the design and programming work needed to modify the Tax System in compliance with SB 130. All design, programming, testing, installation, and related implementation work must be completed on or before January 31, 1994. At that time, the system must be in full conformity with design specifications and must be operating properly in a production environment.

Contact Person. Additional information may be obtained by contacting Michael Fernandez, Texas Employment Commission, 101 East 15th Street, Austin, Texas 78778, (512) 463-3031.

Proposal Evaluation Criteria. Proposals will be evaluated on the basis of the following criteria: demonstrated in-depth knowledge and skill concerning the redesign, modification, and implementation of Unemployment Insurance Tax Systems; demonstrated ability to manage and complete this project by January 31, 1993; proposed project design; knowledge and experience of proposed staff; proposed project management plan; ability to begin design work by April 12, 1993.

Eligible Applicants. Eligible applicants shall be institutions of higher education, private-for-profit entities, and private-not-for-profit entities.

Consultant Information. In order to proceed with the design and implementation of SB 130 at the earliest possible date and based on services performed in the development of the UI Tax System, it is the intent of the TEC to award this contract amendment to Anderson Consulting unless a better offer is received.

Proposals must be either mailed or hand delivered to Michael Fernandez, Room 650, TEC Building, 15th and Congress Avenue, Austin, Texas 78778, and received no later than 5 p.m., March 19, 1993.

Issued in Austin, Texas, on March 1, 1993.

TRD-9319628 C. Ed Davis
Deputy Administrator for Legal Affairs
Texas Employment Commission

Filed: March 1, 1993

Notice

The Texas Work and Family Clearinghouse of the Texas Employment Commission invites written comment and testimony regarding the state School Child Care Services Fund. The Clearinghouse will take into consideration any comments received in preparing the Request for Proposals (RFP) for the next funding cycle. RFPs for the next funding cycle will be available in early April 1993. Written remarks should be received in the Clearinghouse office, 3520 Executive Center Drive, Travis Building, Room 209, Austin, Texas 78731, by 5 p.m. on Friday, March 19, 1993. Comments may also be faxed to (512) 502-3777.

Issued in Austin, Texas, on March 1, 1993.

TRD-9319629 C. Ed Davis
Deputy Administrator for Legal Affairs
Texas Employment Commission

Filed: March 1, 1993

Texas General Land Office Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the General Land Office announces the award of a contract for technical and professional assistance in the completion of a project for the development of documentation manuals for specified GLO software systems. The contract is denominated GLO Contract Number 92-188-R, Amendment Number 1.

The request for proposals to provide these services was published in the July 27, 1992, issue of the *Texas Register* (18 TexReg 717). Approval of the Governor's Budget Office was received February 11, 1993.

The consultant is to complete this software documentation project.

The contract has been awarded to Jerry Amundson doing business as Amundson and Associates (Consultant), 8140 Mopac Expressway North, Building 2, Suite 240, Austin, Texas 78759.

The amount of the contract is not to exceed \$17,000, including expenses, and the project shall be concluded no later than March 31, 1993.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319546 Garry Mauro
Commissioner
General Land Office

Filed: February 25, 1993

Correction of Error

The General Land Office adopted new 31 TAC §§15.1-15.10, concerning identification of critical dune areas, dune preservation, and the preservation and enhancement of public beach access. The rules appeared in the February 2, 1993, *Texas Register* (18 TexReg 661).

A correction of error notice was published in the February 26, 1993, *Texas Register* (18 TexReg 1305). Due to a typographical error by the *Texas Register*, in the second from the last paragraph of the correction notice, concerning §15.7(j), the two references to the Open Beaches Act

incorrectly cites "\$61.22". Both references should read "Open Beaches Act, §610.22."

◆ ◆ ◆
Texas Department of Health
Correction of Error

The Texas Department of Health adopted amendments to 25 TAC §141.15, concerning massage establishment registration and renewal. The rule appeared in the December 8, 1992, *Texas Register* (17 TexReg 8547).

A correction of error was published in the January 19, 1993, *Texas Register* (18 TexReg 376), which was itself inaccurate. The following will correct both the original publication and the correction notice.

Due to an error in the agency's submission (m)(1), subparagraph (J) was omitted. The correct language for subparagraph (J) should read as follows.

"(J) a registered massage therapy school in compliance with the Act."

◆ ◆ ◆
Enhanced Sexually Transmitted Disease
Accelerated Prevention Campaign
Request for Proposals

The Sexually Transmitted Disease (STD) Control Division invites public, governmental, and private non-profit entities to develop and submit proposals for an Enhanced STD Accelerated Prevention Campaign (APC). Enhanced STD APC activities are intended to: expand access to STD services through non-traditional collaboration; implement/evaluate community-based interventions to change sexual behavior within a community; assess and evaluate prevention impact; foster health department and university collaborations to identify program-relevant research needs. In addition, Enhanced STD APC proposals should: emphasize women, infants, and adolescents in disproportionately affected populations; address/take advantage of local opportunities/situations; target activities to a specific geographic area; 4) and focus on bacterial STDs.

This project has been authorized by the Public Health Service Act, §318(c) (42 United States Code, §247(c)), as amended, and by the Public Health Service Act, §318(b)(3) and (4). This is an authorizing law and does not appropriate any funds. This announcement is made prior to an appropriation of funds to allow applicants sufficient time to respond to the application due date.

The TDH will select from one to five proposed projects with budgets in the range of \$60,000 to \$300,000 per project for submission to the Centers for Disease Control and Prevention (CDC) for funding consideration. The CDC will make final funding decisions. Locally identified matching funds are required. For each \$1.00 of new resources, up to \$2.00 in federal assistance will be available. In Texas a total of no more than \$200,000 in federal funds requiring \$100,000 in matching funds for a total budget of \$300,000 will be available annually for these projects.

The budget period for proposed projects is January 1, 1994-December 31, 1994. It is expected that successful applicants may be funded through the remainder of the five-year project period (through December 31, 1998) depending on the availability of funds and documented

progress of the project(s).

Entities interested in submitting a proposal shall contact Lois I. Kantor, Assistant Director, STD Control Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7225 or (512) 458-7434 (FAX) for an application packet.

A conference for interested entities will be held in mid-March, 1993, to provide further information and specification prior to the acceptance of any written proposal(s).

Proposals must be submitted to the Texas Department of Health, STD Control Division no later than 5 p.m. (CDT), May 7, 1993.

Issued in Austin, Texas, on February 26, 1993.

TRD-9319586 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: February 26, 1993

◆ ◆ ◆
Notice of Emergency Cease and Desist
Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered James R. Moser, M.D., R.S.O., doing business as Commerce Station Family Clinic (registrant-R19623) of Crowley to cease and desist using any sources of radiation in his possession at this facility until entrance exposure limits for x-ray diagnostic procedures have been reduced to within regulatory limits. The bureau determined that the continued use of radiation sources at this facility constitutes an immediate threat to public health and safety. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to correct this violation and the methods to prevent its recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except Holidays).

Issued in Austin, Texas, on February 25, 1993.

TRD-9319526 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: February 25, 1993

◆ ◆ ◆
Notification Regarding the Elimination of
Medicaid Clients From CIDC
Coverage

Summary: In May 1992, the Texas Medicaid Program expanded medically necessary services and supplies to all Medicaid eligible clients under the age of 21. These services include nutritional supplements, incontinent supplies, disposable or expendable medical supplies, durable medical equipment, therapy, inpatient rehabilitation, and transportation.

CIDC has historically provided medical care to all eligible children with special health care needs, including Medicaid-eligible clients, who met CIDC eligibility criteria because Medicaid did not provide the services delineated in paragraph 1.

With the advent of these expanded medically necessary services (Medicaid-CCP) Comprehensive Care Program, CDC can no longer provide coverage because CDC would be supplementing Medicaid which is prohibited by CDC Rules. Effective June 1, 1993, CDC will no longer authorize or consider reimbursement for services provided to children with special health care needs who are Medicaid clients except under the following circumstances:

1. during the 60-day temporary eligibility period while the applicant applies for Medicaid eligibility;
2. if the client needs a service not provided by Medicaid; and
3. if the client is not eligible for Medicaid on the date of service.

In accordance with CDC Rules, the following entities will be notified:

1. CDC clients who are Medicaid-eligible;
2. CDC providers; and
3. Department of Human Services (Medicaid-CCP).

Issued in Austin, Texas, on February 25, 1993.

TRD-9319525 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: February 25, 1993

Request for Proposals for Breast and Cervical Cancer Control Public Information Campaign

Introduction. The professional services described in this notice are necessary to the functioning of the Texas Department of Health's programs. Payment for these services will be made from grant funds received from the federal government.

Description. The Texas Department of Health (TDH), Chronic Disease Prevention Division, invites proposals from advertising agencies for the creation, development, production, and delivery to TDH of a statewide media advertising campaign on breast and cervical cancer control. The campaign, funded by the Centers for Disease Control and Prevention, will include English and Spanish public service announcements for television and possibly other promotional materials using other media as selected by the contractor and agreed to by TDH. Contractor responsibilities will also include component packaging, placement strategy, and the identification of use/effectiveness evaluation methods.

Selection Procedure. Interested agencies can obtain proposal submission instructions from TDH (see "Contact and Deadlines" following). Evaluation criteria for proposals will include: experience in health related advertising; experience in working with Texas state government clients; demonstrated performance in the development of effective public service advertising; proposed process for developing the campaign; and budget allocation. Proposals will be scored by a panel of TDH and external reviewers. Personal interviews will not be included in the selection process unless deemed necessary to determine a clear winner.

Dates and Amount of Contract. The contract period will begin on or about April 1, 1993, and will end June 30, 1993. The total amount of this contract will not exceed

\$100,000. The contractor will be awarded renewal breast and cervical cancer awareness advertising contracts in 1994 and 1995, contingent on mutual agreement of TDH and the contractor, and availability of funds.

Contact and Deadlines. A request for proposal packet, with proposal submission instructions, may be obtained by contacting: Stephen Wright, Texas Department of Health, Chronic Disease Prevention Division, 1100 West 49th Street, Austin, Texas 78756-3199, or by calling (512) 458-7644. The proposals must have a legible postmark dated no later than March 23, 1993. Hand-delivered proposals must be delivered by 5 p.m., Tuesday, March 23, 1993, to the Texas Department of Health, Chronic Disease Prevention Division, 1100 West 49th Street, Building G, Room 408, Austin. Proposals postmarked or delivered after these deadlines will not be evaluated.

Issued in Austin, Texas, on March 1, 1993.

TRD-9319631 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 1, 1993

Texas Department of Human Services Public Notice

The Texas Department of Human Services has published a report describing the actual expenditures of Title XX Social Services Block Grant funds for fiscal year 1992. Free copies of the report are available to the public.

Contact Person: To obtain a copy of this report, write Burton Raiford, Commissioner, Texas Department of Human Services, W-619, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on March 2, 1993.

TRD-9319623 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: March 1, 1993

Public Notice Open Solicitation

Pursuant to the Human Resources Code, Title 2, Chapters 22 and 32, and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility in the county identified in the January 26, 1993, issue of the *Texas Register* (18 TexReg 498). That county is also listed in this public notice. Potential contractors desiring to construct a 90-bed nursing facility in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Institutional Programs Section, Mail Code W-519, P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5 p.m., April 5, 1993, the last day of the open solicitation period. Potential contractors will be allowed 90 days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors

must demonstrate an intent and ability to begin construction of a facility and to complete contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation. First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §19.2004(g) are not met. The signed agreement must also require the potential contractor to provide, within 10 working days after the date of selection, a surety bond or other financial guarantee acceptable to TDHS ensuring payment in the

event of default. If the 180-day deadline is not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are 10% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Texas Department of Health (TDH). Each application must be complete at the time of its receipt. TDHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Occupancy rates for identified threshold counties are listed below:

County Number	County Name	Number of Months Over	AUG	SEP	OCT	NOV	DEC	JAN
100	Hardin	4	90.0	91.0	88.8	90.7	90.2	85.3

Issued in Austin, Texas, on March 1, 1993.

TRD-9319622 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Filed: March 1, 1993

◆ ◆ ◆
Texas Department of Insurance
Open Meetings Clarification

In the February 26, 1993, issue of the *Texas Register* (17 TexReg 1295), the Texas Department of Insurance incorrectly submitted in error an open meeting notice stating that on Friday, February 26, 1993, at 9 a.m. the consideration of personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the commissioner of insurance or employees. (Article 6252-17, §2(g), concerning Executive Session.) Notice of the correct posting will appear in the open meeting notice of the March 2, 1993, issue of the *Texas Register*. The correct posting will read Consideration of personnel matters involving the evaluation of the commissioner of insurance or employees (Article 6252-17, §2(g)).

Issued in Austin, Texas, on February 25, 1993.

TRD-9319533 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: February 25, 1993

◆ ◆ ◆

Texas Department of Mental Health and Mental Retardation

Public Notice: Intended Use Plan

The Texas Department of Mental Health and Mental Retardation (the department) receives annual awards for the Projects for Assistance in Transition from Homelessness (PATH) program from the Center for Mental Health Services, Public Health Services, Department of Health and Human Services. The purpose of this funding is to provide mental health services to homeless persons in the larger urban areas of the state.

Funding for the PATH program began in federal fiscal year (FFY) 91. At that time, the Department selected PATH program sites based on competitive reviews of applications. In FFY 92, previously selected sites submitted continuation plans.

The department has received notification that \$1,654,000 of continuation funding is available for FFY 93. The department intends to award continuation funding to all existing PATH sites that submit acceptable continuation plans. PATH review teams include representation from consumer and family groups as well as the Texas Interagency Council for Services for the Homeless.

The following entities have been invited to submit PATH continuation plans for review: Mental Health Mental and Retardation Authority of Harris County (Houston); Dallas County Mental Health and Mental Retardation Center (Dallas); The Center for Health Care Services (San Antonio); The Life Management Center (El Paso); Austin-Travis County Mental Health and Mental Retardation Center (Austin); Tarrant County Mental Health and Mental Retardation Center (Fort Worth); Nueces County Community Mental Health and Mental Retardation Center (Corpus Christi); Texas Panhandle Mental Health Authority (Amarillo); Lubbock Regional Mental Health and Mental Retardation Center (Lubbock); and The Gulf Coast Center

(Galveston).

For further information, or a copy of the final application, contact Ann V. Denton, Coordinator, Housing and Residential Services, TXMHMR, P.O. Box 12668, Austin, Texas 78711-2668.

Issued in Austin, Texas, on February 26, 1993.

TRD-9319600 Ann K. Utley
 Chairman
 Texas Board of Mental Health and Mental
 Retardation

Filed: February 26, 1993

◆ ◆ ◆
Public Utility Commission of Texas
Notice of Application To Amend
Certificate of Convenience and
Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on February 11, 1993, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of El Paso Electric Company to amend Certificate of Convenience and Necessity for proposed transmission line within El Paso County, Docket Number 11795 before the Public Utility Commission of Texas.

The Application. In Docket Number 11795, El Paso Electric Company requests approval of its application to construct 1.1 miles of 115-kV transmission line El Paso County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319542 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: February 25, 1993

◆ ◆ ◆
Notices of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the City of Victoria, Victoria.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for the City of Victoria pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11786.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the

City of Victoria. The geographic service market for this specific service is the Victoria 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) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319481 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: February 24, 1993

◆ ◆ ◆
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 Tarrant County, Fort Worth.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Tarrant County pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11798.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Tarrant County. The geographic service market for this specific service is the Fort Worth 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) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319482 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: February 24, 1993

◆ ◆ ◆
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 Shell Oil Company, Houston.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Oil Company pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11809.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Oil Company. The geographic service market for this specific service is the Houston 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) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319483

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 24, 1993

◆ ◆ ◆

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 AT&T Microelectronics, Mesquite.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for AT&T Microelectronics pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11799.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for AT&T Microelectronics. The geographic service market for this specific service is the Mesquite 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) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319484

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 24, 1993

◆ ◆ ◆

Texas Low-Level Radioactive Waste Disposal Authority

Notice of Contract Award

Under the provisions of the Texas Health and Safety Code, Chapter 402, the Texas Low-Level Radioactive Waste Disposal Authority publishes this notice of a consulting services award for providing advice on the management of low-level radioactive waste operations, with specific attention to compliance with the rules and regulations of the Texas Department of Health and the Texas Water Commission.

The request for consultant proposal was published in the November 10, 1992, *Texas Register* (17 TexReg 7959).

The consultant will be responsible for reviewing and commenting on plans and procedures developed by the Authority staff in support of the licensing and operations process.

The consultant proposal contract was awarded to Hugh Bryant, 8106 Parkdale Drive, Austin, Texas 78758.

The total value of the contract is \$40,000. The contract period started on September 1, 1992, and will continue until August 31, 1993.

For additional information, contact Robert V. Avant, Jr., P.E., Deputy General Manager, Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319469

Lee H. Mathews
Deputy General Manager and General
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed: February 24, 1993

◆ ◆ ◆

Texas Water Commission Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Hertz Corporation-North Facility (TWC Facility Identification Number 31385) on February 17, 1993, assessing \$3,680 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2047.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319609

Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: February 26, 1993

◆ ◆ ◆

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Hertz Corporation-South Facility (TWC Facility Identification Number 31385) on February 17, 1993, assessing \$720 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2047.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319611

Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: February 26, 1993

◆ ◆ ◆

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Midtex Oil Company, Inc. (TWC Facility Identification Number 25888) on February 17, 1993, assessing \$71,200 in administrative penalties with \$36,200 deferred and foregone pending compliance.

Information concerning any aspect of this order may be obtained by contacting Jennifer Smith, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2059.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319607 Gloria A. Vasquez
 Chief Clerk
 Texas Water Commission

Filed: February 26, 1993

◆ ◆ ◆

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Nubro Corporation (SWR Number 39955) on February 17, 1993, assessing \$15,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Erich Birch, Staff Attorney, Texas

Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8030.

Issued in Austin, Texas, on February 25, 1993.

TRD-9319610 Gloria A. Vasquez
 Chief Clerk
 Texas Water Commission

Filed: February 26, 1993

◆ ◆ ◆

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Dan Roberts doing business as Dan Roberts Water System (Docket Number 9063-E) on February 8, 1993, assessing \$2,000 in administrative penalties.

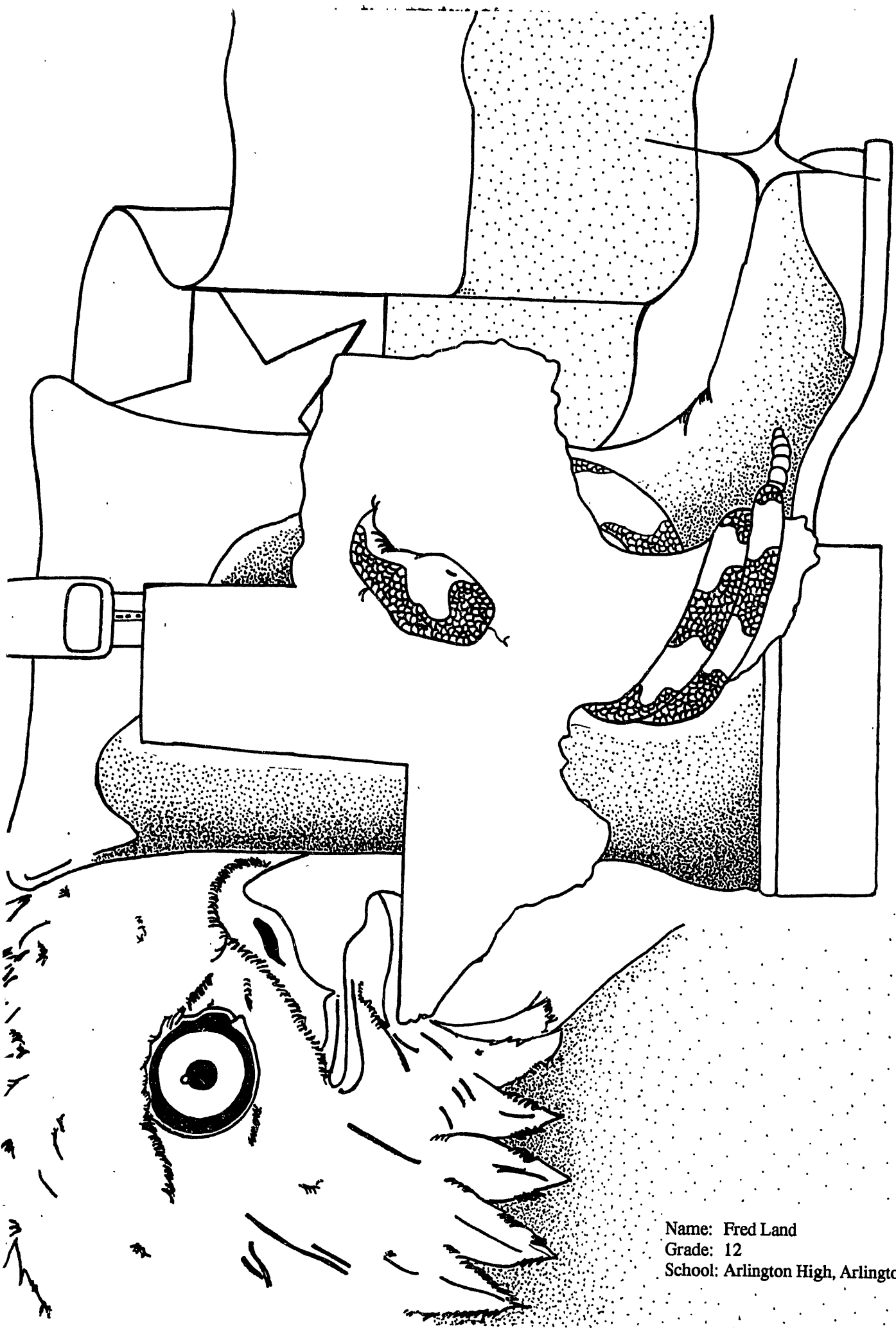
Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2047.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319519 Gloria A. Vasquez
 Notices Coordinator
 Texas Water Commission

Filed: February 25, 1993

◆ ◆ ◆



Name: Fred Land
Grade: 12
School: Arlington High, Arlington ISD

TAC Titles Affected

The following is a list of the administrative rules that were published in the February 1993 issues.

TITLE 1. ADMINISTRATION

Part II. Texas Ethics Commission

1 TAC §8.1.....1221

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§17.30-17.33997

4 TAC §17.31, §17.32.....998

Part III. Texas Feed and Fertilizer Control Service

4 TAC §65.24.....733

4 TAC §65.26.....733

4 TAC §65.31.....733

TITLE 7. BANKING AND SECURITIES Part VII. State Securities Board

7 TAC §109.3.....793

7 TAC §115.1.....835

7 TAC §115.4.....835

7 TAC §123.3.....793, 1310

7 TAC §124.1-124.6.....794

7 TAC §131.1, §131.2.....835

7 TAC §131.3, §131.4.....836

7 TAC §133.26.....798

7 TAC §133.27.....798

7 TAC §133.28.....799

7 TAC §139.4.....799

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Commu- nity Affairs

10 TAC §§49.1-49.13.....1089

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commis- sion

13 TAC §§3.1-3.10.....1267

13 TAC §§6.91-6.99.....1268

13 TAC §§7.71-7.79.....1271

Part IV. Texas Antiquities Committee

13 TAC §§41.3, 41.5, 41.17, 41.21.....643

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

16 TAC §23.23.....836

Part III. Texas Alcoholic Beverage Commission

16 TAC §35.31.....943

Part IV. Texas Department of Licensing and Regu- lation

16 TAC §60.67.....799

16 TAC §67.83.....800

Part VIII. Texas Racing Commission

16 TAC §313.22.....1125

16 TAC §313.112.....1125

16 TAC §313.405.....1125

16 TAC §313.501-313.508.....1126

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §5.211.....999

19 TAC §5.213.....999

19 TAC §21.57.....1000

Part II. Texas Education Agency

19 TAC §75.32.....1043

19 TAC §75.166.....1221

19 TAC §75.411	1222
19 TAC §75.412	1224
19 TAC §137.192, §137.193	1043
19 TAC §137.307	1043
19 TAC §141.481, §141.482	1225
19 TAC §145.1, §145.2	1225
19 TAC §145.21	1226
19 TAC §§145.21-145.24	1227
19 TAC §§145.41-145.48	1228
19 TAC §§149.1-149.3	1228
19 TAC §149.1, §149.2	1228
19 TAC §§149.21, 149.22, 149.24, 149.25	1229
19 TAC §§149.41-149.46	1231
19 TAC §149.71, §149.81	1235
19 TAC §149.91	1241
19 TAC §153.1	1241
19 TAC §169.1	1163

TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

22 TAC §51.17	943
---------------------	-----

Part V. Texas State Board of Dental Examiners

22 TAC §101.1	1128, 1161
22 TAC §109.173	1163
22 TAC §115.10	1164
22 TAC §163.9	1164

Part VI. Texas State Board of Registration for Professional Engineers

22 TAC §131.92	734
----------------------	-----

Part VIII. Texas Appraiser Licensing and Certification Board

22 TAC §153.9	789
22 TAC §153.17	789
22 TAC §153.19	790
22 TAC §153.20	791

Part IX. Texas State Board of Medical Examiners

22 TAC §§185.2, 185.9, 185.15	1129
-------------------------------------	------

Part XI. Board of Nurse Examiners

22 TAC §217.1, §217.6	769
-----------------------------	-----

Part XII. Board of Vocational Nurse Examiners

22 TAC §239.1	743
22 TAC §239.11	743
22 TAC §239.23, §239.24	744

Part XIII. Texas Board of Licensure for Nursing Home Administrators

22 TAC §§243.1-243.3	644
22 TAC §§243.1-243.5	644
22 TAC §245.1	646
22 TAC §253.1, §253.2	1025

Part XIX. Polygraph Examiners Board

22 TAC §391.3	647
---------------------	-----

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.4	1164
22 TAC §501.39	1165
22 TAC §501.40	1165
22 TAC §501.46	800
22 TAC §505.3	1165
22 TAC §505.10	1165
22 TAC §511.140	1165
22 TAC §511.141	1166
22 TAC §511.142	1166
22 TAC §511.171	1166
22 TAC §517.1	1166
22 TAC §§519.39, 519.40, 519.43	1166
22 TAC §523.5	1167
22 TAC §523.7	1167
22 TAC §523.21	1167

22 TAC §523.29.....	1167
22 TAC §523.30.....	1168
22 TAC §523.41.....	1168
22 TAC §523.42.....	1168
22 TAC §523.61.....	1168
22 TAC §523.62.....	1168
22 TAC §523.63.....	1169
22 TAC §523.64.....	1169
22 TAC §523.74.....	1169
22 TAC §§527.3-527.7	1274
22 TAC §528.1.....	1161

Part XXIII. Texas Real Estate Commission

22 TAC §535.71, §535.72.....	631
22 TAC §535.92.....	634

Part XXIV. Texas Board of Veterinary Medical Examiners

22 TAC §573.51.....	294, 299, 1169
22 TAC §575.23.....	1129

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §§13.41-13.44	647
25 TAC §98.7.....	648
25 TAC §98.23, §98.31.....	648
25 TAC §98.67.....	648
25 TAC §133.21, §133.29.....	649, 1103
25 TAC §145.111.....	902
25 TAC §§169.22-169.24, 169.26-169.31, 169.33.....	845
25 TAC §229.252.....	629, 661
25 TAC §§241.2, 241.4, 241.8-241.10, 241.13, 241.15, 241.16, 241.19, 241.21, 241.23, 241.25, 241.26, 241.29.....	845
25 TAC §277.1, §277.2.....	847
25 TAC §289.4.....	848
25 TAC §§289.21-289.31	848
25 TAC §§289.41-289.46	848
25 TAC §§289.61-289.68	848

25 TAC §§289.91-289.99.....	848
25 TAC §289.111	1241
25 TAC §289.113	1242
25 TAC §289.115	1242
25 TAC §289.116, §289.122	1243
25 TAC §289.121, §289.128	1244
25 TAC §289.124	1275
25 TAC §289.126	1244
25 TAC §289.127	1245
25 TAC §§295.101-295.109	849
25 TAC §§295.121-295.126	883
25 TAC §§295.141-295.148	883
25 TAC §§295.161-295.169	883

Part II. Texas Department of Mental Health and Mental Retardation

25 TAC §§404.41-404.50.....	941
25 TAC §§404.41-404.56.....	941
25 TAC §§404.81-404.87	941
25 TAC §§404.81-404.98.....	941

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

28 TAC §1.82-1.86.....	800
28 TAC §1.413	734, 741
28 TAC §5.3301	744
28 TAC §5.9302	1246
28 TAC §7.18	1276
28 TAC §7.62	1276

Part II. Texas Workers' Compensation Commission

28 TAC §134.700	941
-----------------------	-----

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

31 TAC §§15.1-15.10.....	661, 1305
31 TAC §§15.70-15.79	629

Part II. Texas Parks and Wildlife Department

31 TAC §59.2, §59.3 883
31 TAC §59.133 885
31 TAC §§65.3, 65.9, 65.13, 65.26, 65.27, 65.31, 65.40,
65.54, 65.62, 65.72, 65.78 1069
31 TAC §69.71 885

Part III. Texas Air Control Board

31 TAC §111.111 1000
31 TAC §§114.1, 114.5, 114.11 886
31 TAC §§116.1-116.6, 116.8-116.14 1130
31 TAC §§116.110, 116.111, 116.114-116.117.....1138

31 TAC §§116.120-116.126..... 1141
31 TAC §§116.130-116.134, 116.136, 116.137.....1142

31 TAC §§116.140-116.141, 116.143..... 1144
31 TAC §116.150, §116.151 1145
31 TAC §116.160-116.163..... 1145
31 TAC §§116.170, 116.174, 116.175 1146
31 TAC §116.211-116.213..... 1147
31 TAC §§116.310-116.314..... 1148
31 TAC §116.410-116.418..... 1151

Part IX. Texas Water Commission

31 TAC §290.50 1027
31 TAC §305.69, §305.70 802, 1001, 1025
31 TAC §§330.1170-330.1174..... 745
31 TAC §331.147 1282
31 TAC §334.481, §334.482 1108

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §7.304 707
34 TAC §7.305 707

Part II. Texas State Treasury Department

34 TAC §11.52 941

Part IV. Employees Retirement System of Texas

34 TAC §§83.1-83.11 731, 1289

Part V. Texas County and District Retirement System

34 TAC §101.1, §101.6.....1246
34 TAC §103.21247
34 TAC §105.1, §105.2.....1247
34 TAC §107.1, §107.3.....1248

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

37 TAC §§1.22, 1.23, 1.32, 1.34, 1.36.....1091
37 TAC §1.40.....1290
37 TAC §3.10.....634
37 TAC §16.93746
37 TAC §§31.1-31.8.....829
37 TAC §§31.1-31.11.....829
37 TAC §31.111107

Part III. Texas Youth Commission

37 TAC §91.61888

Part VI. Texas Department of Criminal Justice

37 TAC §§163.3, 163.5, 163.21, 163.23, 163.25, 163.31,
163.33, 163.35, 163.37, 163.39, 163.41, 163.43.....944
37 TAC §163.29.....957
37 TAC §163.31957

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

37 TAC §211.67746
37 TAC §§211.83, 211.98, 211.107.....746
37 TAC §217.10.....747

Part IX. Texas Commission on Jail Standards

37 TAC §253.1921
37 TAC §§259.214, 259.225, 259.229, 259.245-259.246,
259.249-259.250, 259.259-259.266957
37 TAC §263.83958
37 TAC §§297.1-297.10.....958
37 TAC §§297.1-297.13.....958
37 TAC §§301.1-301.13.....958

37 TAC §301.1, §301.2.....	959
37 TAC §§321.2, 321.6, 321.8, 321.12	959
37 TAC §§323.1-323.3, 323.5	959
37 TAC §325.6, §325.12.....	959

Part XI. Texas Juvenile Probation Commission

37 TAC §345.1, §345.2.....	1249
----------------------------	------

Part XIII. Texas Commission on Fire Protection

37 TAC §423.1.....	747
37 TAC §§423.205, 423.207, 423.209.....	748
37 TAC §§423.211, 423.213, 423.215.....	748
37 TAC §427.1.....	748
37 TAC §427.9, §427.11.....	748
37 TAC §§437.1, 437.3, 437.5.....	749
37 TAC §439.5, §439.17.....	749
37 TAC §441.5, §441.7.....	749
37 TAC §§485.1, 485.3, 485.5, 485.7	749

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §6.303.....	1152
40 TAC §10.1009.....	1027
40 TAC §10.3464.....	1028
40 TAC §11.103, §11.105.....	1154
40 TAC §§11.6003, 11.6004, 11.6007, 11.6008.....	960
40 TAC §11.6008, §11.6009.....	1154
40 TAC §12.3, §12.24.....	1155
40 TAC §12.103, §12.121.....	1156
40 TAC §12.205, §12.209.....	1156
40 TAC §12.305, §12.309.....	1157
40 TAC §12.405, §12.409.....	1158
40 TAC §15.100.....	888
40 TAC §15.201.....	736
40 TAC §15.305.....	736
40 TAC §15.442.....	888

40 TAC §15.455, §15.460	889
40 TAC §15.503	889
40 TAC §15.610	889
40 TAC §19.302	889
40 TAC §19.604	921
40 TAC §27.203	960
40 TAC §27.518	923
40 TAC §29.1126	1028
40 TAC §48.2102, §48.2103	962
40 TAC §48.3903	1170
40 TAC §50.2908	889
40 TAC §§72.201-72.210	924
40 TAC §§72.201-72.212	924
40 TAC §79.1801, §79.1802	1290
40 TAC §§79.1803-79.1806	1290
40 TAC §§79.1803-79.1807	1290

Part II. Texas Rehabilitation Commission

40 TAC §115.6	1158
---------------------	------

Part IV. Texas Commission for the Blind

40 TAC §167.3	962
---------------------	-----

Part VI. Texas Commission for the Deaf and Hearing Impaired

40 TAC §183.573	1290
-----------------------	------

Part IX. Texas Department on Aging

40 TAC §255.12	635, 641
40 TAC §262.1	1007
40 TAC §§267.1-267.12.....	1011
40 TAC §§267.1-267.9.....	1011
40 TAC §§269.1, 269.3, 269.5, 269.7	1019
40 TAC §269.1	1020
40 TAC §270.1	636
40 TAC §274.1	736
40 TAC §§276.1, 276.3, 276.5, 276.9, 276.11, 276.13, 276.15, 276.17	1022
40 TAC §276.1	1022

40 TAC §294.1 937

Part XVI. Interagency Council On Sex Offender Treatment

40 TAC §510.2, §510.3 1023

Part XIX. Texas Department of Protective and Regulatory Services

40 TAC §§720.24-720.67 1250

40 TAC §§720.25-720.60 1263

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

43 TAC §1.1, §1.2 890

43 TAC §§1.3-1.5 890

43 TAC §§1.6-1.10 891

43 TAC §1.71 750

43 TAC §1.72 750

43 TAC §1.409 833

43 TAC §§4.10, 4.12-4.14 750

43 TAC §§11.100-11.107 751

43 TAC §17.54 739

Part IV. Texas High-Speed Rail Authority

43 TAC §81.170 756

1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Friday, January 1	Monday, December 28	Tuesday, December 29
2 Tuesday, January 5	Wednesday, December 30	Thursday, December 31
3 Friday, January 8	Monday, January 4	Tuesday, January 5
4 Tuesday, January 12	Wednesday, January 6	Thursday, January 7
5 Friday, January 15	Monday, January 11	Tuesday, January 12
6 Tuesday, January 19	Wednesday, January 13	Thursday, January 14
Friday, January 22	1992 ANNUAL INDEX	
7 Tuesday, January 26	Wednesday, January 20	Thursday, January 21
8 Friday, January 29	Monday, January 25	Tuesday, January 26
9 Tuesday, February 2	Wednesday, January 27	Thursday, January 28
10 Friday, February 5	Monday, February 1	Tuesday, February 2
11 Tuesday, February 9	Wednesday, February 3	Thursday, February 4
12 Friday, February 12	Monday, February 8	Tuesday, February 9
13 Tuesday, February 16	Wednesday, February 10	Thursday, February 11
14 *Friday, February 19	Friday, February 12	Tuesday, February 16
15 Tuesday, February 23	Wednesday, February 17	Thursday, February 18
16 Friday, February 26	Monday, February 22	Tuesday, February 23
17 Tuesday, March 2	Wednesday, February 24	Thursday, February 25
18 Friday, March 5	Monday, March 1	Tuesday, March 2
19 Tuesday, March 9	Wednesday, March 3	Thursday, March 4
20 Friday, March 12	Monday, March 8	Tuesday, March 9
21 Tuesday, March 16	Wednesday, March 10	Thursday, March 11
22 Friday, March 19	Monday, March 15	Tuesday, March 16
23 Tuesday, March 23	Wednesday, March 17	Thursday, March 18
24 Friday, March 26	Monday, March 22	Tuesday, March 23
25 Tuesday, March 30	Wednesday, March 24	Thursday, March 25
26 Friday, April 2	Monday, March 29	Tuesday, March 30
27 Tuesday, April 6	Wednesday, March 31	Thursday, April 1
28 Friday, April 9	Monday, April 5	Tuesday, April 6
29 Tuesday, April 13	Wednesday, April 7	Thursday, April 8
Friday, April 16	FIRST QUARTERLY INDEX	
30 Tuesday, April 20	Wednesday, April 14	Thursday, April 15

31 Friday, April 23	Monday, April 19	Tuesday, April 20
32 Tuesday, April 27	Wednesday, April 21	Thursday, April 22
33 Friday, April 30	Monday, April 26	Tuesday, April 27
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19
65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7

70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

Change of Address

(Please print)

Back Issues Requested

(Please specify dates)



YES, I want to learn about the latest changes in Texas regulations that may affect the daily operation of my business. Please begin my subscription to the *Texas Register* today.

Name

Organization

Address

City, ST Zip

I would like my subscription to be the printed electronic version.

I'm enclosing payment for 1 year 6 months 7 week trial

7 week trial subscription not available for electronic subscriptions.

Bill me for 1 year 6 months

Cost of a subscription is \$90 yearly or \$70 for six months for the electronic version. Cost for the printed version is \$95 yearly or \$75 for six months. Trial subscriptions cost \$14. Please make checks payable to the Secretary of State. Subscription fees will not be refunded. Do not use this form to renew subscriptions. Return to *Texas Register*, P.O. Box 13824 Austin, TX 78711-3824. For more information, please call (512) 463-5561.

 Second Class Postage
PAID
 Austin, Texas
 and additional entry offices

75365212 INTER-AGENCY
 TEXAS STATE LIBRARY
 PUBLICATIONS CLEARINGHOUSE 307
 LIBRARY AND ARCHIVES BLDG
 AUSTIN TX 78711