

Texas Register

Volume 18, Number 26, April 2, 1993

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Texas Register



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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 Christer

Documents Section
Supervisor
Patty Webster

Document Editors
Janene Allen
Lisa Martin

Open Meetings Clerk
Jamie Alworth

Production Section
Supervisor
Ann Franklin

Production Editors/
Typographers
Carla Carter
Janice Rhea
Mimi Sanchez

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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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

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

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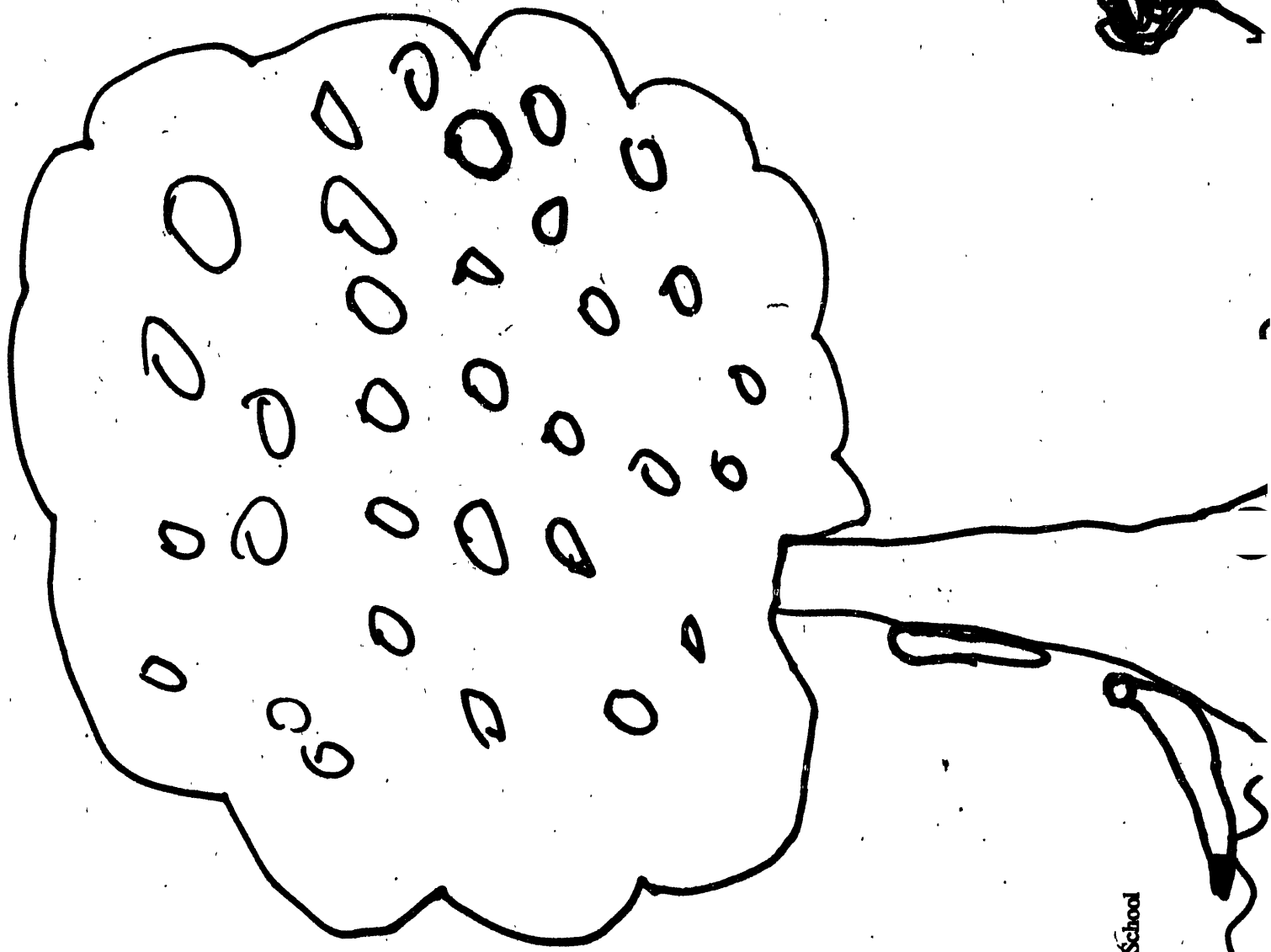
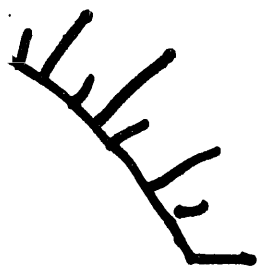
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Name: Lyndsey Wright
Grade: 1
School: Buda Primary Elementary School



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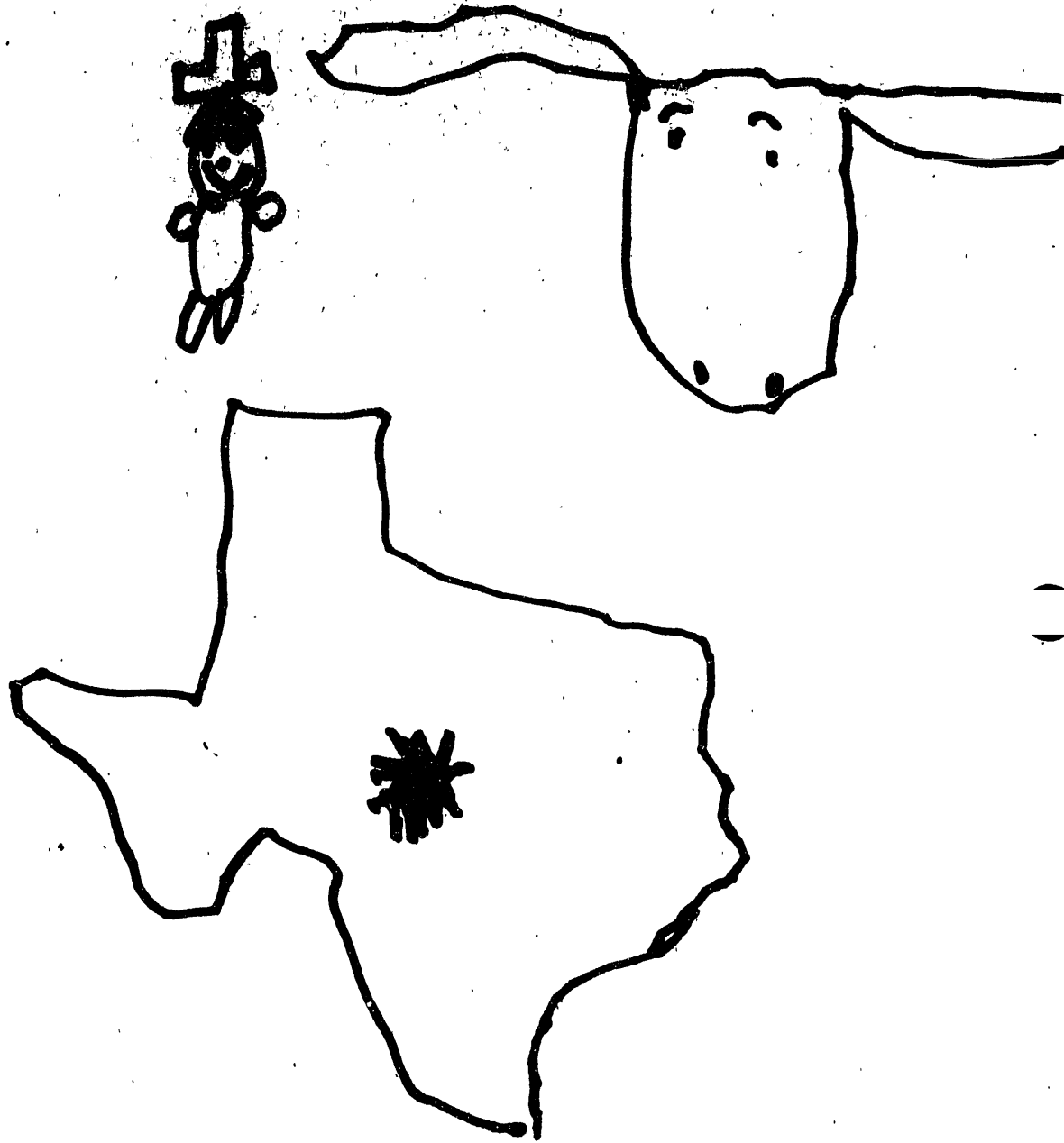
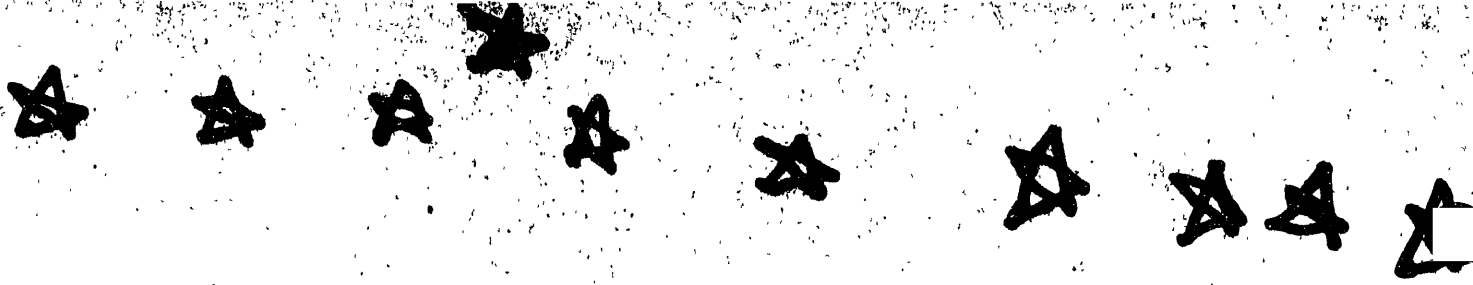
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Name: Shawn Billings
Grade: 1
School: Buda Primary Elementary School



Name: James Sutton

Grade: 1

School: Buda Primary Elementary School





Name: Matt McKee

Grade: 1

School: Buda Primary Elementary School

Mr. Kopp, IA

The Governor

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

Appointments Made March 22, 1993

To be Executive Director of the Texas Department of Commerce for a term to expire February 1, 1995: Cathy Bonner, 22 Margranita Crescent, Austin, Texas 78703. Ms. Bonner is being reappointed.

To be a member of the Texas Parks and Wildlife Commission for a term to expire February 1, 1999: The Honorable William P. Hobby, P.O. Box 326, Houston, Texas 77001. Governor Hobby will be replacing Charles D. Nash, Jr. of San Marcos, whose term expired.

To be a member of the Texas Parks and Wildlife Commission for a term to expire February 1, 1999: John Raymond (Ray) Clyme, Jr., 2019 Berkley Drive, Wichita Falls, Texas 76308. Mr. Clymer will be replacing Henry C. Beck III of Dallas, whose term expired.

To be a member of the Texas Parks and Wildlife Commission for a term to expire February 1, 1999: Mickey Ruth Fulwiler Burleson, Route 1, Box 214, Temple, Texas 76501. Ms. Burleson will be replacing Beatrice Carr Pickens of Amarillo, whose term expired.

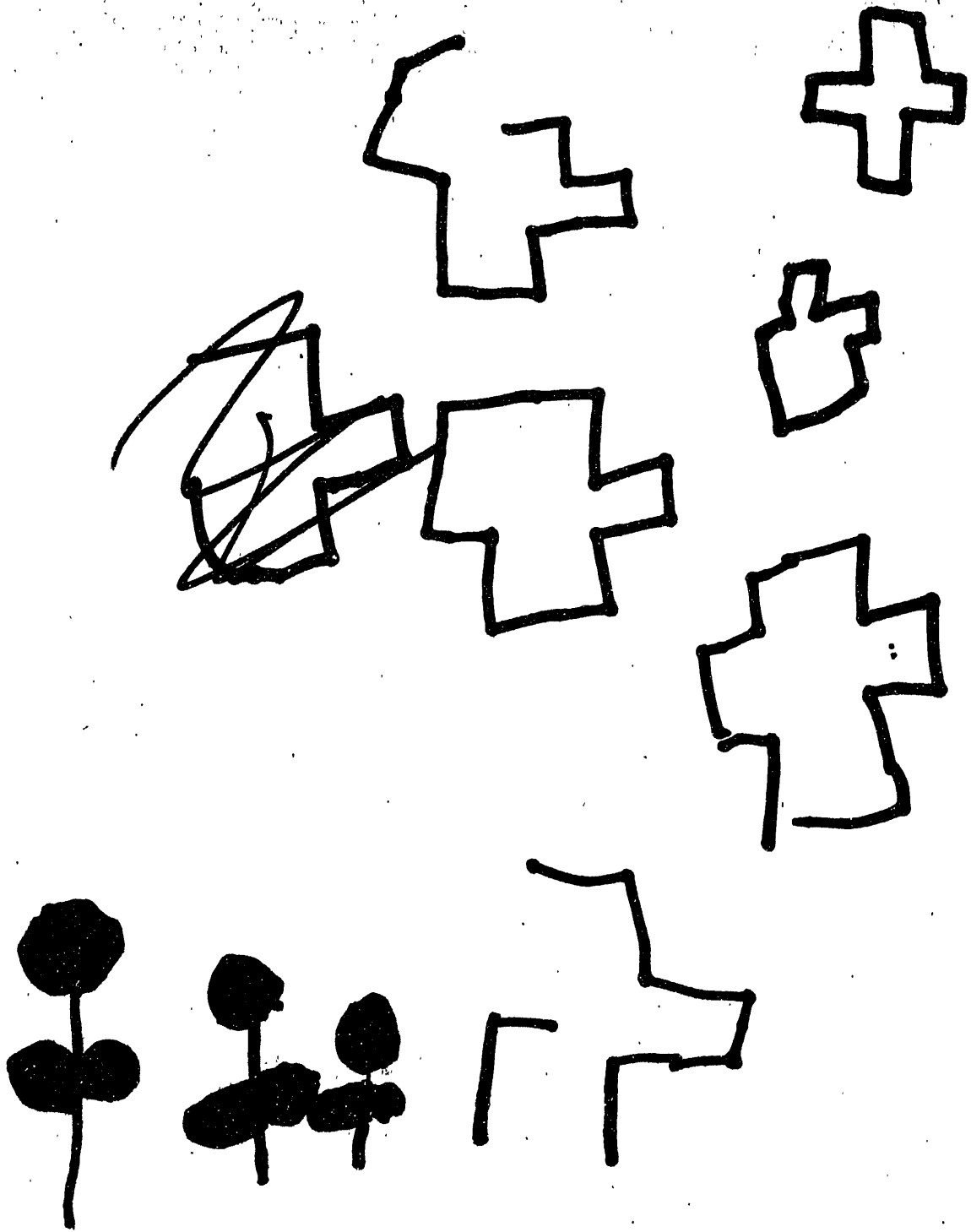
To be a member of the Texas National Research Laboratory Commission for a term to expire February 1, 1997: El Franco Lee, 3602 Crandon, Houston, Texas 77026. Commissioner Lee will be filling the unexpired term of Martha E. Smiley of Austin, who resigned.

Issued in Austin, Texas on March 23, 1993.

TRD-8320797

Ann W. Richards
Governor of Texas





Name: Crystal Berthiaume

Grade: 1

School: Buda Primary Elementary School

The Governor

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

Executive Order

AWR 93-7

NEW DIRECTIONS FOR STATE CONTRACTING: PROMOTING GREATER USE OF HISTORICALLY UNDERUTILIZED BUSINESSES

WHEREAS, state agencies purchase billions of dollars worth of products and services annually; and

WHEREAS, the economic well-being of Texas is dependent upon the financial health of small businesses in the state; and

WHEREAS, the following state laws support state purchasing from small businesses in general, and from women-owned and minority-owned businesses in particular: Article 601b, §§3.10(b) and 5.36, Vernon's Texas Civil Statutes (enacted 1991); Article 6669c, Vernon's Texas Civil Statutes (enacted 1991); Government Code, §481.101, et seq (amended 1991); Government Code, §493.012 (enacted 1991); and Article V, §106 of the Appropriations Act, H. B. 1, 72nd Legislature, First Called Session (enacted 1991); and

WHEREAS, reports to the 71st and 72nd Legislatures by special interim committees of the House of Representatives and Senate of the State of Texas, respectively, have highlighted deficiencies in the state's contracting practices regarding such businesses;

NOW THEREFORE, pursuant to the authority vested in me, I, Ann W. Richards, Governor of the State of Texas, do hereby direct all state agencies to implement the policies and practices set forth in this Executive Order in order to maximize contracting opportunities for women-owned and minority-owned businesses.

PURPOSE AND OBJECTIVES

The purpose and objectives of this order are to: strengthen the state's commitment to provide contracting opportunities for women-owned and minority-owned businesses; redress past contracting discrimination where it may be uncovered; ensure that state tax dollars do not benefit contractors that discriminate; and ensure that state procurement practices conform with the decision by the U.S. Supreme Court (*City of Richmond v. J.A. Croson Company*) that imposes new limits on state-run affirmative action programs.

I.

Contracting Goal

In furtherance of Article 601b, §3.10(b), Vernon's Texas Civil Statutes, the General Services Commission is directed to make a good faith effort to attain a goal that women-owned and minority-owned businesses receive at least ten percent of the dollar value of each agency's contracting awards, including awards made with local funds. All state agencies are directed to assist the General Services Commission in effort. If an agency has established a goal higher than ten percent, the General Services Commission is directed to assist the agency in achieving the higher goal.

II.

Improve Procurement Practices

In order to maximize contracting opportunities for women-owned and minority-owned businesses, agencies are directed to improve their procurement practices as follows.

A. All state agencies are directed to:

1. Examine bid specifications to ensure that women-owned and minority-owned businesses are not placed needlessly in a competitive disadvantage (for example, if state statutes permit, performance bond requirements should be reduced or eliminated if they are determined to be unreasonable);

2. Develop large contract projects in such a way that sub-parts of the projects are of a size that increases opportunities for woman-owned and minority-owned businesses;

3. Ensure that all employees with procurement responsibilities comply with both "the letter and the spirit" of this order;

4. Participate in new or existing programs (such as "Texas Marketplace" at the Department of Commerce) that consolidate information from different agencies regarding upcoming contracting opportunities and allow potential bidders from around the state to discover upcoming contracting opportunities;

5. Conduct "informational meeting" at the agency's procurement office for all potential bidders, and especially for women-owned and minority-owned businesses, in order to reduce the confusion that potential bidders may have about the agency's general procurement process;

6. Make available to all potential bidders information relating to previously successful bids (to the extent such information is public under the Open Records Act);

7. Participate in multi-agency efforts directed by the General Services Commission to develop and implement high-profile outreach programs aimed at women-owned and minority-owned businesses, which may include videotaped informational "brochures" and public service announcements; and

8. If requested by the General Services Commission, designate staff to work with the General Services Commission and other agencies to cooperatively identify women-owned and minority-owned businesses.

B. The General Services Commission is directed to develop a training program to help agencies improve procurement practices in accordance with this order. The Commission shall evaluate any agency that fails to improve, and may take appropriate remedial action with respect to such agencies, including withdrawal of delegated purchasing authority.

III.

Improve Certification Program and Data Collection Process

Current state law provides that both the General Services Commission and the Department of Commerce have responsibility for implementing a certification program for women-owned and minority-owned businesses, and collecting relevant data. These two agencies are directed to continue their efforts to develop a single certification program and data collection process for the state. All state agencies are directed to cooperate fully with these efforts. In furtherance of Article 601b, §1.03(a), Vernon's Texas Civil Statutes, all businesses already certified by municipal programs are automatically certified by the state.

IV.

Task Force on Discrimination in Contracting

The state has a fundamental obligation to redress contracting discrimination by the state in those areas where it may be uncovered.

A. Therefore, in order to investigate whether discrimination may have occurred, I hereby create a Task Force on Discrimination in Contracting, to be located within the General Services Commission.

B. The membership of the Task Force shall consist of five persons, as follows: three public members (with one each appointed by the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives), the Executive Director of the Texas Department of Commerce, and the Executive Director of the General Services Commission. The Executive Director of the General Services Commission shall serve as Chair of the Task Force.

C. A member of the Task Force is not entitled to compensation but is entitled to reimbursement for travel expenses, as provided for members of state boards and commissions in the General Appropriations Act, incurred in performing duties of the Task Force.

D. The General Services Commission shall provide staff assistance for the Task Force, and shall provide funding as appropriate for Task Force operations.

E. The Task Force shall request legal assistance from the Attorney General. The Task Force shall seek input from a wide variety of sources in state government and the private sector, including representatives from the public universities in Texas and representatives from the largest state agencies.

F. The duties of the Task Force shall include the following:

1. By February 1, 1994, complete an analysis of the state's historic performance with respect to contracting with women-owned and minority-owned businesses. This analysis must take into account the disparity study (or studies) that may be conducted by the Comptroller and/or other agencies designated by the legislature; if the legislature does not designate an agency to conduct a state-wide disparity study, then the Task Force shall conduct its own;

2. Determine whether there are grounds for a reasonable suspicion that contracting discrimination (whether intentional or inadvertent) has occurred; and

3. If so, recommend an appropriate remedial program, which may include specific percentage targets for contracting with women-owned and minority-owned businesses.

G. The General Services Commission shall review the findings and recommendations of the Task Force. If the Task Force has determined that there are grounds for a reasonable suspicion that contracting discrimination has occurred, the General Services Commission shall adopt and implement an appropriate remedial program, which may include specific percentage targets for contracting with women-owned and minority-owned businesses.

This Executive Order shall be effective immediately and shall remain in full force and effect until amended, modified, or rescinded by the Governor.

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

TRD-9320816

Ann W. Richards
Governor of Texas



Emergency Sections

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

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

(NOTE: The *Texas Register* omitted the second page of the emergency section in the March 30, 1993 issue. It is being printed in its entirety)

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §98.104, §98.105

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

The amendments expand coverage of the program to include atovaquone for eligible participants and adds language to make the two sections uniform. Atovaquone will be used as an oral treatment for acute mild to moderate *Pneumocystis carinii* Pneumonia (PCP) in patients who are intolerant to trimethoprim-sulfamethoxazole (SMZ-TMP) to reduce the hospitalization and decline of the general health of the HIV infected persons on this program. These amendments are being proposed for permanent adoption in this issue of the *Texas Register*.

The amendments are adopted on an emergency basis in order to expeditiously provide medications to HIV infected individuals. It is imperative to address this serious and imminent health condition by providing approved medications as soon as possible. Also these amendments are proposed for permanent adoption in this issue of the *Texas Register*.

The amendments are adopted on an emer-

gency basis under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health; and Texas Civil Statutes, Article 6252-13a, §5, which provide the Board with authority to adopt rules on an emergency basis.

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

(1) [(a)] Zidovudine capsules must be provided in increments of 100 not to exceed 400 capsules per month. Zidovudine syrup must be provided in eight ounce bottles.

(2)[(b)] Pentamidine for inhalation solution must be provided in one 300 mg. vial per month.

(3)[(c)] Sulfamethoxazole-trimethoprim (DS) tablets must be provided in increments of 100 tablets for a maximum of 200 per month. Sulfamethoxazole-trimethoprim suspension must be provided in bottles of 480 ml.

(4)[(d)] Didanosine tablets must be provided in increments of 60 tablets not to exceed 120 tablets per month.

(5)[(e)] Fluconazole must be provided in increments of 30 tablets not to exceed 120 tablets in three months.

(6)[(f)] Erythropoietin is provided through the Texas HIV Medication Program for children younger than 18 years of age. Adults and children that meet the financial and drug specific criteria will be eligible to receive this drug under the Ortho Biotech program.

(7)[(g)] Immune Globulin Intravenous (Human) will be provided in 2.5 and 5 gm. vials.

(8)[(h)] Texas HIV Medication Program will reimburse the Tuberculosis Elimination Division for the following listed drugs used to treat atypical mycobacterial infections in individuals that are HIV infected:

- (A)[(1)] Amikacin-1 g vial;
- (B)[(2)] Capreomycin-1 g vial;
- (C)[(3)] Ciprofloxacin-750 mg. tablets;
- (D)[(4)] Cycloserine-250 mg. capsules;
- (E)[(5)] Ethambutol-100 mg. tablets;
- (F)[(6)] Ethambutol-400 mg. tablets;
- (G)[(7)] Ethionamide-250 mg. tablets;
- (H)[(8)] Isoniazid (INH) syrup;
- (I)[(9)] Isoniazid (INH)-100 mg. tablets;
- (J)[(10)] Isoniazid (INH)-300 mg. tablets;
- (K)[(11)] Kanamycin-1 g vial;
- (L)[(12)] Pyrazinamide-500 mg. tablets;
- (M)[(13)] Pyridoxine (Vit.B-6)-50 mg. tablets;
- (N)[(14)] Rifampin-300 mg./Isoniazid (INH) 150 mg. capsules;
- (O)[(15)] Rifampin-300 mg. capsules;
- (P)[(16)] Sodium P.A.S. tablets; and
- (Q)[(17)] Streptomycin-5 g.

(9)(i) Acyclovir capsules must be provided in increments of 100, not to exceed 200 per month. Acyclovir suspension must be provided in 473 ml. bottles of 200 mg./ml., not to exceed two bottles per month. Acyclovir powder for injection must be provided in 500 mg. vials, not to exceed 2-10 ml. vials per month.

(10)(j) Zalcitabine tablets must be provided in increments of 100 not to exceed 100 tablets per month.

(11)(k) IV Pentamidine must be provided in 300 mg. vials not to exceed 14 vials per course of therapy (one vial per day for 14 days).

(12)(l) Interferon-Alpha must be provided in commercially available vials not to exceed 450 million units [50 million unit vials not to exceed nine] per month.

(13)(m) Amphotericin-B must be provided in 50 mg. vials not to exceed 40 per month.

(14) Atovaquone must be provided in increments of 200 tablets not to exceed 200 tablets per 21-day treatment therapy following each diagnosis.

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

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

(10) Interferon-Alpha for the treatment of disseminated Kaposi's sarcoma in HIV infected persons with T-cell counts over 500. The total amount to be expended on this drug is \$122,600. The requesting physician must complete a form to be returned to the program which will allow the program to evaluate the benefits of providing this medication; [and]

(11) Amphotericin-B for the treatment of patients with progressive, and potentially fatal disseminated fungal infections. The total amount to be expended on

this drug is \$46,200. The requesting physician must complete a form to be returned to the program which will allow the program to evaluate the benefits of providing this medication; and [.]

(12) Atovaquone for the oral treatment of acute mild to moderate *Pneumocystis carinii* Pneumonia (PCP) in patients who are intolerant to trimethoprim-sulfamethoxazole (TMP-SMX).

Issued in Austin, Texas, on March 23, 1993.

TRD-9320724

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

Effective date: March 23, 1993

Expiration date: July 21, 1993

For further information, please call: (512) 458-7500

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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 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 175. Schedule of Fees and Penalties

• 22 TAC §175.1

The Texas State Board of Medical Examiners proposes an amendment to §175.1, concerning fees. The proposed amendment will allow the agency to collect fees for processing visiting professor and teaching fellow permits.

Ivan Hurwitz, Director of Licensure and Information Services, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated loss of increase in revenue of \$15,120 in 1994-1998.

Pat Wood, Secretary to the Executive Director, 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 allow the agency to collect fees to offset the costs involved in processing the permits. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be payment of the permit fee. The fee for processing a visiting professor permit will be \$10/month; and for the teaching fellow permit, \$92/annum.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

§175.1. Fees. The board shall charge the following fees:

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

(15) physician assistant registration—\$75 per annum;[.]

(16) visiting professor permit—\$10 per month;

(17) teaching fellow permit—\$92 per annum.

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 18, 1993.

TRD-9320841

Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: May 3, 1993

For further information, please call: (512) 834-4502

Chapter 187. Procedure

Subchapter B. Prehearing

• 22 TAC §187.24

The Texas State Board of Medical Examiners proposes an amendment to §187.24, concerning the informal disposition of allegations made against physicians. The proposed changes will clarify the informal settlement conference procedures and promote the expeditious resolution of complaints.

Pat Wood, Secretary to the Executive Director, 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.

Ms. Wood, 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 resolution of complaints in an expeditious manner. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later time.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its

own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

§187.24. Informal Disposition. Pursuant to the Act, §4.04(b) and the Administrative Procedure and Texas Register Act, §13(e), informal disposition of any complaint or matter relating to this Act or of any contested case may be made by stipulation, agreed settlement, consent, order, or default. Such informal dispositions will facilitate the expeditious change or correction of medical practice patterns.

(1) (No change.)

(2) The following procedure shall be followed in informal settlement conferences.

(A) (No change.)

(B) The board will provide the licensee with written notice of the time, date, and place of the settlement conference. Such notification shall inform the licensee of the nature of the alleged violation, that the licensee may be represented by legal counsel or by a representative of his or her choice, that the licensee may offer the testimony of witnesses, that the board will be represented by one or more of its members or a district review committee and by staff legal counsel, that the licensee's attendance and participation is voluntary, and that the licensee may request in writing that the matter be considered according to procedures described in Subchapter C of this chapter (relating to Hearings). A copy of the board's rules concerning informal disposition of cases shall be enclosed with the notice of the settlement conference. [Notice of the settlement conference, with enclosures, shall be sent by certified mail, return receipt requested, to the current address of the licensee on file with the board.]

(C) (No change.)

(D) The settlement conference shall be informal and will not follow the procedure established in this chapter for contested cases. At the discretion of the board's representative(s), the [The] licensee, the licensee's attorney or repre-

sentative, and representatives of the board and board staff may question witnesses, make relevant statements, present affidavits, letters, reports, or statements of persons not in attendance, and may present such other evidence as may be appropriate.

(E) The board's representative(s) may call upon the board's attorney at any time for assistance in conducting the settlement conference. The board's representative may question any witness, and shall afford each participant in the settlement conference the opportunity to make such statements as are material and relevant.

(F) The board's representative(s) shall prohibit or limit access to the board's investigative file by the licensee, the licensee's attorney or representative, and by the complainant.

(G) At the discretion of the [The] board's representative(s), [may, at his or her discretion, direct that] a mechanical or electronic [tape] recording may be made of none or all of the informal settlement conference.

(H) (No change.)

(I) At the conclusion of the settlement conference, the board's representative may make recommendations to the licensee for resolution of the issues. Such recommendations may include any disciplinary actions authorized by the Act and such other reasonable restrictions or remedial actions in the public interest. These recommendations may be subsequently modified by the board's representative(s) or staff based on new information, a change of circumstance, or to expedite a resolution in the interest of protecting the public. The board representative may also conclude that the board lacks jurisdiction or that a violation of the Act or the board's rules has not been established, and may recommend [order] that the investigation be closed or referred for further investigation. These recommendations may be adopted, modified, or rejected by the duly convened board or through the duly authorized actions of the board's Disciplinary Process Review Committee.

(J) The licensee may either accept or reject the settlement recommendations proposed by the board representative. If the licensee accepts the recommendations, the licensee shall execute the settlement agreement in the form of an agreed order or affidavit as soon thereafter as is practicable. If the licensee rejects the pro-

posed agreement, the matter shall be referred to the board's staff [secretary-treasurer or executive director] for appropriate disposition as directed by the board's representatives or the Disciplinary Process Review Committee. The secretary-treasurer or executive director may also schedule the matter for a hearing as described in Subchapter C of this chapter (relating to Hearings).

(K) Following acceptance and execution by the licensee of the settlement agreement, said agreement shall be submitted to the [secretary-treasurer or executive director of the] board for approval.

[(L) If the secretary-treasurer or executive director approves the proposed settlement agreement, the licensee and the complainant shall be so notified.

[(M) If the secretary-treasurer or executive director declines to approve any part or all of the proposed settlement agreement, the matter may be referred back to the board's representative and to the licensee for additional discussion, if appropriate. The secretary-treasurer or executive director may also schedule the matter for a hearing as described in Subchapter C of this chapter, concerning hearings.]

(3) The following relate to consideration by the board.

[(A) If the secretary-treasurer or executive director approves the proposed settlement agreement, he or she shall report said approval at the next meeting of the board as a recommendation for approval by the board.]

(A)[(B)] Upon an affirmative majority vote, the board shall enter an order approving the proposed settlement agreement. Said order shall bear the signature of the president of the board or of the officer presiding at such meeting and shall be included in the minutes of the board.

(B)[(C)] If the board does not approve a proposed settlement agreement, the licensee shall be so informed and the [The] matter shall [then] be referred to the board staff [secretary-treasurer or executive director] for [consideration of other] appropriate action to include dismissal, closure, further negotiation, further investigation, an additional informal settlement conference or a hearing.

(C) To promote the expeditious resolution of any complaint or matter relating to the Act or of any contested case, with the approval of the executive

director, a member of the Executive Committee, or the Disciplinary Process Review Committee, board staff may present a proposed settlement agreement to the board for consideration and acceptance without conducting an informal settlement conference. If the board does not approve such a proposed settlement agreement, the licensee shall be so informed and the matter shall be referred to the board staff for appropriate action to include dismissal, closure, further negotiation, further investigation, an informal settlement conference or a hearing.

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 18, 1993.

TRD-9320840

Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: May 3, 1993

For further information, please call: (512) 834-4502

◆ ◆ ◆
Part XXII. Texas State
Board of Public
Accountancy

Chapter 501. Professional
Conduct

• 22 TAC §501.11

The Texas State Board of Public Accountancy proposes an amendment to §501.11 concerning independence. The amendment adds an additional situation of impaired independence which is necessary to define close relatives and situations in which the involvement of a close relative would impair independence.

William Treacy, Executive Director, 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. Treacy 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 insure that audit services will not be compromised by a certificate or registration holder's relationship with a close relative who is involved with the client. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1 §6(a), which pro-

vide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to independence and the impairment thereof.

§501.11. Independence.

(a) A certificate or registration holder who is performing an engagement in which the certificate or registration holder will issue a report on financial statements of any client (other than a report in which lack of independence is disclosed) must be independent with respect to the client in fact and in appearance.

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

(e) A certificate or registration holder's independence may be impaired by a close relative's association with a client. Close relatives are defined as spouses and dependent persons, whether or not related, and defined as dependent and non-dependent children, grandchildren, step-children, brothers, sisters, grandparents, parents-in-law, and their respective spouses.

(1) Certificate and registration holders must consider whether the strength of personal and business relationships between the certificate or registration holder and the close relative would lead a reasonable person who is aware of all the facts to conclude that the situation poses an unacceptable threat to the certificate or registration holder's objectivity and appearance of independence. In reaching this conclusion, the certificate or registration holder should consider the specific association with the client.

(2) A certificate or registration holder's independence will be presumed to be impaired with respect to a client if:

(A) during the period of the professional engagement or at the time of expressing an opinion, the certificate or registration holder participating in the engagement has knowledge of a close relative who has a material financial interest in the client;

(B) during the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion:

(i) the certificate or registration holder participating in the engagement has a close relative who could exercise significant influence over the operative, financial, or accounting policies of the client or is otherwise employed in a position in which the close relative's activities are normally an ele-

ment of or subject to significant internal accounting controls;

(ii) a proprietor, shareholder, or individual in a managerial position in a certificate or registration holder's office, has a close relative who could exercise significant influence over the client's operating, financial, or accounting policies, if that proprietor, shareholder or individual participates in a significant portion of the engagement.

(f)(e) The examples of impaired independence described in subsections (b)-(e) of this section are not intended to be all-inclusive.

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 10, 1993.

TRD-9320792

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Proposed date of adoption: May 3, 1993

For further information, please call: (512) 450-7066

Chapter 513. Registration

Registration of Partnerships

• 22 TAC §513.31

The Texas State Board of Public Accountancy proposes new §513.31, concerning registration of limited liability companies with the board. The rule clarifies the requirements for registering limited liability companies.

William Treacy, 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. Treacy 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 limited liability companies registered with the Secretary of State's office may register with the Board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to registration of limited liability companies with the Board.

§513.31. General Rule. Every limited liability company (LLC) engaged or to be

engaged in the practice of public accountancy whose articles of organization are approved by the Secretary of State and which meet the requirements of the Texas Professional Corporation Act and the Public Accountancy Act of 1991 shall register with the board.

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 25, 1993.

TRD-9320877

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: May 3, 1993

For further information, please call: (512) 450-7066

Chapter 519. Practice and Procedure

• 22 TAC §519.27

The Texas State Board of Public Accountancy proposes an amendment to §519.27 concerning hearings in disciplinary actions. The amendment allows the agency to recover administrative costs.

William Treacy, Executive Director, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the rule will be in effect will be an estimated increase of \$10,000 in 1993-1997.

Mr. Treacy also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be that administrative costs will be paid by the individuals and firms that incur the costs.

There will be significant effect on small businesses because the vast majority will be in compliance with state laws and Board rules.

The possible economic cost to persons who are required to comply with the rule as proposed will be for most cases \$100-2,500 in 1993-1997; and for "major cases" up to \$10,000.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding hearings in disciplinary actions.

§519.27. Hearings in Disciplinary Actions.

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

(h) **Administrative Cost Recovery Rule.** The board may for good cause, after notice and hearing, impose direct administrative costs in addition to other sanctions provided by law or these rules. Direct administrative costs include, but are not limited to, reasonable attorney's fees, investigative costs, witness fees and deposition expenses, travel expenses of witnesses, reasonable fees for professional services of expert witnesses, the reasonable cost of a study, analysis, audit or other projects the board finds necessary in preparation of the state's case.

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 18, 1993.

TRD-9320790 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: May 3, 1993

For further information, please call: (512) 450-7066

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 73. Laboratories

Fees for Drinking Water Systems

• 25 TAC §73.41

The Texas Department of Health (department) proposes an amendment to §73.41, concerning fees for services for drinking water systems. The amendment will permit the recovery of actual costs for the provision of chemical and bacteriological testing by the department's laboratory. This testing must be done for compliance purposes under the requirements of §§290.1-290.19, the Safe Drinking Water Act and the primary drinking water regulations promulgated thereunder as found in Title 40, Code of Federal Regulation, §141. The jurisdiction and regulation of water quality in public drinking water supplies rests with the Texas Water Commission. The department's laboratory is certified by the federal Environmental Protection Agency for performing the chemical and bacteriological services or for certifying other laboratories under the Safe Drinking Water Act, thus providing analytical services to the regulated community with the Texas Water Commission making determinations as to the number, type, and frequency of laboratory tests to be done.

The amendment to §73.41 published in June 1992 contained maximum limits on charges for categories of tests as they existed at that

time. It was not known then when other phases of the regulations would be put into effect and of what the full complement of tests would consist. Most of that has been determined. However, other changes can be expected by federal mandate that will make caps on categories unmanageable without resort to frequent rule changes or the initial establishment of caps so high that they will appear frightening or threatening to water systems. Caps must be set high enough to cover unusual circumstances, even though the common experience would be much less costly. Otherwise, the department will lose money in the unusual circumstances. Therefore, removal of ceilings and categories from the laboratory billing operation will simplify the recovery of actual costs.

James W. Drake, Chief of Staff Services for Disease Prevention Associateship, has determined that for the first five-year period the section is in effect there will be no fiscal implications to the state or local government as a result of enforcing or administering the section.

Mr. Drake also has determined that for each year of the first five years the section is in effect the public benefit anticipated will be the continued provision of the analytical services for water quality to the public based on actual costs to the department rather than setting unrealistic caps so as to cover all services (small or large). There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments may be submitted to Dr. Charles E. Sweet, Chief, Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3194, (512) 458-7318. Comments will be accepted for 30 days after publication of the proposed changes in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, §12.031 and §12.032, which provides the Texas Board of Health (board) with the authority to adopt rules concerning fees for public health services; and §12.001, which provides the board with authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health.

§73.41. Fees for Services for Drinking Water Systems.

(a) Services concerning bacteriological testing.

(1) (No change.)

(2) The department will charge a fee to recover the actual cost of providing [of up to \$8.00 per sample for] bacteriological testing at the department's laboratory in Austin. Such fee is published at least annually with the State Purchasing and General Services Commission and may be obtained from the Bureau of Laboratories. [This fee applies to the department's laboratory in Austin.]

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

(b) (No change.)

(c) Services concerning chemical testing.

(1) (No change.)

(2) The department will charge fees to cover its actual costs for chemical testing. [according to the following categories:] Such fees are published at least annually with the State Purchasing and General Services Commission and may be obtained from the Bureau of Laboratories.

[(A) routine water-actual cost not to exceed \$90;

[(B) routine metals-actual cost not to exceed \$150;

[(C) lead-copper-actual cost not to exceed \$20;

[(D) radiochemistry-actual cost not to exceed \$200;

[(E) organics testing-actual cost not to exceed \$650; and

[(F) individual and special parameters-actual cost according to the schedule of charges published annually by the department and updated as necessary on file with the Texas General Services Commission.]

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

(5) The effective date for fees for testing for compliance with the lead-copper rule is July 1, 1992.

[(6) The effective date for fees for all other chemical testing is January 1, 1993.]

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 24, 1993.

TRD-9320786 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: May 22, 1993

For further information, please call: (512) 458-7318

Chapter 145. Long-Term Care
Subchapter G. Licensing and
Medical Certification Stan-
dards for Nursing Homes

• 25 TAC §145.111

The Texas Department of Health (depart-ment) proposes an amendment to §145.111, concerning standards for nursing homes jointly developed by the department and the Texas Department of Human Services (TDHS) that apply to licensure and to Medi-aid certification (standards). The standards are in TDHS rules in 40 TAC §§19.1-19.2216, which the department adopts by reference in §145.111.

The department's amendment to 25 TAC §145.111 will show the effective date that the department adopts TDHS's changes to the standards. The sections covered under this amendment to 25 TAC §145.111 are the pro-posed amendments to 40 TAC §19.302 and §19.604 which were published in the October 23, 1992, and the February 12, 1993, issues of the *Texas Register* (17 and 18 TexReg 7523 and 921).

The amended sections cover standards for nursing facilities and Intermediate Care Facilities-Mental Retardation/Related Con-ditions (ICF-MR/RC). The amendment to 40 TAC §19.302 allows nursing facility Medicaid residents, who have received a discharge notice and appealed it, to stay in the nursing facility until the appeal has been heard. The amendment to 40 TAC §19.604 outlines the provisions for alternate placement for nursing facility residents with mental illness, mental retardation, or a related condition to a setting which is better able to provide his/her specialized services in accordance with OBRA 87. These amendments provide substantive clarification and conform with federal require-ments.

Marlin W. Johnston, Acting Bureau Chief Bu-reau of Long-Term Care, Texas Department of Health has determined that for the first five-year period the section is in effect there will be no fiscal implication for state or local gov-ernment as a result of enforcing or adminis-tering the section as proposed.

Mr. Johnston also has determined that for each year of the first five years the section is in effect the public benefit anticipated is that protection of rights of nursing facility residents to remain in the certified facility while their appeal concerning discharge is resolved will be enhanced. An additional benefit is that nursing facility residents who need special-ized services because of mental illness, men-tal retardation, or a related condition will be more appropriately placed. There is no anti-cipated cost to small or large business to com-ply with these sections as proposed; no anticipated cost for persons affected by this proposal; and no effect on local employment.

Comments on the proposal may be submitted to Marlin W. Johnston, Acting Bureau Chief, Bureau of Long-Term Care, Texas Depart-ment of Health, 1100 West 49th Street, Austin, Texas 78756-3199, at (512) 834-6770. Comments will accepted for 30

days following the date of publication of this proposal in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, Chapter 242, which provides for the Texas Board of Health to promulgate rules relative to its licensing au-thority for long-term care facilities; §12.001, which provides the Texas Board of Health with the authority to adopt rules for the perfor-mance of every duty imposed by law on the Texas Board of Health, the Department, and the Commissioner of Health; and Senate Bill 487, §8, 71st Legislature, 1989, which pro-vides the Department and TDHS with the authority to jointly develop one set of stan-dards for nursing homes that applies to licen-sure and to certification for participation in the medical assistance program under the Hu-man Resources Code, Chapter 32, and to adopt by rule the standards and any amend-ments to them.

§145.111. Standards for Nursing Homes Jointly Developed by the Texas Department of Health and the Texas Department of Human Services that apply to Licensure and Medicaid Certification.

(a) The Texas Department of Health adopts by reference the Texas De-partment of Human Services rules 40 TAC, §§19.1-19.2216, concerning Long-Term Care Nursing Facility Requirements for Li-censure and Medicaid Certification effective October 8, 1990, as amended: October 1, 1990, under federal mandate; September 1, 1991; March 17, 1992; April 1, 1992 under federal mandate; March 3, 1992 under feder-al mandate; April 1, 1992 and August 26, 1992, under federal mandates; February 1, 1993; [and] May 15, 1993, and May 22, 1993.

(b) (No change.)

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

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

TRD-9320802

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

Proposed date of adoption: May 21, 1993

For further information, please call: (512) 834-6770



TITLE 40. SOCIAL SER-
VICES AND ASSIS-
TANCE

Part I. Texas Department
of Human Services

Chapter 29. Purchased Health
Services

Subchapter C. Rehabilitative
Services for Persons with
Mental Illness

• 40 TAC §29.201, §29.203

The Texas Department of Human Services (DHS) proposes amendments to §29. 201 and §29.203, concerning rehabilitative ser-vices for persons with mental illness, in its Purchased Health Services chapter. The pur-pose of the amendments is to clarify rules for Medicaid coverage of rehabilitative services for people with mental illness.

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

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 that appropri-ate services will be provided to Medicaid-eligible individuals. 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 this proposal may be directed to Brenda Salisbury at (512) 338-6521 in DHS's Purchased Health Ser-vices Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-051, Texas Depart-ment of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are 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 pro-vide the Health and Human Services Com-mission with the authority to administer federal medical assistance funds.

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

Collateral-A person, other than an employee or contractor of the provider agency, whose relationship and involvement with the eligible individual is important to the eligible individual's participation in needed rehabilitative mental health services. This includes the parent, foster parent, or guardian of a minor child who is receiving

rehabilitative services. Direct contact with a collateral must be directed exclusively to the effective treatment of the eligible individual.

§29.203. Rehabilitative Services.

(a) (No change.)

(b) Services must be provided by a physician (MD or DO) licensed to practice in Texas, or by professional or paraprofessional staff trained in accordance with the Texas Department of Mental Health and Mental Retardation's "MH Community Services Standards." The physician must see each patient and prescribe or approve the plan of care. Reimbursable rehabilitative services for persons with mental illness(es) include the following:

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

(3) Medication maintenance. This involves direct contact with an eligible individual or collateral by a physician (MD or DO) for the purpose of determining symptom remission and medication regimen necessary to initiate and/or maintain an individual's plan of care.

(4) (No change.)

(5) Medication training. This involves direct contact with an eligible individual and/or an eligible individual's family member or other collateral [caretaker] by a licensed nurse (or other appropriately trained professional or paraprofessional) for the purpose of training and educating the individual (or his family member or other collateral [caretaker]) in the proper administration and monitoring of prescribed medication. Training is provided in accordance with the individual's plan of care.

(6) (No change.)

(7) Rehabilitative therapies. These are direct contacts [face-to-face services] provided by professionals, or paraprofessionals working under the supervision of a professional, with [to] eligible individuals or collaterals for the purpose of reducing or eliminating the individual's physical or mental disabilities and increasing the individual's physical and mental capacities for self-care and/or abilities to perform activities of daily living. Services provided must be in accordance with the individual's plan of care. Services may include counseling, psychotherapy, speech and/or hearing therapies, occupational therapy, and/or physical therapy.

(8)-(9) (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 29, 1993.

TRD-9320901

Nancy Murphy
Section Manager
Texas Department of
Human Services

Proposed date of adoption: July 1, 1993

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

Chapter 48. Community Care
for Aged and Disabled

Home and Community-Based
Services

The Texas Department of Human Services (DHS) proposes amendments to §§48.2201, 48.2403, 48.2406, and 48.2501, concerning eligibility criteria for Community Care for Aged and Disabled services, and proposes new §§48.2216, 48.2217, and 48.2416, concerning client copayment and spousal impoverishment provisions, in its Community Care for Aged and Disabled chapter.

The purpose of the amendments to §§48.2201(a)(4) and (5), 48.2406(a)(5) and (6), and 48.2501(a)(7) is to allow certain foster care children and AFDC clients to become eligible for Home and Community-Based Services (HCS), Home and Community-Based Services-OBRA (HCS-O), and Medically Dependent Children Waiver Program (MDCP) waiver services.

The purpose of the new §§48.2216, 48.2217, and 48.2416 and the amendment to §48.2406(a)(3) is to add the method of calculation of client copayment and spousal impoverishment provisions for the HCS and HCS-O Programs.

The purpose of the amendment to §48.2201(a)(6) is to allow an individual who is financially eligible for Medicaid if residing in a Medicaid-certified institution to qualify for HCS waiver services.

The purpose of the amendment to §48.2403 is to delete the requirement that an applicant must be directly discharged from a nursing facility, in order to receive Home and Community-Based Services-OBRA.

The purpose of the amendment to §48.2501(a)(2) is to raise the age limit for the Medically Dependent Children Waiver Program so clients under the age of 21 will be eligible for waiver services.

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

Mr. 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 expanded eligibility for waiver 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 sections.

Questions about the content of this proposal may be directed to Gerardo Cantu at (512)

450-3683 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-037, 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 §§48.2201, 48.2216, 48.2217

The amendment and new sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department 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.

§48.2201. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Human Services (DHS) for Home and Community-based Services (HCS), an applicant must:

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

(3) be under age 18 and reside with parents or spouses. Clients under 18 must satisfy all of the following:

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

(D) have income and resources which meet the requirements of the SSI program; or [.]

(4) be an individual under 19 years of age for whom the Texas Department of Protective and Regulatory Services (PRS) assumes financial responsibility, in whole or in part (not to exceed Level II foster care payment), and who is being cared for in:

(A) a family foster home which is licensed or certified and supervised by PRS, or

(B) a family foster home which is licensed or certified and supervised by a licensed public or private non-profit child-placing agency; or

(C) a private nonprofit child care institution licensed by PRS; or

(5) be a member of a family who receives full Medicaid benefits as a result of qualifying for Aid to Families with Dependent Children; or

(6) be eligible for SSI benefits in the community, except on the basis of income, and meet the special institutional income limit for Medicaid benefits in Texas without regard to spousal income.

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

§48.2216. Calculation of Client Copayment.

(a) Clients who are determined to be financially eligible based on the special institutional income limit are required to share in the cost of waiver services. The method for determining the client's copayment is described in subsection (b) of this section and documented on the DHS Medical Assistance Only Worksheet. When calculating the copayment amount for clients with incomes that exceed the Supplemental Security Income (SSI) federal benefit rate (FBR), deduct the following:

(1) the cost of the client's maintenance needs which must be equivalent to the special institutional income limit for eligibility under the Texas Medicaid program;

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

(3) the costs incurred for medical or remedial care which are necessary but are not subject to payment by Medicare, Medicaid, or any other third party. These include the cost of health insurance premiums, deductibles, and co-insurance.

(b) The copayment amount is the client'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 Home and Community-Based Services waiver program and specified on the client's individual plan of care. The co-payment must not exceed the cost of services actually delivered.

(c) Clients must pay the cost-sharing amount to the provider contracted to deliver authorized waiver services.

§48.2217. Spousal Impoverishment Provisions.

(a) For waiver recipients 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 in §48.2201 of this title (relating to Financial Eligibility Criteria).

(b) After the recipient is determined to be eligible for Medicaid, the Texas Department of Human Services (DHS) determines the amount of the recipient's income applicable to payment.

(c) To determine the amount of the

recipient's income applicable to payment, DHS uses the same methodology as if the recipient were residing in an institution, except that the personal needs allowance is equal to the institutional cap.

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 24, 1993

TRD-9320902

Nancy Murphy
Section Manager
Texas Department of
Human Services

Proposed date of adoption: June 1, 1993

For further information, please call: (512) 450-3705

◆ ◆ ◆
**Medicaid Home and
Community-Based Waiver
Services for Persons with
Mental Retardation and/or
Related Conditions Requiring
Alternatives to Nursing Facility
Placement**

• 40 TAC §§48.2403, 48.2406, and 48.2416

The amendments and new section are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department 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.

§48.2403. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Human Services (DHS) for the OBRA-Targeted Waiver Program, an applicant must:

(1) be determined by the Texas Department of Mental Health and Mental Retardation (TXMHMR) [TDMHMR] to have mental retardation and/or a related condition, need active treatment, and have been previously or be currently inappropriately placed in a Medicaid-certified nursing facility based on an annual resident review in accordance with the requirements of OBRA-87;

(2)-(5) (No change.)

(6) be discharged [directly] from a Medicaid-certified nursing facility; and

(7) (No change.)

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

§48.2406. Financial Eligibility Criteria.

(a) To be determined financially eligible by the Texas Department of Human Services (DHS) for home and community-based services through this waiver program, an applicant must:

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

(3) be eligible for SSI benefits in the community, except for income, and meet the special institutional income limit for Medicaid benefits in Texas without regard to spousal income [and resources]; or

(4) be under age 18 and reside with parents. A child must:

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

(D) meet the SSI criteria for institutional deeming. Parental income and resources are to be disregarded; or [.]

(5) be an individual under 19 years of age for whom the Texas Department of Protective and Regulatory Services (PRS) assumes financial responsibility, in whole or in part (not to exceed Level II foster care payment), and who is being cared for in:

(A) a family foster home which is licensed or certified and supervised by PRS; or

(B) a family foster home which is licensed or certified and supervised by a licensed public or private nonprofit child-placing agency; or

(C) a private nonprofit child care institution licensed by PRS; or

(6) be a member of a family who receives full Medicaid benefits as a result of qualifying for AFDC.

§48.2416. Spousal Impoverishment Provisions.

(a) For waiver recipients 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 in §48.2406 of this title (relating to Financial Eligibility Criteria).

(b) After the recipient is determined to be eligible for Medicaid, the Texas Department of Human Services (DHS) determines the amount of the recipient's income applicable to payment.

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

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 3, 1993.

TRD-9320903 Nancy Murphy
Section Manager
Texas Department of
Human Services

Proposed date of adoption: June 1, 1993

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

◆ ◆ ◆
**Waiver Program for Medically
Dependent Children**

◆ ◆ ◆
• 40 TAC §48.2501

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department 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.

§48.2501. Client Eligibility Criteria.

(a) To be eligible for the Medically Dependent Children Waiver Program, an applicant must reside in Texas and a participant must:

- (1) (No change.)
- (2) be under 21 [18];
- (3)-(6) (No change.)

(7) meet the requirements of either subparagraph (A), [or] (B), (C), or (D) of this paragraph.

(A) (No change.)

(B) The applicant or participant must meet the criteria established:

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

(iii) for the Texas Medicaid Program, if the applicant or participant is institutionalized, in regard to his own income and/or resources; or [.]

(C) The applicant or participant must be an individual under 19 years of age for whom the Texas Department of Protective and Regulatory Services (PRS) assumes financial responsibility, in whole or in part (not to exceed level II foster care payment), and who is being cared for in:

(i) a family foster home which is licensed or certified and supervised by PRS; or

(ii) a family foster home which is licensed or certified and supervised by a licensed public or private non-profit child-placing agency; or

(iii) a private nonprofit child care institution licensed by PRS.

(D) The applicant must be a member of a family who receives full Medicaid benefits as a result of qualifying for AFDC.

(8) (No change.)

(b)-(g) (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 29, 1993.

TRD-9320904 Nancy Murphy
Section Manager
Texas Department of
Human Services

Proposed date of adoption: June 1, 1993

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

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 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans- Standards

• 1 TAC §251.3

The Advisory Commission on State Emergency Communications adopts an amendment to §251.3, concerning guidelines for addressing funds, without changes to the proposed text as published in the December 22, 1992, issue of the *Texas Register* (17 TexReg 8999).

The amendment clarifies the procedures for the utilization of funds toward the completion of rural address assignments, which allow for the Automatic Location Identifier (ALI) feature to display the location of 9-1-1 callers. It will enable improved effectiveness of 9-1-1 call delivery.

The section will serve as a guide for the distribution of addressing funds to local governments for the purpose of establishing addresses, essential to E9-1-1 system utilizing ALI.

Comments were received from the following entities regarding reimbursement of addressing expenditures prior to January 1, 1991. Comments received were from the City of Rockport, Aransas County, and the West Central Texas Council of Governments. These comments did not support the rule change which would allow no costs prior to January 1, 1991, to be considered for state reimbursement.

The amendment is adopted under the Health and Safety Code, §§771.055-771.057, and 771.072, which provides the Advisory Commission on State Emergency Communications with the authority to develop and amend a regional plan for the establishment and operation of 9-1-1 emergency service throughout a 9-1-1 region that meets Commission standards and procedures.

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 March 22, 1993.

TRD-8320725

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

Effective date: April 13, 1993

Proposal publication date: December 22, 1992

For further information, please call: (512) 327-1911

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 28. Texas Agricultural Finance Authority: Loan Guaranty Program

• 4 TAC §28.14

The Texas Department of Agriculture adopts new §28.14, concerning the collection, settlement, and enforcement of guaranteed loans, without changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 9073).

The section is adopted to allow for expeditious action in the event of a default by a borrower.

The section provides that the staff of the TDA Loan Guaranty Program may act with the approval of the commissioner, or his designee, on behalf of the TAFE Board in the collection, settlement, and enforcement of loans guaranteed by TAFE under the program.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Agriculture Code, §58.022, which provides the board of the Texas Agricultural Finance Authority (TAFE), with the authority to adopt rules to establish procedures for administration of the TAFE Loan Guaranty Program.

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

Issued in Austin, Texas, on March 26, 1993.

TRD-9320876

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: April 16, 1993

Proposal publication date: December 25, 1992

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

Other Responsibilities and Practices

• 22 TAC §501.46

The Texas State Board of Public Accountancy adopts an amendment to §501.46 concerning form of practice, without changes to the proposed text as published in the February 9, 1993, issue of the *Texas Register* (18 TexReg 800).

As a result of enforcing the section, the rule will be made clear and unambiguous regarding the forms of entities which practice public accountancy.

The amendment to the rule tracks the language of the Public Accountancy Act regarding the definition of "corporation."

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to form of practice.

§501.46. Form of Practice. A certificate or registration holder may practice public accountancy only in a proprietorship, a partnership, a limited liability company, a registered limited liability partnership, a professional public accounting corporation organized under the Texas Professional Corporation Act, as amended (Texas Civil Statutes, Article 1528e), or other corporation authorized by applicable statutes, or an equivalent law of another state, territory, or foreign country, or as an employee of one of these entities.

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 March 18, 1993.

TRD-9320791

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 14, 1993

Proposal publication date: February 9, 1993

For further information, please call: (512) 450-7066

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Midwives

• 25 TAC §37.180

The Texas Department of Health (department) adopts the repeal of existing §37.180 and new §37.180, concerning basic midwifery education and continuing education. The new section is adopted with changes to the proposed text as published in December 4, 1992, issue of the *Texas Register* (17 TexReg 8395). The new section outlines the dates before which a midwife must meet certain voluntary and mandatory education, experience, and examination requirements. The existing rules for voluntary basic education courses and examinations, sponsored by the Midwifery Program since 1985, will expire September 1, 1993, when the new mandated requirements become effective.

The department is adopting the new section for two purposes: to permit midwives the ample time to meet the new education and examination requirements for the purpose of seeking exemption from the mandatory basic education program requirement; and to afford both midwives and the public the chance to comment on the proposed rules after sufficient time to review and study their content.

The new section covers "core curriculum;" clinical requirements; requirements for and frequency of continuing education offerings; responsibilities and qualifications of those who teach or oversee the education courses; and a system for approval, disapproval and revocation of approval of courses.

The following is a summary of comments received concerning the proposed new section, along with the department's response.

Comment: A commenter requests that the Midwifery Board not be required to include a Texas Midwifery Board Standards of Practice in the Texas Midwifery Basic Information Manual. See proposed §37.180(3)(B)(v)(III).

Response: The department disagrees. The language of the statute requires that the man-

ual include Standards of Practice and this requirement is included as adopted §37.180(e)(1)(D)(ii) with a minor change in the name of the document.

Comment: One commenter requests that the student clinical requirements found in proposed §37.180(3)(C) be dropped from the approval criteria for a mandatory basic midwifery education course. The commenter also requests that the rules should require "adequate clinical experience," that would allow the education committee of the Midwifery Board to determine adequacy of the course to meet the individual student needs.

Response: The department believes that to allow self-determined numbers of clinical experiences provides neither a proper criteria for approval nor encouragement for adequate clinical experiences and has retained the clinical criteria in adopted §37.180(e)(2)(A) and (B).

Comment: A commenter requests that in proposed §37.180(3)(C) the student clinical experience under a preceptor should include "observational/participational" experience. The commenter also requests that the number of experiences in each category should be changed as follows: increase from 10 to 15 the number of initial histories and physical exams; increase from 10 to 60 prenatal visits; increase from 10 to 15 newborn exams; decrease from 35 to 30 the number of labors, deliveries, and immediate postpartums.

Response: The department disagrees. The clinical requirements have been categorized as numbers of observations and numbers to perform or manage. Procedural numbers reflect those suggested by six Midwifery Board members and are adopted unchanged at §37.180(e)(2)(A).

Comment: One person commented that until the development of the Texas Midwifery Basic Information Manual and its approval by the Midwifery Board, the proposed rules do not address the distribution of material concerning the seven required manual topics. Some midwives may not have access to this information. The commenter requested that proposed §37.180(3)(B)(v)(I)-(VII) be amended to correct this oversight.

Response: The department agrees and has added language to adopted §37.180(e)(1)(D) to require a course supervisor to cover the information contained in the individual items listed in §37.180(e)(1)(i)-(vii) in her or his course. The new language also requires an individual who has taken an approved course outside of Texas to read and study the same materials.

Comment: A commenter requests a change in the criteria for the approval of a mandatory basic midwifery education course to decrease from 25 to 10 in the numbers for student clinical experiences with labors, deliveries, and immediate postpartums that each student must perform or manage. See proposed §37.180(3)(C)(ii)(III), (IV), and (V).

Response: The department disagrees and has adopted the language as proposed in §37.180(e)(2)(B)(ii)-(v). The department believes that actual labor, delivery, and postpartum is a very critical time during normal

pregnancy and delivery, therefore the department must reject the comment and retain the higher numbers.

Comment: A commenter requests that all the numbers for required student clinical experiences found in proposed §37.180(3)(C)(i)-(VII) be withdrawn.

Response: The department disagrees and has retained the requirements as proposed in adopted §37.180(e)(2)(B). The department believes that unbiased, objective criteria are needed.

Comment: A commenter requests a change in the criterium for course preceptor proposed in §37.180(3)(E)(i)(III). The commenter wishes to change the requirement from "have at least two years midwifery (obstetric) practice and have independently performed at least 100 births;" to "have at least two years in midwifery (obstetric) practice and have participated in at least 100 births;"

Response: The department disagrees. The department believes that a course preceptor must have defined clinical experience. A course preceptor's having independently managed births is a very critical aspect in acquiring skill and experience. The proposed wording is adopted with the addition of "intrapartum" care in §37.180(e)(3)(B).

Comment: A commenter asks the department to withdraw the requirement found in proposed §37.180(3)(E)(i)(V), that a course supervisor/coordinator have had 150 hours of experience as a preceptor.

Response: The department agrees with the comment. As there are no defined mechanisms to receive such experience and as pertinent clinical experience is required, this requirement has been withdrawn.

Comment: Concerning proposed §37.180(4)(A)(ii), (iii), a person observed that the proposed rules do not provide enough time for the Midwifery Board to review applications for approval of mandatory continuing midwifery education courses and provide notice of its decision to the course sponsor before the course is scheduled to begin.

Response: The department agrees. The time sequence in the application, review, and sponsor notification process has been extended in adopted §37.180(g)(1)(B) and (C) to correct this oversight. The new language also permits the Continuing Midwifery Education Subcommittee to review and make recommendations to the full Midwifery Board for the approval or rejection of the application.

The repeal is adopted under Texas Civil Statutes, Article 4512i, §8A, that require the Midwifery Board to adopt rules prescribing minimum standards for approval and revocation of approval of basic midwifery education courses and midwifery continuing education courses and requires the Board to approve rules adopted by the Midwifery Board; and the Health and Safety Code, §12.001, which provides for the Texas Board of Health to adopt rules for the performance of legal duties imposed on the Texas Board of Health, Texas Department of Health, and the Commissioner of Health.

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

Issued in Austin, Texas, on March 29, 1993.

TRD-9320910

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

Effective date: April 19, 1993

Proposal publication date: December 4, 1992

For further information, please call: (512) 458-7700

The new section is adopted under Texas Civil Statutes, Article 4512i, §8A, that require the Midwifery Board to adopt rules prescribing minimum standards for approval and revocation of approval of basic midwifery education courses and midwifery continuing education courses and requires the Board to approve rules adopted by the Midwifery Board; and the Health and Safety Code, §12.001, which provides for the Texas Board of Health to adopt rules for the performance of legal duties imposed on the Texas Board of Health, Texas Department of Health, and the Commissioner of Health.

§37.180. Education.

(a) Purpose. This section establishes standards for mandatory basic midwifery education and continuing midwifery education.

(b) Provisions. This section covers standards for completion of a mandatory basic midwifery education course; qualification for exemptions from taking the mandatory basic midwifery education course; establishes an education subcommittee and a continuing education subcommittee of the Midwifery Board; mandatory continuing midwifery education; course approval and revocation of course approval; and informal hearing rules.

(c) Applicability.

(1) As of September 1, 1993, an individual must have satisfactorily completed a mandatory basic midwifery education course approved by the Midwifery Board, or have been exempted from this requirement, in order to legally practice midwifery.

(2) The department shall exempt a midwife from taking a mandatory basic midwifery education course if he or she provides proof of one of the following by November 30, 1993:

(A) satisfactory completion of a department approved voluntary basic midwifery education course taken between September 1, 1983, and August 31, 1993; or

(B) passing the department's voluntary basic midwifery education course examination between September 1, 1983, and August 31, 1993; or

(C) passing the voluntary examination of the mandatory basic midwifery education course between September 1, 1993, and November 30, 1993.

(d) Subcommittees.

(1) Education Subcommittee. An Education Subcommittee will be appointed by the chairperson of the Midwifery Board to review all the applications for approval of voluntary and mandatory basic midwifery education courses. The subcommittee will consist of three members: a midwife chairperson one other midwife and a physician or the certified nurse midwife. The deliberations, formulations, and recommendations of the subcommittee are subject to the provisions of the Texas Open Meetings Act.

(2) Continuing Education Subcommittee. A Continuing Education Subcommittee will be appointed by the chairperson of the Midwifery Board to review all applications for approval of continuing education courses. The subcommittee will consist of three members: a midwife chairperson, one other midwife, and a physician or the certified nurse midwife. The deliberations, formulations, and recommendations of the subcommittee are subject to the provisions of the Texas Open Meetings Act.

(e) Mandatory basic midwifery education. As of September 1st, 1993, an individual must have satisfactorily completed an approved mandatory basic midwifery education course before she/he can apply for documentation or redocumentation and practice midwifery, unless she or he has been exempted from this requirement under subsection (c)(2)(A)-(C) of this section. Proof of such satisfactory completion must be provided at the time of documentation or redocumentation. Mandatory basic midwifery education courses will, for the most part, not be provided by the department but rather will be developed and offered by competent individuals outside of the department. This subsection covers the requirements for and the process of approval of such courses.

(1) The didactic curriculum. In order for a mandatory basic midwifery education course to be approved, it must fulfill the following requirements.

(A) The didactic portion of the course must last for at least 75 hours, with exceptions considered for home study courses. A student must have been present during at least 65 of these hours to complete the course satisfactorily.

(B) The course must be based upon and completely cover the Draft 1991 Midwives Alliance of North America Core Competencies and Standards of Practice. Courses given at community and other colleges on subjects which are applicable to the education of midwives can be taken for credit and may be considered as part of the required curriculum. Such courses may include anatomy and physiology, nutrition, microbiology, psychology, women's studies and others. Such courses must be passed in order to qualify as part of the midwifery curriculum.

(C) The course must require pertinent reading and study to include a complete reading of at least one current comprehensive nurse-midwifery text, and/or obstetric text which must be approved by the Midwifery Board. Instructional materials used in education must be current.

(D) The course, when offered in Texas, must completely cover the Texas Midwifery Basic Information Manual, once this manual is developed. The manual will be developed by the department and approved by the Midwifery Board and the Texas Board of Health. An individual who has taken an approved course outside of Texas will still be required to completely read and study this manual. The manual will address the following topics:

(i) the Midwifery Law (Texas Civil Statutes, Article 4512i) and the rules;

(ii) other Texas laws impacting midwifery practice;

(iii) the Texas Midwifery Standards of Practice (to be developed);

(iv) the Draft 1991 Midwives Alliance of North America (M.A.N.A.) Standards of Practice;

(v) the Draft 1991 M.A. N.A. Core Competencies;

(vi) Texas birthing center and vital statistics requirements; and

(vii) the requirements for mandatory basic and continuing midwifery education.

(E) Prior to the development of the formal manual, the course supervisor, of a Texas course, will be sent the materials relevant to subparagraph (D)(i)-(vii) of this paragraph and will be required to completely cover them in her/his course. An individual who has taken an approved course outside of Texas will be required to completely read and study the same materials.

(2) Clinical requirements. In order for a mandatory basic midwifery education course to be approved, the course must provide adequate clinical experience under the supervision of a qualified preceptor, as defined in paragraph (3) of this subsection.

(A) The course must provide an appropriate observational experience to include:

(i) at least 25 labors, deliveries, newborn exams, and immediate postpartum periods; and

(ii) at least 30 prenatal visits, 10 of which must be in each trimester, and 10 of which must be initial histories and physical examinations.

(iii) at least 10, 12-36 hour postpartum/newborn visits; 10, 72-hour to two-week postpartum/newborn visits and; 10, four-six-week postpartum/newborn visits.

(B) The course must require that each student midwife satisfactorily perform or manage:

(i) 45 prenatal visits of which:

(I) 15 must be in the first trimester;

(II) 15 in the second trimester;

(III) 15 in the third trimester; and

(IV) 15 of these visits listed in subclauses (I)-(III) of the clause must be complete initial prenatal histories and physical exams;

(ii) 25 labors;
(iii) five deliveries;
(iv) 25 newborn exams;
(v) 25 immediate postpartum mothers; and

(vi) 45 postpartum mothers and newborns:

(I) 15 at 12-36 hours;

(II) 15 between 72 hours and two weeks; and

(III) 15 at four to six weeks.

(3) Course and clinical supervision. In order for a mandatory basic mid-

wifery education course to be approved, the didactic instruction and clinical experience must be personally supervised by a documented midwife (or equivalent from another state), a certified nurse-midwife, or a licensed physician, with the following qualifications:

(A) a high-school graduate or equivalent (GED); and

(B) at least two years in midwifery (obstetric) practice and have independently performed at least 100 births (to include prenatal, intrapartum, postpartum and newborn care).

(4) Student midwife's academic background. In order for a mandatory basic midwifery education course to be approved, it must require that each student midwife be, at least, a high-school graduate or the equivalent (GED).

(5) Course changes. If there are any administrative or instructional changes in the course, the Midwifery Board must be notified in writing within 30 days of the change.

(6) Course approval.

(A) Applications for course approval must be submitted to the Education Subcommittee.

(B) The subcommittee will review all applications and present its recommendations to the Midwifery Board for final approval or rejection of each course.

(C) Applications may be submitted at any time but will only be acted upon at the next regularly scheduled meeting of the Education Subcommittee.

(D) Each course will be re-evaluated by the Education Subcommittee at least every three years, based upon the criteria as set forth in this subsection.

(E) The Midwifery Board will consider all appeals for reconsideration of rejected course applications. The course supervisor, of a rejected course, should request, in writing, to appear at a regularly scheduled Midwifery Board meeting.

(f) Exemptions from mandatory basic midwifery education.

(1) Voluntary basic midwifery education courses. In order to qualify for exemption through completion of a Texas Department of Health approved voluntary basic midwifery education course, the midwife must have taken either the Texas Department of Health sponsored voluntary

course or another course which has been approved based upon satisfactory evidence that it meets the following criteria:

(A) The course must include at least 45 hours of didactic learning or equivalent self-study. The following topics must be part of the subject matter and must be completely covered:

(i) prenatal care;
(ii) management of labor and delivery;

(iii) newborn care and postpartum care up to six weeks;

(iv) high risk factors, both maternal and fetal/infant (to include consideration of those conditions which preclude midwifery care);

(v) signs and symptoms of complications and appropriate management (to include referral to a physician);

(vi) sterile technique and infection control measures;

(vii) laboratory tests and screening; and

(viii) state laws and regulations effecting midwifery practice.

(B) The primary instructor for the course must be:

(i) a midwife with at least four years of experience (including antepartum, intrapartum, postpartum, and newborn care) who has personally managed at least 100 complete pregnancies;

(ii) a certified nurse-midwife; or

(iii) a licensed physician specializing in obstetrics, pediatrics and/or family medicine.

(C) The sponsor of a course which fulfills all of the requirements in subparagraphs (A) and (B) of this paragraph may apply to the Midwifery Board, in writing for approval of her/his voluntary basic midwifery education course. A midwife who has taken such a course may also apply on behalf of the course which she/he has completed between September 1, 1983, and August 31, 1993 for retroactive approval of the course by the Midwifery Board.

(D) The Midwifery Board's Education Subcommittee will evaluate all such application(s) and recommend approval or rejection of each course to the full Midwifery Board for final approval or rejection. The deliberations, formulations, and recommendations of the Subcommittee and Midwifery Board are subject to the provisions of the Texas Open Meetings Act.

(2) The Texas Department of Health Voluntary Examination of the Voluntary Basic Midwifery Education Course. In order to be approved for exemption through achieving a passing grade on the department's voluntary basic midwifery education course examination, the midwife must provide the department with a copy of her or his Texas Department of Health letter of completion regarding her or his examination. Examinations may be scheduled by contacting the Midwifery Program at the Texas Department of Health and paying a \$25 examination fee. In order to take this examination, an individual must have:

(A) completed the Texas Department of Health voluntary basic midwifery education course; or

(B) been documented as a midwife for two consecutive years; or

(C) petitioned and been granted permission by the Midwifery Board to take the examination based upon her or his individual training.

(3) The voluntary examination of the mandatory basic midwifery education course. In order to be approved for exemption through achieving a passing grade on the voluntary examination of the mandatory basic midwifery education course, the midwife must provide the department with a copy of her or his certificate regarding passing the exam. This examination, which will be given only between September 1, 1993 and November 30, 1993 will be approved by the Midwifery Board, upon recommendations of the Education Subcommittee. In order to take this examination an individual must have:

(A) completed a Texas Department of Health approved voluntary basic midwifery education course; or

(B) petitioned and been granted permission by the Midwifery Board to take the examination based upon her/his individual training. Examinations may be scheduled by contacting the Midwifery Program at the Texas Department of Health and paying a \$25 examination fee by August 30, 1993.

(g) Mandatory continuing midwifery education. As of September 1, 1993, all documented midwives must provide proof of 30 contact hours of continuing midwifery education every three years. This proof must be provided at the time of annual redocumentation. The first time that proof will be required will be for the 1997 redocumentation period. As with the basic midwifery education courses these courses

will usually be provided by non-departmental personnel. The Midwifery Board will give final approval or rejection of continuing midwifery education courses, and may also periodically require courses on specific subjects essential to the well-being of mothers and babies.

(1) Application review. Applications for course approval may be submitted to the Continuing Education Subcommittee.

(A) All courses will be reviewed concerning topic, relevance to midwifery, teaching methods, and the qualifications of the instructor(s). Courses must be designed around current subjects necessary for midwives' practice, such as newly emerging concepts, theories, and research or a review of established information relevant to midwifery. Research under appropriate supervision and correspondence courses will also be considered for approval.

(B) To have a course reviewed, the course supervisor must complete and submit a continuing midwifery education application form to the Continuing Education Subcommittee at least 180 days prior to the offering. The Continuing Education Subcommittee will review the application and make a recommendation for approval or rejection to the Midwifery Board. The Midwifery Board's decision regarding approval or rejection will be given in writing, at least 80 days before the course is scheduled to begin.

(C) A midwife who requests approval of a course not pre-approved by the Midwifery Board must submit the retroactive continuing midwifery education application form to the Continuing Education Subcommittee within 60 days of completing the course. A copy of the course brochure and proof of attendance must also be submitted, and there must be documentation showing relevancy of the topic for midwifery and the qualifications of the instructor(s). The Continuing Education Subcommittee will review the application and make a recommendation for approval or rejection to the Midwifery Board. The Midwifery Board's decision regarding approval or rejection will be given in writing to the midwife within 100 days.

(D) Continuing education course approval granted by other organizations will not automatically guarantee approval by the Midwifery Board.

(E) Course approval is granted for three years and may be renewed by re-application. Re-application is also

necessary if there are changes in the course or instructor(s).

(F) Appeals to decisions regarding continuing midwifery education course approval must be addressed, in writing, to the Chairperson of the Midwifery Board and a decision will be made by the full board.

(2) Course listing. A listing of approved courses and dates, for continuing midwifery education will be maintained by the Midwifery Program.

(3) Sources of continuing midwifery education. Possible sources for continuing midwifery education include:

(A) Association of Texas Midwives;

(B) Midwives Alliance of North America;

(C) International Confederation of Midwives;

(D) American College of Nurse Midwives;

(E) Nursing associations;

(F) Medical associations;

(G) Texas Department of Health;

(H) Childbirth education organizations;

(I) Lactation organizations;

(J) American Academy of Pediatrics; and

(K) American College of Obstetricians and Gynecologists.

(h) Revocation of course approval. After notice to the course supervisor and the opportunity for an appeal, the Midwifery Board may revoke the approval of an education course if the Midwifery Board determines that:

(1) the course does not meet the standards set by this section;

(2) the course supervisor(s) does not have the qualifications required by this section;

(3) the approval of the course or course supervisor or supervisors was obtained by fraud or deceit; or

(4) the course supervisor has falsified the course attendance records and reported this false information to the department.

(i) Informal hearing rules. Notice and hearings required under this section will be conducted according to and will be governed by the Texas Department of Health's informal hearing rules in Chapter 1 of this title (relating to Board of Health).

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

Issued in Austin, Texas, on March 29, 1993.

TRD-9320911 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: April 19, 1993

Proposal publication date: December 4, 1992

For further information, please call: (512) 458-7700

Chapter 241. Shellfish Sanitation

Molluscan Shellfish

The Texas Department of Health (department) adopts the repeal of existing §§241.50-241.100, and adopts new §§241.50-241.52 and §§241.54-241.100, concerning molluscan shellfish. Sections 241.55-241.56, 241.62-241.64, 241.74-241.75, 241.77-241.78 and 241.80-241.81 are adopted with changes to the proposed text as published in the October 2, 1992, issue of the *Texas Register* (17 TexReg 6737). Sections 241.51-241.52, 241.54, 241.57-241.61, 241.65-241.73, 241.76, 241.79, and 241.82-241.100, are adopted without changes and will not be republished. The new sections provide for continued uniform regulation of the molluscan shellfish industry consistent with Public Health, the 1992 National Shellfish Sanitation Program Manual of Operations, Parts I and II, and with current industry practices. The new sections establish updated standards for the harvesting of shellstock and the handling, processing, packaging, refrigeration, and distribution of molluscan shellfish. A summary of comments concerning the proposed new rules and the department's response is as follows.

COMMENT: Concerning §241.55(a), one commenter wanted the sections clarified so that the harvester is the responsible party for his/her shellstock until the certified dealer accepts control.

RESPONSE: The department agrees with this comment and has changed this section accordingly.

COMMENT: Concerning §241.55(a), several commenters stated that all shellstock should be transported under mechanical refrigeration without exception.

RESPONSE: The department agrees with this comment and has changed this section accordingly.

COMMENT: Concerning §241.55(c), one commenter recommended that the certified dealer be responsible for all shellstock tags. The commenter also stated that if dealers keep proper records, there is no need for the harvester tag, but, if a harvester tag is required, dealers shouldn't have to duplicate information onto the dealer's tag.

RESPONSE: The department recognizes this commenter's concern, but the National Shellfish Sanitation Program (NSSP) manual (with which the department must comply) requires two tags and certain information on each tag.

COMMENT: Concerning §241.55(c) and §241.56(c), one commenter pointed out that "quantity" is not required on Texas tags, but is required by the NSSP manual.

RESPONSE: The department agrees with this comment and has changed these sections accordingly.

COMMENT: Concerning §241.55(c), one commenter wanted separate intra-state requirements for information which would allow dealers shipping only intra-state to not have to put a harvester's tag on the product, but to maintain accurate records with a code on the certified dealer tag identifying the harvester and related information.

RESPONSE: The department disagrees as this would be inconsistent with the NSSP manual requirements.

COMMENT: Concerning §241.55(c), one commenter suggested that space be left on the harvester's tag and that the certified dealer be allowed to "stamp" the dealer information onto the harvester tag.

RESPONSE: The department disagrees because stamping the dealer information onto the tag is not allowed and separate dealer and harvester tags are required by the NSSP manual.

COMMENT: Concerning §241.55(c), during department review, staff noted that the NSSP manual has been amended to include on the dealer's tag the original shipper's certification number.

RESPONSE: The department has made the appropriate change to this section.

COMMENT: Concerning §241.62(b), during department review, staff noted that an indicating thermometer should not be installed more than six feet off the floor, so it could be easily read.

RESPONSE: The department made appropriate changes to the section.

COMMENT: Concerning §241.63(d), one commenter wanted a clarification of the term "flooding" to include "under normal conditions" or similar qualifier. RESPONSE: The department agrees with the comment and has changed this section to add the words "under normal conditions".

COMMENT: Concerning §241.63(j), one commenter stated that obtaining a sanitary control easement for existing wells would not be practical and therefore should only be

required for wells completed after the effective date of these sections.

RESPONSE: The department agrees with the comment and has made the appropriate change to this section. However, the department believes sanitary easement information for new plants or plants undergoing major remodeling should be provided even if water wells and septic systems are in place. In order to have this information for review for new plants or plants undergoing major remodeling, the Department has made the appropriate changes to §241.53(b).

COMMENT: Concerning §241.63(m), one commenter wanted a "grandfather" clause for the records requirement for existing wells which may not have all the stipulated records.

RESPONSE: The department disagrees with the comment since the records are obtainable from the Texas Water Commission.

COMMENT: Concerning §241.63(o), one commenter questioned the need for intruder proof fences around private water wells since fencing would be expensive, a nuisance to deal with, and vandalism is not claimed as a problem.

RESPONSE: The department agrees with the comment and has changed this section to delete the requirement.

COMMENT: Concerning §241.63(r), one commenter wanted to know why the State cannot pick up water samples like they used to? Dealers have to pay approximately nine dollars per sample now.

RESPONSE: The department believes this should be considered a cost of doing business for the commenter since the commenter has chosen to have a private well.

COMMENT: Concerning §241.64(a), during department review, staff determined that under the present plumbing code, liquid discharge from sinks or lavatories directly on to the floor is not allowed as this would provide potential contamination of the product by splash from the discharge and foot traffic splash.

RESPONSE: The department made appropriate changes to the section.

COMMENT: Concerning §241.64(d), during department review, staff noted that for clarity three-compartment sinks needed to be specifically required to have hot water provided to them, although this has been the accepted practice for years.

RESPONSE: The department made appropriate changes to the section.

COMMENT: Concerning §241.74(a), one commenter wanted to date containers on the bottom so dates can be read when the containers are stored upside down.

RESPONSE: The department does not have a requirement against this, but the date must be shown on the principal display panel.

COMMENT: Concerning §241.74(b), during review of the comment related to §241.74(a), the department became aware that if the container is one-half gallon or larger, the date must also be on the lid in order to comply with NSSP requirements.

RESPONSE: The department has changed this section accordingly.

COMMENT: Concerning §241.74(c), one commenter suggested that a "BEST IF USED BY" date should be used on containers of frozen product of 63 ounces or less rather than a 14-day "Sell By" date which is only appropriate for fresh product.

RESPONSE: The department agrees and has changed this section accordingly.

COMMENT: Concerning §241.74(e), one commenter wanted to add the generic term IQF, meaning Individually Quick Frozen, as acceptable for labeling frozen product without also requiring the word FROZEN.

RESPONSE: The department agrees with this comment and has changed this section accordingly.

COMMENT: Concerning §241.75(a), one commenter questioned the need for mechanical refrigeration of shucked shellfish containers. He wanted to be able to ship them packed in ice in insulated coolers.

RESPONSE: The department disagrees with this comment based on potential time temperature abuse of the product. Mechanical refrigeration facilities must be required for the proper temperature maintenance of the packed product even though icing is also required because the ice does melt away from the container providing an air gap that must be filled with refrigerated air to protect the product until the ice can be replenished.

COMMENT: Concerning §241.75(a), one commenter wanted to be able to store packed gallons of shellfish upside down in boxes to make it easier to ice the conical shaped containers.

RESPONSE: The department agrees with the comment for flexible walled containers which are sealed against liquid flow in or out and has changed this section accordingly.

COMMENT: Concerning §241.77(a), during department review, staff recommended that the statement relating to record retention be deleted since the rule is covered in §241.77(b).

RESPONSE: The department agrees and changed the section accordingly.

COMMENT: Concerning §241.79(a), one commenter wanted the owner or certified person held responsible for conditions in the plant, not the manager or supervisor.

RESPONSE: The department agrees with the comment and points out that it is addressed in the section.

COMMENT: Concerning §241.80(b), during department review, staff recommended that the statement relating to the hand washing lavatory be deleted since the rule is already covered in §241.84(c).

RESPONSE: The department agrees and changed the section accordingly.

COMMENT: Concerning §241.81(c), one commenter wanted the training course requirement to contain a "grandfather" clause for people already in the industry, or that an equivalency for similar courses be allowed.

RESPONSE: The department disagrees with the comment. After consultation with the Division of Food and Drug, the department changed the section for clarification purposes.

COMMENT: One commenter wanted to require all certified dealers to have product liability insurance.

RESPONSE: The department believes this comment is not relative to the sections.

COMMENT: One commenter wanted all "new" people getting a certificate to post a large financial bond before receiving the certificate.

RESPONSE: The department noted that this comment would require legislation.

COMMENT: One commenter suggested that all tags should be sold by the State for control purposes.

RESPONSE: The department believes this comment may have some validity, but it would require legislation.

COMMENT: One commenter suggested that an Oyster Advisory Committee be established for the department.

RESPONSE: The department believes this comment is not relative to the sections.

COMMENT: One commenter suggested the effective date of the new sections be made coincident with obtaining new oyster licenses for the 1993-1994 season.

RESPONSE: The department requests that the Texas Board of Health make the sections effective August 1, 1993. The board approves this request.

COMMENT: One commenter requested that if the training course is required, that the Department provide a list of acceptable courses with locations, times and costs.

RESPONSE: The department believes this is not relative to the sections, but will provide this information as it becomes available.

COMMENT: The department discovered during review that the division had incorrectly cited the statutory authority for the proposed repeal and adoption of the new sections under Texas Codes Annotated, the Parks and Wildlife Code, §76.203.

RESPONSE: The department has corrected the oversight and the correct statutory authority is cited in the adoption preamble. Minor changes were made throughout the rules for grammar or clarification.

• 25 TAC §§241.50-241.100

The repeals are adopted under the Texas Health and Safety Code, §436.013, which authorizes the Texas Board of Health to adopt rules concerning the regulation of Texas molluscan shellfish; and the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 26, 1993.

TRD-9320912

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

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Proposal publication date: October 2, 1992

For further information, please call: (512) 458-7510

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• 25 TAC §§241.50-241.52,
241.54-241.100

The new sections are adopted under the Texas Health and Safety Code, §436.013, which authorizes the Texas Board of Health to adopt rules concerning the regulation of Texas molluscan shellfish; and the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§241.50. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Adequate—That which, in the judgment of the department, is needed to implement these sections and to accomplish the intended purpose in keeping with good public health practice.

Air gap—The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

Approved—Acceptable to the Commissioner of Health and the Division of Shellfish Sanitation Control.

Approved area—The classification of a shellfish growing area determined by the Division of Shellfish Sanitation Control to be acceptable for harvesting shellfish for direct marketing.

Authorized agent—An employee of the Department of Health who is designated by the commissioner to enforce provisions of these sections.

Backflow—The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source.

Backsiphonage—The flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other source into a potable water supply pipe due to negative pressure in such pipes.

Blower—A container for washing shucked shellfish which uses forced air as a means of agitation.

Certificate of compliance (Certificate)—A numbered document issued by the Division of Shellfish Sanitation Control which authorizes a person to process shellfish for sale.

Certification—The issuing by the Division of Shellfish Sanitation Control of a numbered document to operate that indicates compliance with these sections.

Certification number—The number assigned by the Division of Shellfish Sanitation Control to each certified shellfish dealer. It consists of a one to five digit number preceded by the two letter state abbreviation and followed by the two letter symbol designating the type of operation certified.

Certified laboratory evaluation officer—A person employed by the Texas Department of Health who has met the requirements of the United States Food and Drug Administration and who has been issued a letter of certification to evaluate shellfish laboratories in the State of Texas.

Classes of shippers—The classes of shippers are as follows:

(A) **Depuration processor (DP)**—A person who receives shellstock from areas designated by the Texas Department of Health and submits such shellstock to an approved controlled purification process. A depuration processor may not conduct a shellfish purification operation in a building or facility in which shellfish are being stored or handled for other purposes, unless the purification operation, including receiving, storage, packing and distribution areas, is entirely separated from other operations by physical barriers with no connecting openings.

(B) **Repacker (RP)**—A person other than the original certified shucker/packer who repacks shucked shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck shellfish.

(C) **Shellstock shipper (SS)**—A person who grows, harvests, buys, or repacks and sells shellstock. A shellstock shipper is not authorized to shuck shellfish nor to repack shucked shellfish. A shellstock shipper may ship properly packed and labeled shucked shellfish.

(D) **Shucker/packer (SP)**—A person who shucks and packs shellfish. A shucker/packer may act as a shellstock shipper or repack shellfish originating from other certified dealers.

(E) **Wet storage operator (WS)**—A shipper who purchases or harvests shellstock from areas meeting approved

growing area criteria and holds such shellfish in water from an approved source.

Closed area—A shellfish growing area where the harvesting of shellfish is temporarily or permanently not permitted. A closed area status is or may be placed on any of the five classified area designations as established in the National Shellfish Sanitation Program Manual of Operations as follows: approved; conditionally approved; restricted; conditionally restricted; or prohibited. For the purposes of these sections a closed area status shall be established by declaring the area to be a polluted area.

Commingleing—The act of combining different lots of shellstock or shucked shellfish.

Commissioner—The Commissioner of Health for the State of Texas.

Conditionally approved area—The classification of a shellfish growing area determined by the Division of Shellfish Sanitation Control to meet approved area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally approved area is a closed area when the area does not meet the approved growing area criteria. For the purposes of these sections a closed area status shall be established by declaring the area to be a polluted area.

Conditionally restricted area—The classification of a shellfish growing area determined by the Division of Shellfish Sanitation Control to meet restricted area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally restricted area shall be declared to be a polluted area. The conditionally restricted area shall be open for transplanting or gathering for depuration only during the times it meets restricted area criteria and is so specified by the Texas Department of Health.

Container—The physical material which is in contact with and/or directly surrounds the shellfish confining them into a single unit.

Controlled purification or depuration—The process of using any approved artificially controlled aquatic environment to reduce the level of bacteria and viruses in live shellstock.

Corrosion resistant materials—Those materials that maintain their original surface characteristics under normal exposure to the foods being contacted, normal use of cleaning compounds and bactericidal solutions, and other conditions of use.

Cross connection—Any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other containing water of unknown or questionable safety, or steam, gas or chemical whereby there may be a flow from one system to the other, the direction of flow depending on

the pressure differential between the two systems.

Dealer—A commercial shellstock shipper, repacker, shucker/packer, or depuration processor.

Department (TDH)—The Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 or its successor.

Depuration—See definition for controlled purification.

Depuration plant—A facility of one or more depuration units.

Depuration unit—A tank or series of tanks supplied by a single process water system.

Division of Shellfish Sanitation Control (DSSC)—The division of the Texas Department of Health to which responsibility to classify shellfish growing waters, to issue certificates for the interstate shipment of shellfish and to regulate harvesting, processing, and shipping of shellfish is delegated, in accordance with the National Shellfish Sanitation Program Manual of Operations, Parts I and II.

Dry storage—The storage of shellstock out of water.

Easily cleanable—A surface which is readily accessible; and is made of such materials, has such a finish and is so fabricated that residues may be effectively removed by normal cleaning methods.

Food and Drug Administration (FDA)—The federal agency in which regulation of foods, including the Cooperative Shellfish Program, is vested.

Food contact surfaces—Those surfaces with which shucked shellfish come in contact and those surfaces from which drainage onto surfaces that come in contact with shucked shellfish ordinarily occurs during the normal course of operations. Food contact surfaces includes utensils and food contact surfaces of equipment.

Gatherer—A person who takes shellfish by any means from a growing area designated by the commissioner for delivery only to a depuration plant.

Growing area—An area which supports or could support live shellfish.

Harvester—A person who takes shellfish by any means from any growing area for delivery to a certified dealer or for transplanting purposes.

Heat shock—The process of subjecting shellstock to any form of heat treatment, such as steam, hot water or dry heat for a short period of time prior to shucking to facilitate removal of the meat from the shell without substantially altering the physical or organoleptic characteristics of the shellfish.

Internal temperature—The actual temperature of the shellfish meat, as opposed to the air temperature of the area where the shellfish are stored.

Interstate Certified Shellfish Shippers List (ICSSL)—The listing, published by FDA, of dealers certified by the states to pack and ship shellfish.

Label—Any written, printed, or graphic matter affixed to or appearing upon any container of shellfish.

License—The document issued by the Texas Parks and Wildlife Department, under the Texas Parks and Wildlife Code, Texas Codes Annotated, Chapter 47 or Chapter 76, which authorizes a person to harvest and transport shellfish for commercial sale.

Lot of shellstock—A collection of containers of shellstock of no more than one day's harvest from a single defined growing area by one or more harvesters.

Lot of shellstock for depuration—Shellstock gathered from a particular area at a particular time and delivered to one depuration plant.

Lot of shucked shellfish—A collection of containers of no more than one day's shucked shellfish product produced under conditions as nearly uniform as possible, and designated by a common container code or marking.

Marine toxins—Poisonous compounds accumulated by shellfish feeding upon toxic microorganisms. The poisons may come from dinoflagellates, e.g. *Gonyaulax catenella*, *G. tamarensis*, and *Ptychodiscus brevis*.

Market shellfish—Shellfish which are, may be, or have been harvested and/or prepared for sale for human consumption as a fresh or frozen product.

National Shellfish Sanitation Program (NSSP)—The cooperative State/Food and Drug Administration/Industry program enabling the classification of shellfish growing waters and the certification of interstate shellfish shippers as described in the NSSP Manual of Operations, Parts I and II, or its successor program.

Pack—All activities involved in placing shellfish in containers.

Person—An individual, partnership, corporation, association or other legal entity.

Poisonous or deleterious substance—A toxic compound occurring naturally or added to the environment that may be found in shellfish and for which a regulatory tolerance limit has been or may be established to protect public health. Examples of naturally occurring substances would be paralytic shellfish toxins and trace elements geologically leached from the environment, such as mercury. Examples of added substances would be agricultural pesticides and polynuclear aromatics from oil spills.

Polluted area—The declaration of an area determined by the DSSC to be unacceptable for harvesting of shellfish for direct marketing. Shellfish may not be harvested from a polluted area unless they are subjected to transplanting or controlled purification in accordance with these sections and the permitting requirements of the Texas Parks and Wildlife Department, Title

31, §57.231 (relating to Transplant Permits) and §57.232 (relating to Harvest Permits).

Principal display panel—The part of a label that is most likely to be displayed, presented, shown or examined under customary conditions for sale.

Process batch—A quantity of shellfish used to fill each separate depuration unit.

Process water—The water in depuration tanks during the time that shellfish are being depurated.

Processor—A person who depurates, shucks, packs, or repacks shellfish.

Prohibited area—The classification of a shellfish growing area determined by the DSSC to be unacceptable for the transplanting, gathering for depuration, or harvesting of shellfish. The only shellfish removal from a prohibited area allowed is for the purposes of depletion.

Restricted area—The classification of a shellfish growing area determined by the DSSC to be unacceptable for harvesting of shellfish for direct marketing, but which is acceptable for transplanting or gathering for depuration. A restricted area shall be declared to be a polluted area. A restricted area may be closed for transplanting or gathering for depuration when the DSSC determines that the area does not meet the restricted area criteria established in the NSSP.

Safe materials—Articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

Sanitary survey—The evaluation of all factors having an effect on the sanitary quality of a shellfish growing area, including sources of pollution, the effects of wind, tides and currents in the distribution and dilution of the polluting materials, and the bacteriological quality of the water.

Sanitize—The adequate treatment of food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

Shall—The term used to state mandatory requirements.

Shellfish—All edible species of oysters, clams, and mussels either shucked, in the shell, fresh or fresh frozen, whole or in part, as defined in the NSSP.

Shellstock—Shellfish in the shell.

Shucked shellfish—Shellfish, whole or in part, from which one or both shells have been removed.

Texas business address—A permanent structure on land within the jurisdiction of the State of Texas where aquatic products or orders for aquatic products are received or where aquatic products are sold,

but does not include a boat or any type of floating device, a public cold storage vault, the portion of a structure that is used as a residence, or a vehicle of any kind.

Texas Parks and Wildlife Department (TPWD)—The Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or its successor state agency, having the responsibility for the enforcement of laws concerning harvesting and depletion of the resource in accordance with the NSSP Manual of Operations, Part I.

Transaction record—A form(s) used to document each purchase or sale of shellfish at the wholesale level.

Transplanting—Moving of shellfish from one growing area to another for improving growth, stocking depleted areas and leases, natural cleansing or for other aquaculture purposes.

Wet storage—The temporary storage of shellfish from approved sources, intended for marketing, in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater.

§241.55. *Harvesting and Handling Shellstock.*

(a) Boats and trucks.

(1) All boats used for harvesting or transporting shellstock and all trucks used for dry storing or hauling shellstock shall be constructed, operated, and maintained so as to prevent contamination, deterioration, or decomposition of the shellstock and shall be kept clean. All shellfish boats or trucks shall be subject to approval by the commissioner or his duly authorized representative.

(2) Decks and storage bins shall be constructed and located so as to prevent bilge water or polluted overboard water from coming into contact with the shellstock.

(3) Bilge pump discharges shall be located so that pumpage will not contaminate shellstock or the boat.

(4) Body waste shall not be discharged overboard from any boat at any time.

(5) Portable toilets shall be provided on each boat, shall be used only for the purpose intended, and shall be secured and located so as to prevent contamination of the shellfish by spillage or leakage.

(6) An adequate supply of toilet paper and hand cleanser and/or sanitizer shall be provided on each boat.

(7) The contents of portable toilets shall be emptied only into an approved sewage disposal system, and the portable toilets shall be cleaned before being returned to the boat. Facilities used for clean-

ing food processing equipment shall not be used for cleaning portable toilets.

(8) Sacks or other containers used for storing shellstock shall be clean and fabricated from safe materials. Storage areas shall be constructed of nontoxic materials.

(9) Boat decks, truck floors, and storage bins shall be kept clean with potable water or water from an approved growing area and shall have effective drainage.

(10) Adequate coverings shall be provided on harvest boats to protect shellstock from exposure to sun, birds, and other adverse conditions.

(11) Portions of boats or trucks (decks, storage bins, floorbeds, etc.) and all other equipment (shovels, wheelbarrows, rakes, etc.) coming in contact with shellstock during handling or transport from polluted areas to approved areas for relaying shall be thoroughly cleaned and sanitized immediately after unloading before they are used to transport or handle shellfish from approved areas.

(12) Commercial harvesters shall be responsible for control of their shellstock until acceptance by a certified dealer. Commercial harvesters shall be required to deliver shellstock to a certified dealer within the day the shellstock is harvested. For this purpose a day shall be considered to be midnight to midnight. Delivery of shellstock is considered to be transfer of the shellstock from the boat to the dock and acceptance by the certified dealer. Commercial harvesters shall sell their shellstock only to a currently certified shellfish dealer. The certified dealer shall place a properly completed tag on each sack immediately upon accepting control from the harvester.

(13) Shellstock shall be placed under mechanical refrigeration at air temperatures between 45 degrees fahrenheit and 35 degrees fahrenheit within two hours of unloading from the boat. Mechanical refrigeration facilities shall be adequate in size and cooling capacity to refrigerate all shellstock on the premises. Each facility shall be equipped with an automatic temperature regulating control (thermostat) and an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location in the storage compartment.

(14) Refrigerated shellstock shall be maintained at internal temperatures between 45 degrees fahrenheit and 35 degrees fahrenheit. After initial refrigeration, shellstock removed from refrigeration shall not be permitted to remain in air temperatures above 45 degrees fahrenheit for more than two hours. The internal air temperature in trailers shall be at or below 45 degrees fahrenheit when shellstock loading begins.

(15) Trucks used to transport shellstock shall have the storage area constructed of a nontoxic, smooth, impervious material so as to protect the shellfish from contamination and shall be kept clean. Shellstock shall be transported in mechanically refrigerated trucks that can maintain an air temperature between 45 degrees fahrenheit and 35 degrees fahrenheit, shall be pelletized, and shall be arranged to allow maximum air circulation. Shellstock storage areas shall be similarly constructed.

(16) Dogs, cats, or other animals shall not be permitted on vessels, in vehicles, or in any other area where shellstock is held or transported.

(b) Washing of shellstock.

(1) Shellstock shall be washed reasonably free of bottom sediments and detritus at the time of harvest or as soon after harvesting as is feasible. Washing shellstock shall be the responsibility of the harvester.

(2) Water used for washing shellstock shall be obtained from an approved growing area, or from other safe sources approved by the Texas Department of Health (TDH).

(c) Shellstock packing and identification.

(1) Sacks, boxes, and other shellstock packing containers shall be clean and fabricated from safe material.

(2) A shellfish harvester shall sack all shellstock and securely affix an approved, durable, waterproof, harvester's tag to each container of shellstock prior to delivery to a certified dealer. This tag shall remain on the container during transport and storage until the shellstock is processed or reaches the consumer.

(3) The harvester's tags shall contain the following information:

(A) the Texas Parks and Wildlife Department commercial harvester's number and name of the captain and the boat name or the oyster boat license number and the captain's name;

(B) the date of harvesting;

(C) the most precise identification of the harvest location as is practicable including the two letter state abbreviation;

(D) the type and quantity of shellstock; and

(E) the following statement in bold capitalized type "THIS TAG IS

REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(4) The initial certified shellfish dealer shall securely affix an approved, durable, waterproof, tag or label to each container of shellstock immediately upon accepting control of the shellstock. This tag or label shall remain on the container during transport and storage until the shellstock is processed or reaches the consumer.

(5) The certified dealer's tags or labels shall contain the following information:

(A) the name of the certified business as it appears on the certificate issued by the Division of Shellfish Sanitation Control (DSSC);

(B) the address of the business, including at least the city and state;

(C) the complete certification number assigned by the DSSC;

(D) the original shipper's certification number including the state abbreviation;

(E) the date of harvesting;

(F) the most precise identification of the harvest location as is practicable including the two letter state abbreviation;

(G) the type and quantity of shellstock;

(H) the name of the harvester or the harvest boat; and

(I) the following statement in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(6) All information shall be permanently printed on the tags or labels by the printing company, except the date of harvest, harvest location, and the name of the harvester or harvest boat, which shall be added by the certified dealer, before the tags or labels are affixed to the container. All information either printed or added to the tag or label must be done using a permanent type ink, and shall not be altered or changed after being entered on the tag or label. The certification number shall only be complete and valid if it has a proper state two letter abbreviation, followed by a one

to five digit number followed by a two letter abbreviation for the type of operation the dealer is certified to perform, (SP for shucker/packer, RP for repacker, SS for shellstock shipper, or DP for depuration plant). These tags shall be no smaller than the minimum size allowed as stated in the National Shellfish Sanitation Program (NSSP) Manual, Part II.

(7) The certified dealer shall accept responsibility for the shellstock at the time the tag is attached to the sack.

§241.56. Shellstock Shipping.

(a) Source, identification, and records.

(1) All incoming shellstock shall be inspected to assure compliance with requirements of §241.54 of this title (relating to Sources of Shellfish).

(2) Dead, unwholesome, inadequately protected, or unidentified shellfish shall be destroyed.

(3) Complete, accurate, and legible records in a form approved by the Division of Shellfish Sanitation Control (DSSC) shall be maintained by each certified dealer. These records shall be sufficient to document that the shellstock are from an approved source and to permit a container to be traced back to the harvest area, date of harvest, and the name of the harvester or harvest boat. Purchases and sales shall be recorded in a permanently bound ledger book and maintained for a minimum of one year. Transaction records indicating origin, date, and time of receipt of the product shall be maintained in a legible, orderly file. If computer records are maintained, they shall be approved by the DSSC.

(b) Shellstock storage and shipping.

(1) Trucks used to store or transport shellstock shall be constructed, maintained, cleaned, and refrigerated in accordance with §241.55 of this title (relating to Harvesting and Handling Shellstock).

(2) Buildings in which shellstock are held shall comply with the construction requirements of the sections of this undesignated head. Shellstock shippers shall have sanitary toilet facilities acceptable to the DSSC and an approved water supply providing at least warm water suitable for hand washing.

(3) Shellstock in storage shall be protected from contamination and maintained at temperatures necessary to minimize microbial growth pursuant to the requirements of §241.55 and §241.75 of this title (relating to Refrigeration and Shipping of Shucked Shellfish).

(4) All equipment and conveyances which come into contact with shellstock shall be maintained and cleaned

according to the requirements of §241.68 of this title (relating to General Maintenance and Cleanliness).

(5) Animals and unauthorized persons shall not be allowed in any area where shellstock is being stored or handled.

(6) Shellstock shall be identified in accordance with the requirements of §241.55, and records shall be maintained in accordance with the requirements of §241.77 of this title (relating to Records). Shippers whose physical facilities consist of trucks and/or organized docking facilities only, shall have a Texas business address at which records are maintained and inspections can be performed.

(c) Repacking and relabeling shellstock.

(1) Only shellstock that are clean, alive, and wholesome shall be repacked or relabeled.

(2) Shellstock repacking facilities shall be in compliance with the construction requirements established in the sections of this undesignated head.

(3) Shellstock shall be held, transported, and handled in accordance with the requirements of §241.55 of this title. Shellstock repacking and relabeling shall be conducted in facilities which comply with the construction and operational requirements of this undesignated head.

(4) Shellstock from different lots shall not be commingled during repacking.

(5) Sacks, boxes, and other shellstock packing containers shall be clean, fabricated from safe materials, and protected from contamination.

(6) Animals or unauthorized persons shall not be allowed in any area where shellstock is being stored or repacked.

(7) A durable, waterproof tag or label shall be securely affixed to each container. This tag or label shall remain on the container during transport and storage until the shellstock is processed or reaches the consumer. The tag or label shall contain the following information in a legible and indelible form:

(A) the name of the business as it appears on the certificate of compliance;

(B) the business address including at least the city and state;

(C) the complete certification number of the dealer performing the repacking or relabeling;

(D) the date of harvest;

(E) the most precise description of the harvest area as is practicable including the two letter state abbreviation;

(F) the type and quantity of shellstock;

(G) the name of harvester or harvest boat, or the source from which the shellstock was purchased; and

(H) the following statement in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(8) Records shall be maintained which will permit a container of shellstock to be traced back to the harvest area. Records shall also include the date of harvest and the name of the harvester or harvest boat, or the source from which the shellstock was purchased. Records shall be maintained for a period of at least one year.

§241.62. Heating, Cooling, and Ventilation.

(a) Working rooms shall be adequately ventilated and heated or cooled. Adequate ventilation shall be provided to minimize odors, noxious fumes, vapors, or condensation (including steam) in areas where shellfish may become contaminated. Operation of cooling, heating or ventilating equipment shall not create conditions that may cause shellfish to become contaminated.

(b) Dealers who wish to process shellfish when the temperature inside the plant exceeds 80 degrees fahrenheit shall have their facilities cooled with mechanical refrigeration adequate to maintain the internal air temperature at or below 80 degrees fahrenheit at all times the shellfish are being processed. Each processing room or area shall be equipped with an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location not to be more than six feet off the floor.

§241.63. Water Supply.

(a) Potable water shall be from a safe source, protected from contamination, and the water supply system shall be constructed, maintained, and operated according to this undesignated head. All water distribution systems shall be designed and constructed so as to provide a minimum residual pressure of 20 pounds per square

inch under peak demand conditions. Under normal operating conditions, minimum pressures should not be less than 35 pounds per square inch in the distribution system.

(b) Running water shall be provided at an adequate temperature and pressure in all areas where needed to process food, clean equipment, utensils, or containers, and supply sanitary facilities.

(c) Hot and cold water shall be provided through a mixing valve at each compartment of every three compartment sink and at each hand washing lavatory.

(d) Water wells shall be so located that there will be no danger of pollution from flooding under normal conditions or from insanitary surroundings, such as, privies, sewage, sewage treatment plants, livestock and animal pens, solid waste disposal sites, or abandoned and improperly sealed wells.

(e) Well sites shall not be within 50 feet of a tile or concrete sanitary sewer, septic tank, or storm sewer, or within 150 feet of a septic tank perforated drainfield, absorption bed, evapotranspiration bed or underground fuel storage tank.

(f) No well site shall be located within 500 feet of a sewage treatment plant or within 300 feet of a sewage wet well, sewage pumping station or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems.

(g) No water wells shall be located within 500 feet of animal feed lots, solid waste disposal sites or lands irrigated by sewerage plant effluent.

(h) Livestock shall not be allowed within 50 feet of water supply wells.

(i) Abandoned water wells in the area of a proposed source shall be plugged and sealed properly to prevent possible contamination of freshwater strata.

(j) A sanitary control easement covering that portion of the lands within 150 feet of the well location shall be secured from all such property owners and recorded in the deed records at the county courthouse for all completed wells dug after the effective date of these sections.

(k) A concrete sealing block extending at least three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot shall be provided around the well head.

(l) Wellheads and pump bases shall be sealed by the use of gaskets or sealing compounds and, as applicable, properly vented to prevent the possibility of contamination of the well water.

(m) Upon completion of a new well, or after an existing well has been reworked, the well shall be disinfected and

unused for at least six hours. After the water containing chlorine is completely flushed from the well, prior to placing the well in service, samples of water shall be collected by the well owner or the certified dealer and submitted for bacteriological analysis until three successive samples collected on separate days shall be free of coliform organisms. Accurate records pertaining to the well, such as, the log of the ground formations, casing records, material settings, water levels, etc., shall be kept on file and made available to the Division of Shellfish Sanitation Control (DSSC) upon request.

(n) A suitable raw water sampling cock shall be provided on the discharge pipe of each well pump.

(o) Mechanical disinfection facilities capable of maintaining a free chlorine residual of 0.2-0.5 parts per million shall be provided with the point of injection prior to the hydropneumatic pressure tank or shall be ahead of the water storage reservoir(s), if a storage reservoir is provided. A test kit must be provided and available for testing the chlorine residual of the potable water.

(p) The use of disinfectants other than hypochlorination with mechanical injection shall be considered on a case-by-case basis. Hypochlorination solution containers and pumps shall be housed and locked to protect them from adverse weather conditions and vandalism.

(q) All hydropneumatic tanks shall be located wholly above grade and shall be of steel construction with welded seams.

(1) Metal thickness for hydropneumatic tanks shall be sufficient to provide at least a minimum of 1/8 inch corrosion allowance and to withstand the highest expected working pressures with a four to one factor of safety.

(2) All hydropneumatic tanks shall be provided with a pressure release device and an easily readable pressure gauge.

(3) The tank size shall be large enough to maintain 35 pounds per square inch working pressure to the farthest end of the distribution system and large enough to provide adequate disinfection contact time as reflected by negative confluent and/or coliform monthly sample results. The tank size shall not be less than 82 gallons.

(r) At least one sample of water taken from the distribution system shall be submitted to an approved laboratory each month for bacteriological analysis. Any coliform positive or confluent (TNTC) sample shall necessitate resampling the water within 24 hours of receiving the result. All shellfish operations associated with the well shall immediately cease upon notification of a coliform positive result. The DSSC shall

be notified upon receipt of a coliform positive sample result: If the resample result is coliform positive, the DSSC shall be notified upon receipt of the result and the DSSC shall determine the appropriate steps for disinfection and/or resampling. Shellfish operations shall not resume until a coliform negative result is obtained and the DSSC is properly notified.

§241.64. Plumbing, Sewage, and Related Facilities.

(a) Plumbing shall be installed in compliance with applicable state laws, and shall be of adequate size and design to:

(1) carry adequate quantities of water to required locations throughout the plant;

(2) properly convey sewage and liquid disposable waste from the plant;

(3) ensure that the water supplies and food contact surfaces are not contaminated as a result of an inadequate plumbing system;

(4) provide adequate floor drainage in all areas;

(5) properly dispose of all sink and lavatory liquid by direct discharge into drainage outlets. Drainage outlets shall be constructed and maintained so as to prevent the possible entrance of insects and rodents. Floor drainage shall not be allowed to drain from the plant on top of the ground.

(b) There shall be no cross connections between the approved pressure water supply and water from an unapproved source, and there shall be no fixtures or connections through which the approved pressure supply might be contaminated by backsiphonage. Adequate devices approved by the appropriate regulatory agency shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where the air gap between the water supply inlet and the fixture's flood level rim is less than twice the diameter of the water system inlet. All submerged inlets, including hoses attached to faucets, shall be equipped with a backflow prevention device. If booster pumps are connected directly to the potable water supply, the pumps shall be equipped with a low pressure cutoff device or equivalent method to prevent backsiphonage.

(c) Hand washing facilities shall be adequate in number and size for the number of employees, convenient to the work areas, and so located that the person responsible for supervision can readily observe that employees wash their hands before beginning work and after each interruption. There shall be at least one hand washing lavatory located in the shucking room. There shall be at least one hand washing lavatory in the packing room for use by packing room

workers. Three compartment sinks used for washing and sanitizing equipment and utensils shall not be used for hand washing. There shall be at least one three compartment sink located in the packing room. This sink shall be of adequate size to completely immerse and properly clean equipment and utensils.

(d) Hand washing lavatories and three-compartment sinks shall be provided with hot water of at least 100 degrees fahrenheit from either a controlled temperature source with a maximum temperature of 115 degrees fahrenheit, or from a hot and cold mixing or combination faucet. Steam water mixing valves or steam water combination faucets shall not be acceptable.

(e) A supply of hand cleansing soap or detergent shall be available at each hand washing facility. A supply of disposable towels or a suitable hand drying device that

provides heated air shall be conveniently located near each hand washing facility. Common towels shall be prohibited. Where disposable towels are used, easily cleanable waste receptacles, with covers, shall be conveniently located near the hand washing facilities. Hand washing signs, in languages understood by the employees, shall be posted in toilet rooms and near hand washing facilities. Hand washing facilities, hand drying devices, and all related facilities shall be kept clean and in good repair.

(f) Toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with the following table. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can

be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purposes of the table. The sewage disposal method shall not endanger the health of employees. Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures adequately high to assure privacy. Toilet room doors shall be tight fitting, self-closing, and not open directly into a processing area. Toilet rooms shall be kept clean and in good repair. A supply of toilet paper in a suitable holder shall be available in the toilet rooms. Air vents shall be screened or have self-closing louvers. A covered waste receptacle shall be provided in each toilet room.

NUMBER OF EMPLOYEES	MINIMUM NUMBER OF WATER CLOSETS
1 to 15	1
16 to 35	2
36 to 55	3
56 to 80	4
81 to 110	5
111 to 150	6
over 150	1 additional fixture for each additional 40 employees

(g) No drainpipes or wastepipes shall be located over food processing or storage areas, or over areas in which containers are stored or washed.

(h) Sewage shall be discharged into an adequate sewerage system or shall be disposed of through other effective means. Where private sewerage systems are utilized, they shall be constructed and maintained according to state and local laws. Privies are not acceptable. The sewerage system shall be constructed and maintained in order that sewage will be inaccessible to flies or other insects, rodents, or other vermin, and the sewage shall not provide a source of contamination. All sewerage lines and floor drainage lines shall be separate and shall be trapped to prevent entrance of sewage into any portion of the plant.

§241.74. Labeling Shucked Shellfish.

(a) Each individual container of fresh or fresh frozen shucked shellfish shall have permanently recorded on the container or principal display panel, so as to be easily visible, the following information:

(1) the packer's, or repacker's, name as it appears on the certificate of compliance;

(2) the packer's or repacker's address, including at least the city and state; and

(3) the two letter state abbreviation followed by the one-to-five digit certificate number and followed by the two letter abbreviation for the type of operation the dealer is qualified to perform (shucker/packer (SP) or repacker (RP)).

(b) The principal display panel on each container of fresh or fresh frozen shucked shellfish shall contain a date in compliance with the current National Shellfish Sanitation Program (NSSP) Manual of Operations, Part II. Containers of 64 ounces or more shall have a shucking date, and it shall be preceded by the word SHUCKED. Containers of 64 ounces or more shall also have the date on the lid.

(c) For unfrozen product, if the date is a sell by date, the method of determining that date shall be based on the date the shellfish are shucked and shall be approved

by the Division of Shellfish Sanitation Control (DSSC) before being used. The proposed method must be submitted in writing to the DSSC. The sell by date for unfrozen product is 14 days after the date of shuck unless otherwise approved in writing by the DSSC. The sell by date shall be preceded by the words SELL BY. A sell by date shall be required on containers of 63 ounces or less containing unfrozen product. For containers of 63 ounces or less containing frozen product, the words BEST IF USED BY shall precede the date.

(d) The principal display panel on each container of fresh or fresh frozen shucked shellfish shall contain a lot identification adequate to permit the container to be traced back to the incoming lot of shellstock from which it was packed.

(e) Frozen shellfish shall be labeled as FROZEN, Individually Quick frozen, or IQF in print of equal prominence immediately adjacent to the name of the shellfish. The word FROZEN, Individually Quick Frozen, or IQF shall be impressed, embossed, lithographed, or otherwise permanently recorded on the container. Stamping shall not be allowed.

(f) Reusable containers used to temporarily store shucked shellfish shall have the following information permanently recorded on the container:

(1) the packer's or repacker's name as it appears on the certificate of compliance;

(2) the packer's or repacker's address, including at least the city and state; and

(3) the complete certification number.

(g) Reusable containers must have a tag or label attached to each container indicating the date shucked so that the date on the final container can be determined properly at repacking. Other information necessary to properly identify the lot and source of the shucked product shall also be on the tag or label.

(h) All required information shall be provided in a legible and indelible form. All information, except the date and lot identification, shall be impressed, embossed, lithographed, or otherwise permanently recorded on the container by the container printing company, unless, an adhesive label which has been approved by the DSSC is used. Adhesive labels shall be durable and waterproof and shall not be used unless prior approval from the DSSC is obtained. The request must be submitted in writing. All labeling is subject to review and approval by the DSSC.

§241.75. Refrigeration and Shipping of Shucked Shellfish.

(a) Shucked shellfish shall be held and transported under mechanical refrigeration at air temperatures of 45 degrees fahrenheit or less. Storage and shipping of containers of shucked shellfish in wet ice is also required. Containers of shucked shellfish shall not be stored upside down unless they are constructed of flexible material and the lids are sealed to prevent liquid flow in or out.

(b) Containerized shellfish to be frozen shall be arranged to insure rapid freezing, and shall be frozen at an ambient air temperature of 0 degrees fahrenheit or less, with the shellfish frozen solid within 12 hours after the start of freezing. Frozen shellfish shall be handled in such a manner as to remain frozen solid, and shall be held at 0 degrees fahrenheit or less. Previously frozen shellfish which have thawed shall be destroyed.

(c) Refrigeration and frozen storage compartments shall be equipped in compliance with §241.55 of this title (relating to Harvesting and Handling Shellstock). Mechanical refrigeration facilities shall be adequate in size and cooling capacity to

refrigerate all shucked shellfish on the premises. Each facility shall be equipped with an automatic temperature regulating control (thermostat) and an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location in the storage compartment.

(d) After initial refrigeration, shucked shellfish removed from refrigeration shall not be permitted to remain in air temperatures above 45 degrees fahrenheit for more than two hours.

(e) All containers holding shucked shellfish shall be kept covered during refrigeration.

(f) Trucks used to transport shucked shellfish shall have the storage area constructed of a nontoxic, smooth, impervious material so as to protect the shellfish from contamination and shall be kept clean. Shucked shellfish shall be transported in mechanically refrigerated units that can maintain an air temperature between 45 degrees fahrenheit and 35 degrees fahrenheit, shall be pelletized, and shall be arranged to allow maximum air circulation.

(g) Dogs, cats, or other animals shall not be permitted on vessels, in vehicles, or in any other area where shucked shellfish are held or transported.

§241.77. Records.

(a) Complete, accurate, and legible records in a form approved by the Division of Shellfish Sanitation Control (DSSC) shall be maintained by each certified dealer. These reports shall be sufficient to document that the shellfish are from an approved source and to permit a container of shellfish to be traced back to its specific incoming lot. Purchases and sales shall be recorded in a permanently bound ledger book. Transaction records indicating origin, date, and time of receipt of the product shall be maintained in a legible, orderly file. If computer records are maintained, they shall be approved by the DSSC.

(b) Records covering purchases and sales of fresh shellfish shall be retained for a minimum of one year. Records covering purchases and sales of frozen shellfish shall be retained for at least two years or for a period of time that exceeds the shelf life of the product, if that period is longer than two years.

(c) Records shall be made available for inspection upon verbal request by an agent of the DSSC during all normal working hours.

(d) The following items pertaining to purchases shall be identified in the records:

(1) seller's identification (harvester or other certified dealer);

(2) harvest location for shellstock;

(3) harvest date for shellstock;

(4) shuck date for shucked product;

(5) quantity purchased; and

(6) date purchased.

(e) The following items pertaining to processing or shipping shall be identified in the records:

(1) processing or repacking date;

(2) quantity processed or repacked;

(3) quantity remaining;

(4) quantity disposed of and method;

(5) date shipped;

(6) quantity shipped; and

(7) consignee identification.

§241.78. Employee Health.

(a) Persons infected by disease in a communicable form, or while a carrier of such disease, or while infected with boils, sores, infected wounds, or acute respiratory infection shall not work in a shellfish processing establishment in any capacity in which there is a likelihood of such persons contaminating shellfish or shellfish contact surfaces with pathogenic organisms or transmitting diseases to other persons.

(b) Daily observation of employees shall be made by the supervisor, with reasonable inquiries being made when signs of illness appear. Employees having diarrhea, sore throat, or any other symptoms of illness or disease shall promptly report this to their supervisor.

(c) Upon an inquiry indicating the possibility of a communicable disease, the infected employee shall be excluded from the plant pending clearance by a licensed medical doctor.

(d) Shuckers, packing room personnel, or any other employee who has a stab wound, puncture, or any other open wound or sore and may handle the product shall be excluded from the plant, unless appropriate steps are taken to cover the wound and properly protect the product.

§241.80. Personal Cleanliness.

(a) Employees handling shucked shellfish shall wear clean outer garments. These outer garments shall be rinsed or changed as necessary to be kept clean. Persons rinsing and packing shellfish shall wear an apron of approved material.

(b) Employees shall wash their hands thoroughly with soap and water and shall sanitize their hands before starting work, after each absence from the work station, after each interruption, and at any other time when their hands may have become soiled or contaminated. Utensil sinks shall not be used for hand washing.

(c) Finger cots, gloves, and shields, if worn by shuckers, shall be sanitized as often as necessary or at least twice daily; shall be properly stored until used; and shall be maintained in an intact, clean, and sanitary condition. Finger cots, gloves, and shields shall be made of an impermeable material except where use of such materials would be inappropriate or incompatible with the work involved.

(d) Hands of employees handling shucked shellfish shall be either protected by sanitized finger cots or gloves, or shall be washed and disinfected immediately before any manual handling of the shucked shellfish.

(e) Employees shall not store clothing or other personal belongings, eat food, chew gum, drink beverages, use tobacco in any form, spit, or conduct any other unsanitary acts in areas where shellfish are being stored, shucked, or packed or in areas that are being used for washing equipment or utensils.

(f) Employees handling shucked shellfish shall wear effective hair restraints, remove all insecure jewelry and remove from hands any jewelry that cannot be adequately sanitized. If jewelry cannot be removed from hands, adequate finger cots or gloves shall be worn.

(g) Employees shall take other necessary precautions to prevent contamination of shucked shellfish with microorganisms or foreign substances, including, but not limited to, perspiration, hair, cosmetics, chemicals, and medicants.

§241.81. Education and Training.

(a) Supervisors shall receive appropriate training in proper food handling techniques and food protection principles and shall be cognizant of personal hygiene, sanitary practices, and the requirements established in these sections. Failure of any person or persons to avail themselves of this information does not relieve them of a violation of these sections.

(b) Employees shall receive instruction and training in proper food handling and personal hygiene and sanitary practices from supervisory personnel or from other sources acceptable to the Division of Shellfish Sanitation Control (DSSC).

(c) Shellfish plant owners and/or managers and supervisors shall be required

to attend a Food Protection Management Program, obtain a certificate of completion, and provide a copy to the DSSC prior to obtaining a Shellfish Certificate of Compliance. New supervisors shall be required to attend the course and obtain a certificate of completion before working as a supervisor in a plant and shall submit a copy of their certificate to the DSSC within two weeks of employment. Training shall be accomplished by means of a training program consisting of fifteen classroom hours and said program shall be accredited by the Texas Department of Health (TDH). Persons seeking certification may obtain said training from commercial or educational activities accredited by the TDH. Certification shall be accomplished after all course requirements have been met and the applicants have demonstrated by means of an examination that they possess the required essential knowledge as determined by the Health Authority. Certificates shall be valid only for a period of three years. Prior to expiration a person may attend a refresher course approved by the TDH and obtain a certificate of completion or obtain a passing score on a national examination for certification of food service managers that meets requirements of the United States Food and Drug Administration and the TDH. Copies of proof of either must be submitted to the DSSC prior to expiration.

(d) Unsanitary practices of employees shall be brought to the attention of the employees by their supervisor and the employees shall be instructed on the proper sanitary practice that is to be used.

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 March 29, 1993.

TRD-9320880

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

Effective date: August 1, 1993

Proposal publication date: October 2, 1992

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



Molluscan Shellfish

• 25 TAC §241.53

The Texas Department of Health (department) adopts new §241.53, concerning molluscan shellfish. The section is adopted with changes to the proposed text as published in the October 6, 1992, issue of the *Texas Register* (17 TexReg 6880).

The new section will update and clarify existing §241.53 and will implement the requirements and guidelines established in the 1990

National Shellfish Sanitation Program Manual of Operations, Parts I and II, published by the Interstate Shellfish Sanitation Conference and the United States Food and Drug Administration.

The following is a summary of comments and the department's response.

COMMENT: Concerning §241.53(a), one commenter wanted other states to have to meet the same requirements as Texas dealers.

RESPONSE: The department agrees with the comment and states that this is already required by the rule.

COMMENT: The department discovered during review that the division had incorrectly cited as the statutory authority for the proposed adoption of the new section under Texas Codes Annotated, the Parks and Wildlife Code, §76. 203.

RESPONSE: The department has corrected the oversight and the correct statutory authority is cited in the adoption preamble.

The new section is adopted under the Texas Health and Safety Code, §436. 013, which authorizes the Texas Board of Health to adopt rules concerning the regulation of Texas molluscan shellfish; and the Texas Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§241.53. Certification and Enforcement Procedures.

(a) No shellfish shall be offered for sale for food in the State of Texas unless taken from areas approved by the commissioner, or obtained from sources outside the State which are approved by the Texas Department of Health (TDH). If obtained from sources outside of the State, the shellfish must be from areas approved by the State authorities having jurisdiction and must be obtained from shellfish dealers currently certified by the appropriate state authority. Shellfish obtained from sources other than those outlined in this section shall be considered unfit for human consumption. No person shall engage in the gathering, harvesting, shucking, packing, or repacking of shellfish for sale without having complied with these sections. No person shall engage in any activity requiring a certificate under these sections without having applied for and obtained a numbered certificate of compliance pertaining to the particular activity from the commissioner. Any shellfish in the possession of a person holding a valid license issued by the Texas Parks and Wildlife Department (TPWD) under Texas Parks and Wildlife Code, Chapters 47 or 76, shall be considered to be offered for sale for food in Texas.

(b) Prior to beginning construction of a new shellfish plant, or major remodel-

ing of an existing shellfish plant (which includes, but is not limited to: any process new to that particular plant; any change of product flow; or any enlarging of the plant structure) complete, legible plans showing the floor plan of the building, with dimensions drawn to scale, location of equipment, doors, floor drains, etc., and written, complete operational procedures for all phases of the activity, including flow of the product, shall be submitted to the TDH's Division of Shellfish Sanitation Control (DSSC) for review and approval. Additional plans of the entire premises may be required showing all structures, as well as, all water wells and septic systems with related distances and a statement of specifications as to type, sizes, design, date installed, etc. Plans shall be submitted no less than 30 days prior to initiating a new process or beginning construction. No operations shall be conducted while any inside plant construction or any other construction which has the potential to contaminate the product is occurring. A legibly written or typed application on forms provided by TDH must be filed with the DSSC before gathering, harvesting for market, or operation of the plant begins each fiscal year. A certificate of compliance and number shall be issued by the commissioner only after an inspection of the plant by an authorized agent has revealed that the plant and practices are in compliance with these sections.

(c) The inspection of a previously certified plant which has exhibited operational problems or violations of operational requirements of these sections or had a certificate of compliance revoked shall not be conducted until written, complete operational procedures for all phases of the activity, including flow of the product, are submitted to the DSSC for review and approval. An application may be rejected and a certificate of compliance denied based on a history of failure to comply with the requirements of these sections.

(d) Shellfish operations at the plant shall not begin until the shellfish certificate issued by the commissioner has been received and posted at the plant. Each certificate of compliance shall expire automatically at 11:59 p.m. the 31st day of August following the date of issue. Certificates of compliance shall not be transferable.

(e) After a certificate of compliance is issued, unannounced inspections shall be conducted at any time the DSSC has reason to believe the business may be in operation and at such frequency as may be necessary to assure that adequate operational and sanitary conditions are maintained and shall be conducted a minimum of three times each six months. A copy of the completed inspection form listing written descriptions of the violations observed along with any nec-

essary explanation shall be provided by an authorized agent of TDH to the most responsible individual present at the firm at the conclusion of the inspection. Any violations of the same requirement found on a consecutive inspection may result in certificate revocation in accordance with subsection (f) of this section. Shellfish inspections and the DSSC forms shall comply with the requirements established in the current National Shellfish Sanitation Program (NSSP) Manual of Operations.

(f) The DSSC may initiate procedures to revoke a certificate of compliance as follows.

(1) The procedures, including the opportunity for a hearing prior to revocation, shall be in accordance with the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and TDH formal hearing procedures in Chapter 1 of this title (relating to the Board of Health).

(2) The grounds for revocation shall be one or more of the following:

(A) inspection results indicate unsatisfactory conditions in the plant or the existence of a public health hazard; or

(B) the certificate holder or representative refuses to allow an inspection or otherwise interferes with the authorized TDH agent in the performance of his or her duties.

(g) The commissioner of health or his designee may revoke a certificate of compliance prior to a hearing as follows.

(1) The grounds for revocation shall be one or more of the following:

(A) the shellfish create or appear to create an imminent hazard to public health;

(B) the certificate holder or representative refuses to allow an authorized TDH agent to inspect the facilities and premises when the agent has reason to believe that an imminent hazard to public health may exist;

(C) cooling temperatures violate the requirements of these sections;

(D) pathogenic bacteria are isolated in any sample;

(E) sewage becomes accessible to flies or other insects, rodents, or other vermin.

(F) facility operating while flooded;

(G) unsafe water supply, including evidence of bad samples;

(H) unapproved wet storage;

(I) packing into containers without a valid certificate number for that location;

(J) unsanitary ice supply; or

(K) incomplete, inaccurate, or illegible business records not sufficient to validate source of product or permit containers to be traced.

(2) Immediately after a revocation, the commissioner or his designee shall give the certificate holder the opportunity for a hearing in accordance with TDH formal hearing procedures in Chapter 1 of this title.

(h) A person whose certificate has been revoked may not process any shellfish until the DSSC is satisfied that all necessary corrections have been made. A new certificate will not be issued until an inspection establishes that the firm is in full compliance with all applicable criteria of these sections. A person whose certificate has been revoked shall not apply for a new certificate until 30 days after the date of signing of the final order of revocation.

(i) Should the commissioner deem it reasonably necessary for the enforcement of these sections, he is empowered to require of each person holding a certificate to post and maintain with him a good and sufficient bond, with a corporate surety or two personal sureties approved by the commissioner, or to make a cash deposit in a form acceptable to the commissioner. The bond will be posted or the cash deposited on the condition that the certificate holder will faithfully comply with all legal requirements imposed by virtue of the law and that, failing such, the certificate holder or his surety will pay as forfeiture a sum of at least \$1,000.

(j) By acceptance of a certificate, the holder agrees to save, hold harmless, and indemnify the State of Texas, TDH, and its employees against any and all liability, claims or losses for property damage or personal injury which result in whole or in part from the certificate holder's activities. The State of Texas shall not be held liable for financial losses incurred by the shellfish transplanters, gatherers, harvesters, plant supervisors, or plant owners due to failure of shellfish activity, condemnation of shellfish, loss of shellfish, or other reasons.

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 March 26, 1993.

TRD-9320879

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

Effective date: August 1, 1993

Proposal publication date: October 6, 1992

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

Chapter 265. General Sanitation

Texas Youth Camps Safety and Health

• 25 TAC §265.25

The Texas Department of Health (department) adopts new §265.25, without changes to the text as published in the October 6, 1992, issue of the *Texas Register* (17 TexReg 6881). The new section concerns administrative penalties and covers the amount of an administrative penalty which the Commissioner of Health (commissioner) may assess when a person violates the Texas Youth Camp Safety and Health Act or an order or rule or license issued under the Act, the criteria for assessing the penalty, and the hearing procedures available when a penalty is being proposed for assessment. The new section will implement the provisions of the Health and Safety Code, §141.016, which became effective on September 1, 1991.

No comments were received regarding adoption of the new section.

The new section is adopted under the Health and Safety Code, §141.016, which provides the commissioner with authority to assess an administrative penalty for a violation of the Youth Camp Safety and Health Act; §141.017, which provides the department with authority to provide an opportunity for a hearing when a penalty is being proposed; and §12.001 which provides the Texas Board of Health (board) with authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner.

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 March 25, 1993.

TRD-9320836

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

Effective date: April 15, 1993

Proposal publication date: October 6, 1992

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

TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

Chapter 23. Administrative Procedures

• 34 TAC §23.6

The Teacher Retirement System of Texas (TRS) adopts new §23.6 concerning the trustee to trustee transfers, of eligible rollover distributions from TRS, without changes to the proposed text as published in the December 22, 1992, issue of the *Texas Register* (17 TexReg 8997).

The new section is adopted in order to comply with the provisions of the Unemployment Compensation Amendments of 1992, Public Law 102-318 (UCA), which require qualified retirement plans to permit such transfers for distributions made after December 31, 1992. As a qualified plan, TRS is required by federal law to allow such transfers. This section is intended to provide authority for TRS to make trustee to trustee transfers of eligible rollover distributions.

The new section will permit a distributee of an eligible rollover distribution to elect to have the distribution paid directly to another eligible retirement plan. By doing so, the distributee will avoid a mandatory withholding of federal income tax on the distribution in the amount of 20% of the eligible distribution.

No Comments were received regarding adoption of the new section.

The new section is adopted under the Texas Government Code, §825.102, which authorizes the Board of Trustees of the retirement system to adopt rules for the administration of the funds of the retirement system and for the transaction of business of the Board, and under the Texas Government Code, §825.506, which authorizes the Board of Trustees to adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan.

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 March 25, 1993.

TRD-9320824

Wayne Blevins
Executive Secretary
Teacher Retirement
System of Texas

Effective date: April 15, 1993

Proposal publication date: December 22, 1992

For further information, please call: (512) 370-0524

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part II. Texas Rehabilitation Commission

Chapter 115. Memoranda of Understanding with Other State Agencies

• 40 TAC §115.6

The Texas Rehabilitation Commission adopts an amendment to §115.6, concerning investigation of all reports it receives relating to abuse, neglect, or exploitation of a TRC client who is a disabled adult (age 18 and over) or an elderly person (age 65 and over), without changes to the proposed text as published in the February 23, 1993, issue of the *Texas Register* (18 TexReg 1158).

The Texas Rehabilitation Commission is adopting this new section to give the public notice of the roles of the Texas Department of Protective and Regulatory Services and the Texas Rehabilitation Commission in the investigation of abuse, neglect, or exploitation of a Texas Rehabilitation Commission client who is a disabled adult or an elderly person.

The new section will function to clarify for the public and the agencies involved the roles of the Texas Department of Protective and Regulatory Services and the Texas Rehabilitation Commission in the investigation of abuse, neglect, or exploitation of a Texas Rehabilitation Commission client who is a disabled adult or elderly person.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Human Resources Code, Title 7, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations subject to this section as necessary to carry out the purposes of the chapter.

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 March 26, 1993.

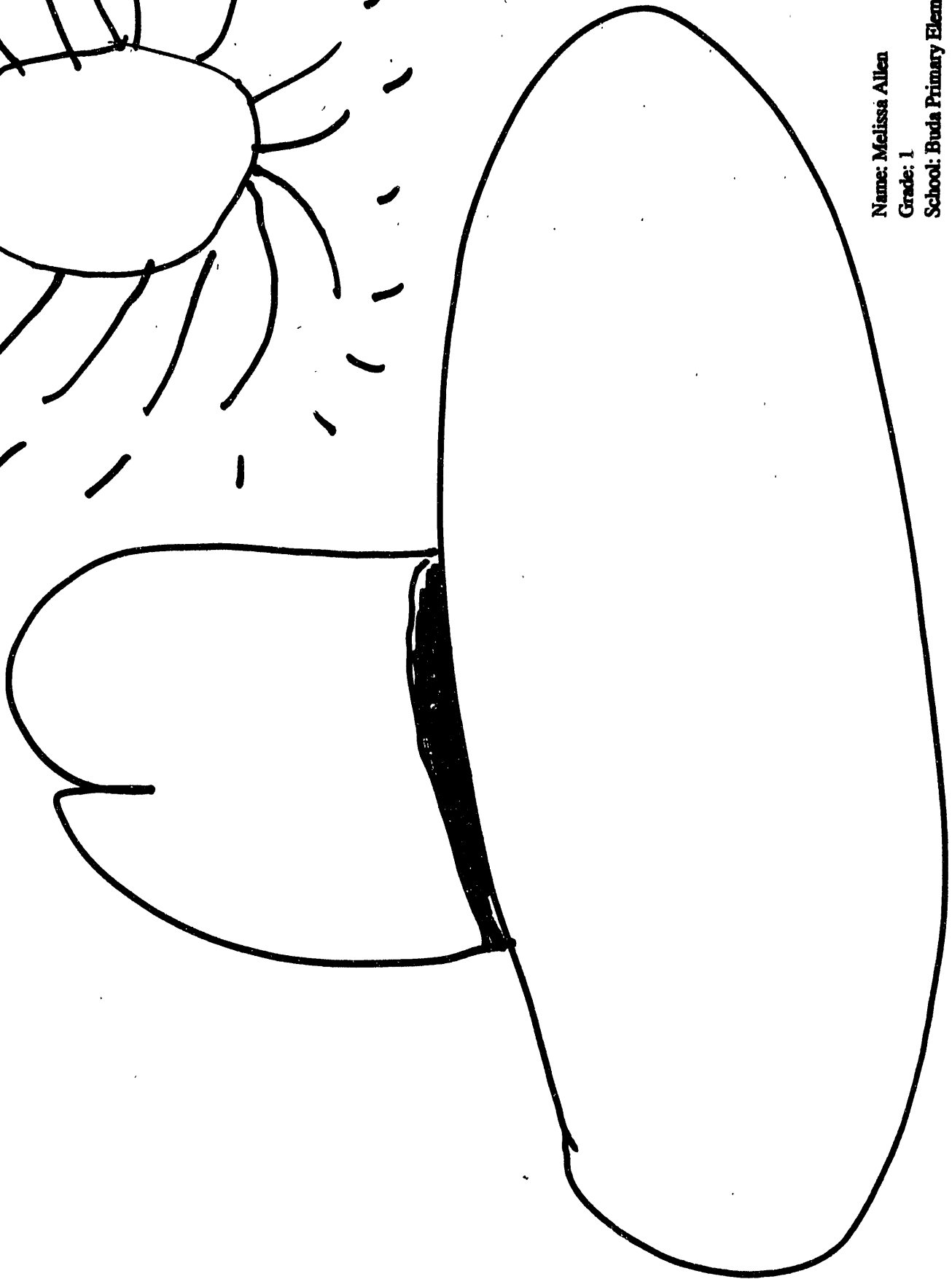
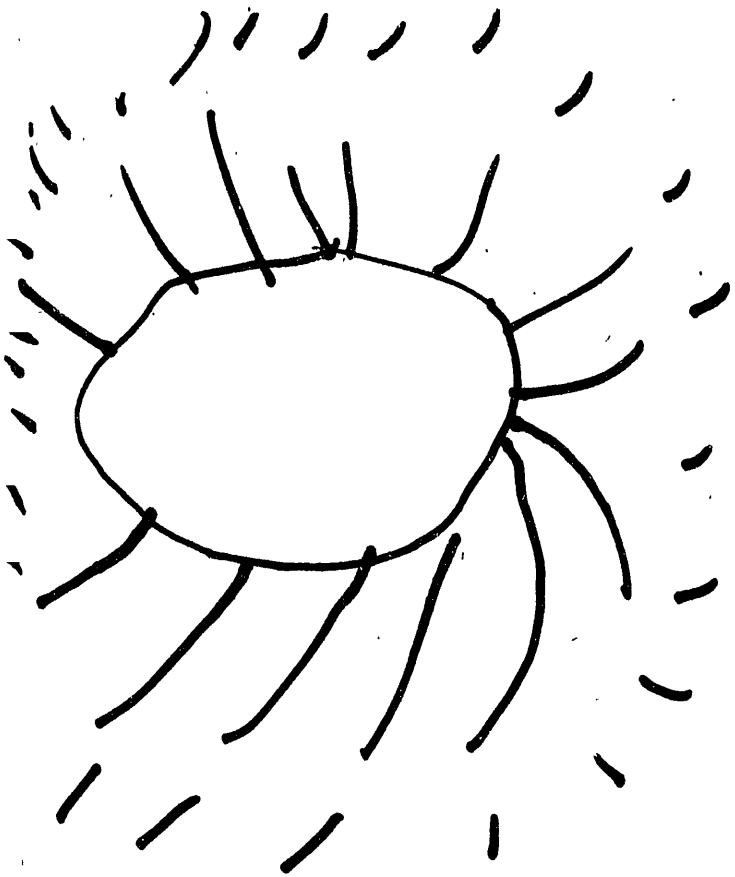
TRD-9320868

Andrea Sargent-Fambles
Legal Examiner
Texas Rehabilitation
Commission

Effective date: April 16, 1993

Proposal publication date: February 23, 1993

For further information, please call: (512) 483-4055



Name: Melissa Allen

Grade: 1

School: Buda Primary Elementary School



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 Department on Aging

Filed: March 26, 1993, 11:45 a.m.
TRD-9320861

Wednesday, April 7, 1993, 1:30 p.m. The Texas Board on Aging's Networking/Advocacy/Legislation Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the agenda summary, the committee will consider and possibly act on: call the meeting to order; discuss approval of the minutes of the March 23, 1993 meeting; review status of various legislation; status of legislation previously approved by board for support or opposition; consider TDoA staff recommendations on various legislation; other bills analyzed by TDoA staff for committee consideration or requiring additional review; and adjourn

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

Filed: March 29, 1993, 8:53 a.m.

TRD-9320892

Wednesday, April 7, 1993, 3 p.m. The Texas Board on Aging Needs Assessment Subcommittee of the Planning Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Library, Austin. According to the complete agenda, the committee will consider and possibly act upon: call the meeting to order; discuss previous needs assessment activities that have taken place in the state and the most effective approach to use results for agency/network planning; and adjourn.

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

Filed: March 26, 1993, 11:45 a.m.

TRD-9320861

Texas Alcoholic Beverage Commission

Tuesday, April 13, 1993, 1 p.m. The Texas Alcoholic Beverage Commission will meet at the Texas A&M Research Laboratory Auditorium, 6500 West Amarillo Boulevard, Amarillo. According to the complete agenda, the commission will take public comments on proposed 16 TAC §§55.542-55.549; 16 TAC §§55.552-55.554; 16 TAC §55.558; 16 TAC §§55.561-55.562 and 16 TAC §55.565, all dealing with bingo regulation and tax as published in the (18 TexReg 523).

Contact: Dick Durbin, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: March 29, 1993, 12:33 p.m.

TRD-9320916

Texas Department of Banking

Tuesday, April 13, 1993, 1 p.m. The Guaranty Fund Advisory Council of the Texas Department of Banking will meet at 2601 North Lamar Boulevard, Austin. According to the complete agenda, the council will discuss bid process for seized funds.

Contact: Stephanie Newberg, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1280.

Filed: March 26, 1993, 8:23 a.m.

TRD-9320838

The State Bar of Texas

Tuesday-Wednesday, April 6-7, 1993, 10:30 a.m. and 8:30 a.m. respectively. The Commission for Lawyer Discipline of the State Bar of Texas will meet at the Omni Hotel, 700 San Jacinto Street, The Austin Room, Austin. According to the agenda summary, the commission will call the meeting to order; make introductions; review minutes of prior meetings; discuss status reports; commission's compliance with rules; general counsel's budget and operations; grievance committees; special counsel program; discuss commission's budget and operations; use of complaint forms by lawyers; discuss May commission meeting; pending litigation pursuant to Article 6252-17(2)(e); discuss matters before evidentiary panels of grievance committees, pursuant to Article 6252-17(2)(e); counsel assignments; personnel matters; settlement offers with respect to matters discussed during closed executive session; consider assignment of special counsel to pending cases discussed during closed executive session; discuss future meeting dates; other matters as appropriate; hear public comment; and adjourn.

Contact: Anne Dorris, P.O. Box 12487, Austin, Texas 78711, (512) 463-1381.

Filed: March 29, 1993, 3:32 p.m.

TRD-9320929

Texas Catastrophe Property Insurance Association

Monday, March 29, 1993, 2 p.m. (CST). The Board of Directors of the Texas Catastrophe Property Insurance Association held an emergency meeting Via Teleconference Call, TCPIA Office, 2801 South Interregional, Austin. According to the complete agenda, the board discussed legislative proposal; percentage of participation formula; and any other business that came before the board. The emergency status was necessary due to pending legislation that needed the immediate attention of the board.

Contact: E. R. "Buddy" Rogers, 2801 South Interregional, Austin, Texas 78741, (512) 444-9612.

Filed: March 29, 1993, 9:08 a.m.

TRD-9320893

Texas Department of Commerce

Tuesday, April 6, 1993, 8:30 a.m. The State Job Training Coordinating Council Strategic Planning/Coordination Committee of the Texas Department of Commerce will meet at the Omni Hotel, 700 San Jacinto, Austin. According to the complete agenda, the committee will call the meeting to order; hear public comment; act on items: SJTCC comments on master plan for Career and Technical Education; review and discuss approval of the Governor's coordination and special services plan modifications; policy briefing item: guidance on coordination, linkages, and local agreements; break; briefing item: update on Education Coordination Program transition to the Texas Education Agency; briefing item: update on State Level Education Coordination (20%) projects; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Kevin Faulkner, (512) 320-9885 (TDD, (512) 320-9698 or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

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

Filed: March 26, 1993, 12:45 p.m.

TRD-9320865

Tuesday, April 6, 1993, 8:30 a.m. The State Job Training Coordinating Council Program Policy Committee of the Texas Department of Commerce will meet at the Omni Hotel, 700 San Jacinto, Austin. According to the complete agenda, the committee will call the meeting to order; hear

public comment; act on items: capacity building and 5% resource allocation policy; calendar year 1993 Title IIB Summer Youth Employment and Training Program plan approval; policy briefing items: PY93 Title IVC Veterans State plan; break; Title II plan modification process; briefing item: impact of the Administrative Procedures and Texas Register Act (APTRA) on the JTPA service delivery system; briefing items: PY93 IIA 5% Older Individual Program update; Third Quarter performance reports; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Kevin Faulkner, (512) 320-9885 (TDD, (512) 320-9698 or Relay Texas, 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

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

Filed: March 26, 1993, 12:45 p.m.

TRD-9320866

Tuesday, April 6, 1993, 1:30 p.m. The State Job Training Coordinating Council Oversight Committee of the Texas Department of Commerce will meet at the Omni Hotel, 700 San Jacinto, Austin. According to the complete agenda, the committee will call the meeting to order; hear public comment; briefing item: Collin County reorganization plan status; policy briefing items: SDA/SSA technical assistance/reorganization and sanctions policies; State monitoring plan; SDA designation/redesignation policy; break; act on item: SJTCC response to State auditor's reports; briefing items: PY92 Third Quarter monitoring report; PY92 Second Quarter fiscal reports; SDA/SSA technical assistance plan status report; policy briefing item: PIC certification/recertification; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Kevin Faulkner, (512) 320-9885 (TDD (512) 320-9698 or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

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

Filed: March 26, 1993, 12:44 p.m.

TRD-9320863

Tuesday, April 6, 1993, 1:30 p.m. The State Job Training Coordinating Council Worker Adjustment Committee of the Texas Department of Commerce will meet at the Omni Hotel, 700 San Jacinto, Austin. According to the complete agenda, the committee will call the meeting to order; hear

public comment; act on item: changes to PY93 Title III Dislocated Worker Program policy and State plan; break; policy briefing item: PY93 Title III plan modification review process; briefing item: Second Quarter update on implementation of PY92 Title III Program; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Kevin Faulkner, (512) 320-9885 (TDD (512) 320-9698 or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

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

Filed: March 26, 1993, 12:44 p.m.

TRD-9320864

Wednesday, April 7, 1993, 8:30 a.m. The State Job Training Coordinating Council of the Texas Department of Commerce will meet at the Omni Hotel, 700 San Jacinto, Austin. According to the complete agenda, the council will call the meeting to order; hear public comment; discuss approval of prior minutes; SDA Administrators Association report; Texas Association of Private Industry Councils report; Work Force Development division director's report; briefing items: update on Human Resource Investment Council; council conflict of interest guidance; break; Oversight Committee report (act on item: SJTCC response to State auditor's reports); program policy committee report (act on item: capacity building and 5% resource allocation policy; calendar year 1993 Title IIB Summer Youth Employment and Training Program plan approval); strategic planning/coordination committee report (act on items: SJTCC comment on master plan for Career and Technical Education; review and approval of the Governor's coordination and special services plan modifications); worker adjustment committee report (act on item: changes to PY93 Title III Dislocated Worker Program policy and State plan); briefing items: North American Free Trade Agreement activities (tentative) and Federal and State Legislative update; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Kevin Faulkner, (512) 320-9885 (TDD (512) 320-9698 or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

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

Filed: March 26, 1993, 12:44 p.m.

TRD-9320862

◆ ◆ ◆
**Texas Office for Prevention
of Developmental
Disabilities**

Wednesday, April 14, 1993, 1 p.m. The Head and Spinal Cord Injury Task Force of the Texas Office for Prevention of Developmental Disabilities will meet at the Texas Medical Association Building, 401 West 15th Street, 10th Floor, Austin. According to the complete agenda, the task force will call the meeting to order; make introductions; hear activity reports; bicycle helmet legislation status; discuss old and new business; plan meeting schedule; and adjourn.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-5042.

Filed: March 29, 1993, 2:02 p.m.

TRD-9320924

◆ ◆ ◆
**Texas Employment Commis-
sion**

Tuesday, March 30, 1993, 9 a.m. The Texas Employment Commission met at the TEC Building, Room 644, 101 East 15th Street, Austin. According to the emergency revised agenda summary, the commission added Docket 13A. The emergency status was necessary as the presence of a full commission allowing agencies to respond appropriately to required federal time lapse standards.

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

Filed: March 25, 1993, 4:07 p.m.

TRD-9320831

◆ ◆ ◆
Texas Growth Fund

Tuesday, April 6, 1993, 10:30 a.m. The Board of Directors of the Texas Growth Fund will meet at the Teacher Retirement System Building, Fifth Floor, 1000 Red River Street, Austin. According to the complete agenda, the board will review and discuss approval of the minutes of the special meeting of the Board of Trustees held on February 23, 1993; review and approve: treasurer's report; invoice from Ernst and Young for services rendered in connection with the 1992 audit and approve transfer notice for same; reimbursement expense reports from the current and former trustees of the Texas Growth Fund and authorize transfer notice for same; expenses incurred or to be incurred by TGF Management Cor-

poration; in initially retaining employees to fulfill its obligations; receive a report on the activities of TGF Management Corporation*; and discuss such other matters as may come before the Board of Trustees. *The board may convene in closed meeting for the purpose of consulting with its attorneys with respect to legal matters related to investments of the fund as permitted by §2(e) of Article 6252-17, Vernon's Texas Civil Statutes Annotated. The board may also hold a briefing session as permitted by §2(r) of Article 6252-17, Vernon's Texas Civil Statutes Annotated, for the purpose of receiving information from TGF Management Corporation with respect to investments of the fund.

Contact: James J. Kozlowski, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: March 26, 1993, 11:04 a.m.

TRD-9320860

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Texas Department of Health

Thursday, April 8, 1993, 8:30 a.m. The Maternal and Child Health Advisory Committee of the Texas Department of Health will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the committee will hear public comment; discuss approval of the minutes of January 7, 1993, meeting; and discuss and possibly act on subcommittee reports concerning integrated eligibility, case management, and legislative report; report on Texas Department of Health, Maternal and Child Health activities including Title V application, CDC update and House Bill 7 transition activities; and report on Texas Department of Human Services (TDHS), Maternal and Child Health activities including the TDHS day care.

Contact: Madelin Walls, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 29, 1993, 1:30 p.m.

TRD-9320917

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**Health and Human Services
Commission**

Wednesday, April 7, 1993, 9:30 a.m. The Hospital Payment Advisory Subcommittee of the Health and Human Services Commission will meet at 1100 West 49th Street, Sixth Floor, Tower Building, Room T-607, Austin. According to the complete agenda, the subcommittee will make opening com-

ments; state medicaid office update; hear deputy commissioner's comments; discuss approval of minutes; hear workgroup report; disproportionate share program rules; open discussion; plan next meeting; and adjourn.

Contact: Geri Willems, P.O. Box 13247, Austin, Texas 78711, (512) 502-3256.

Filed: March 29, 1993, 9:39 a.m.

TRD-9320905

Thursday, April 8, 1993, 9:30 a.m. The Physician Payment Advisory Subcommittee of the Health and Human Services Commission will meet at the Moreton Building, Room M-653, 1100 West 49th Street, Austin. According to the complete agenda, the subcommittee will hear opening comments; state medicaid office update; discuss approval of minutes; physician participation update; medicaid RBRVS update; open discussion; plan next meeting; and adjourn.

Contact: Geri Willems, P.O. Box 13247, Austin, Texas 78711, (512) 502-3256.

Filed: March 29, 1993, 10:06 a.m.

TRD-9320915

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**Texas High-Speed Rail Au-
thority**

Tuesday, April 6, 1993, 10 a.m. The Standing Budget Committee of the Texas High-Speed Rail Authority will meet in the 15th Floor Conference Room, Frost National Bank Building, 101 East Ninth Street, Austin. According to the agenda summary, the committee will discuss financial advisor contract extension; reformed agreement with Woodward-Clyde consultants; unfinished business regarding payment warrants; out-of-state travel requests; purchases over \$500; reports on procurement; expenditure related chapters in operations manual; and meet in executive session.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701, (512) 478-5484.

Filed: March 29, 1993, 3:50 p.m.

TRD-9320930

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**Texas Commission on Hu-
man Rights**

Thursday, April 8, 1993, 9 a.m. The Texas Commission on Human Rights will meet at the William B. Travis Building, Room 1-111, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will discuss and vote on agenda item(s) covered in executive session as necessary or required; welcoming of guests; discuss approval of minutes; presentation by representative(s) from the Texas

Department of Housing and Community Affairs; hear administrative reports (executive director's, complaint-monitoring, operations reports-employment and housing, finance report and litigation report; cash flow statement; annual report; TCHR legislative appropriations request; legislative activities and TCHR Act amendments; report on Young versus Kemp East Texas Project; HUD administrative enforcement project; future contracts; commissioner issues; and discuss unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: March 29, 1993, 9:18 a.m.

TRD-9320895

Texas Department of Insurance

Wednesday, April 7, 1993, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the agenda summary, the board will discuss personnel; solvency; commissioner's orders; litigation; budget; staff reports; legislative update; consider filing by Utice Mutual Insurance Company, etal; American Modern Lloyds Insurance Company; Hartford Fire Insurance Company, etal; and Phoenix Assurance Company of New York; consider proposed new 28 TAC §3.9001 and §3.9002, concerning a Joint Memorandum of Understanding between the Texas Department of Insurance, Texas Department of Banking, and Texas Funeral Service Commission relating to prepaid funeral services and transactions; and consider possible action on Group Health Insurance Survey Results for 1989-1990 and 1991.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 26, 1993, 2:58 p.m.

TRD-9320871

Texas Department of Licensing and Regulation

Wednesday, April 7, 1993, 9:30 a.m. The Board of Boiler Rules of the Texas Department of Licensing and Regulation will meet at the Kemper National Insurance Companies, 14550 Torrey Chase Boulevard, San Antonio Conference Room, Houston. According to the complete agenda, the board will call the meeting to order; take roll call; introduce visitors; adoption of agenda; discuss approval of minutes; of September 1, 1992; hear administrative report; task force

reports-controls and safety devices for automatically fired boilers, gas fired jacketed kettles, electronically transmitted data, boiler installer, clearance requirements for installation of boilers; discuss old business-boiler rule §65.100(j); new business-proposed change to boiler rule §65.50(b)(1) and (2), proposed change to boiler rule §65.20, unfired steam boiler water level indicator requirements, boiler law §755.025 inspection, boiler rule §65.20(c)(1)(A); plan next meeting; and adjourn.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: March 29, 1993, 8:38 a.m.

TRD-9320891

Tuesday, April 27, 1993, 9 a.m. The Inspections and Investigations, Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license of Joseph B. Skeen, III., Skeens Auction Exchange for violation of the Texas Revised Civil Statutes Annotated (Vernon's 1993), Article 8700, §7(4), 16 TAC §67.101(4), and Article 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 463-3192.

Filed: March 26, 1993, 10:20 a.m.

TRD-9320848

Texas Board of Pardons and Paroles

Monday-Friday, April 5-9, 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, the panel(s) (composed of three board member(s)) 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: March 26, 1993, 9:23 a.m.

TRD-9320845

Tuesday-Friday, April 6-9, 1993, 9 a.m. The Parole Board Panel(s) of the Texas

Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel(s) (composed of three board member(s)) 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: March 29, 1993, 2:58 p.m.

TRD-9320926

Wednesday-Thursday, April 7-8, 1993, 1 p.m. and 9 a.m. respectively. 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, the panel(s) (composed of three board member(s)) 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, 3610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

Filed: March 26, 1993, 9:22 a.m.

TRD-9320843

Wednesday-Thursday, April 7-8, 1993, 1:30 p.m. and 9 a.m. 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, the panel(s) (composed of three board member(s)) 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: March 26, 1993, 9:22 a.m.

TRD-9320842

Thursday-Friday, April 8-9, 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, the panel(s) (composed of three board member(s)) 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: March 26, 1993, 9:22 a.m.

TRD-9320844

Monday, April 12, 1993, 9 a.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel(s) (composed of three board member(s)) 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: March 29, 1993, 2:57 p.m.

TRD-9320925

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Texas State Board of Licensure for Professional Medical Physicists

Wednesday, April 7, 1993, 1 p.m. The Credentials Committee of the Texas State Board of Licensure for Professional Medical Physicists will meet at the Exchange Building, Room S-402, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on applications under Title 22, *Texas Administrative Code*, §601.6.

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 29, 1993, 9:35 a.m.

TRD-9320900

Public Utility Commission of Texas

Wednesday, April 7, 1993, 1:30 p.m. (Rescheduled from 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: March 29, 1993, 3:56 p.m.

TRD-9320934

Thursday, April 8, 1993, 9 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 11822-complaint of Frederick L. Kay against Houston Lighting and Power Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 26, 1993, 3:04 p.m.

TRD-9320872

Friday, April 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 prehearing conference in Docket Number 11864-joint application of GTE Southwest, Inc. and Contel of Texas, Inc. for exception to earnings report requirements.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 29, 1993, 3:56 p.m.

TRD-9320935

Tuesday, April 13, 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 11873-report on earnings sharing by Southwestern Bell Telephone Company pursuant to Docket Number 8585.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin Texas 78757, (512) 458-0100.

Filed: March 26, 1993, 3:04 p.m.

TRD-9320874

Friday, April 16, 1993, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the commission will hold a presentation by Merrill Lynch and Company of information pertaining to the North American Free Trade Agreement (NAFTA) and to changes in the Mexican law related to the organization, regulation and development of the energy sector in Mexico.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 29, 1993, 3:56 p.m.

TRD-9320933

Monday, April 26, 1993, 10 a.m. (Rescheduled from Monday, March 29, 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 11817-complaint of Sharon A. Henry against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 26, 1993, 3:04 p.m.

TRD-9320873

Monday, June 14, 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 11758-application of Fort Bend Telephone Company for approval of new local exchange tariff.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 29, 1993, 3:55 p.m.

TRD-9320931

Monday, July 12, 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 11568-application of GTE Southwest, Inc. for approval of new service, switched data service, pursuant to Substantive Rule 23.26.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 25, 1993, 3:56 p.m.

TRD-9320830

Railroad Commission of Texas

Monday, April 5, 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: March 26, 1993, 10:55 a.m.

TRD-9320858

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: March 26, 1993, 10:53 a.m.

TRD-9320850

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. Consideration of a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Texas 78711-2967, (512) 463-7274.

Filed: March 26, 1993, 10:54 a.m.

TRD-9320854

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: March 26, 1993, 10:55 a.m.

TRD-9320856

The commission will meet in consideration of category determinations under sections 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: March 26, 1993, 10:53 a.m.

TRD-9320853

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: March 26, 1993, 10:54 a.m.

TRD-9320855

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: March 26, 1993, 10:53 a.m.

TRD-9320851

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, (512) 463-7110.

Filed: March 26, 1993, 10:53 a.m.

TRD-9320852

The commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters. The commission will consider and act on the director's recommendations to award the AML Minesoil Characterization Laboratory Contract and the ALCOA AML area 4, 5, and 6 reforestation contract.

Contact: Melvin Hodgkiss, P.E., P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: March 26, 1993, 10:55 a.m.

TRD-9320857

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified. 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: March 26, 1993, 10:57 a.m.

TRD-9320859

School Land Board

Tuesday, April 6, 1993, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Rooms 118 and 831, Austin. According to the complete agenda, the board will discuss approval of previous board meeting minutes; opening and consideration of bids received for the April 6, 1993, oil, gas and other minerals lease sale; report on DCRC Trust; lease suspension application, Clay, NE (Austin Chalk 11350), Burleson County; Giddings (Austin Chalk-3), Burleson County; Ellie C. (Wilcox) Duval County; applications to lease highway rights-of-way, Jackson County; Austin County; Brazos County; and Grimes County; coastal public lands, commercial lease applications, Adams Bayou, Orange County; commercial lease amendments, Nueces County; commercial lease renewals, Corpus Christi Bay, Nueces County; easement applications, Caney Creek, Matagorda County; Galveston Bay, Chambers County; Jarbo Bayou, Galveston County; Laguna Madre, Cameron County; lease application, Armand Bayou, Harris County; structure permit terminations, Laguna Madre, Kleberg County and Willacy County; structure permit requests, Laguna Madre, Kleberg County and Willacy County; modification of School Land note, Nueces County; meet in executive session to discuss amendment to land trade, Brazoria County; consideration of amendment to land trade, Brazoria County; land trade, El Paso County; consideration of land trade, El Paso County; discuss land acquisition, El Paso County; consideration of land acquisition, El Paso County; and discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: March 29, 1993, 4:30 p.m.

TRD-9320940

Statewide Health Coordinating Council

Wednesday, April 7, 1993, 8:30 a.m. The Legislative Committee of the Statewide Health Coordinating Council will meet in Room 1.100, William B. Travis State Office Building, 1701 North Congress Avenue, Austin. According to the complete agenda, the committee will discuss approval of the

reports of the February 24 and March 19, 1993, meetings; and discuss and possibly act on legislative subcommittee report; bill status update; adopt position on bills relating to 1993-1994 State Health Plan and Statewide Health Coordinating Council; and report on legislative visits.

Contact: Don Kretsinger, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 29, 1993, 1:30 p.m.

TRD-9320919

Wednesday, April 7, 1993, 9:30 a.m. The Statewide Health Coordinating Council will meet in Room 1.100, William B. Travis State Office Building, 1701 North Congress Avenue, Austin. According to the complete agenda, the council will discuss approval of the minutes of February 24 and March 19, 1993; and discuss and possibly act on bureau chief's report; legislative committee report and adopt position on bills relating to 1993-1994 State Health Plan/Statewide Health Coordinating Council; and cost data report summary.

Contact: Don Kretsinger, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 29, 1993, 1:30 p.m.

TRD-9320918

Stephen F. Austin State University

Monday, March 29, 1993, 10 a.m. The Board of Regents, Academic and Student Affairs Committee of the Stephen F. Austin State University met at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the complete agenda, the committee discussed effects of modified/part-time employment and outside activities on instructional program.

Contact: Dr. Dan D. Angel, P.O. Box 6078 SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: March 25, 1993, 10:45 a.m.

TRD-9320815

The University of Texas at Austin

Monday, March 29, 1993, 3:30 p.m. The Council for Intercollegiate Athletics for Women of the University of Texas at

Austin met at the Ex-Students' Association, Legends Room, 21st and San Jacinto Streets, University of Texas, Austin. According to the agenda summary, the council will call the meeting to order; discuss approval of the minutes of previous meeting; discuss old business; make announcement/information reports; meet in executive session; and adjourn.

Contact: Jody Conradt, UT Austin, BEL 718, 33800, Austin, Texas 78712, (512) 471-7693.

Filed: March 25, 1993, 2:23 p.m.

TRD-9320821

Texas Water Commission

Wednesday, April 7, 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: municipal solid waste permits; minor amendment to waste disposal well; amendments to water quality; permit renewals; water rights; bond issues; examiner memorandums and orders; 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: March 25, 1993, 4:16 p.m.

TRD-9320832

Wednesday, April 7, 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 orders; agreed orders; rules; 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: March 25, 1993, 4:16 p.m.

TRD-9320833

Thursday, May 6, 1993, 1 p.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Covington Community Center, FM 67, Covington. According to the agenda summary, the commission will consider an application by Mary Bryant, doing business as Double J Lil L Dairy (Proposed Permit Number 03484) for authorization to dispose of wastes and wastewater from a dairy operation before a hearings examiner of the commission.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: March 29, 1993, 9:20 a.m.

TRD-9320898

Regional Meetings

Meetings Filed March 25, 1993

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 420, San Antonio, March 30, 1993, at 10:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9320817.

The Alamo Area Council of Governments Area Judges met at 118 Broadway, Suite 420, San Antonio, March 30, 1993, at 11:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9320835.

The Alamo Area Council of Governments Board of Directors met at 118 Broadway, Suite 420, San Antonio, March 30, 1993, at 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9320825.

The Alamo Area Council of Governments Community Affairs met at 118 Broadway, Suite 420, San Antonio, March 30, 1993, at 3 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9320819.

The Andrews Center Board of Trustees met at 2323 West Front Street, Board Room, Tyler, April 1, 1993, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75702, (903) 597-1351. TRD-9320826.

The East Texas Council of Governments JTPA Board of Directors met at the Kilgore Community Inn, Kilgore, April 1, 1993, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9320818.

The Middle Rio Grande Development Council Texas Review and Comment System Committee met at the Fort Clark Springs Restaurant (Upstairs), Highway 90, Brackettville, March 31, 1993, at 4 p.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9320834.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, April 8, 1993, at 7:30 p.m. Information may be obtained from Ron Procter, Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9320822.

The Permian Basin Regional Planning Commission Private Industry Council met at the University of Texas Permian Basin, Center for Energy and Economic Diversification, Midland, March 31, 1993, at 4 p.m. Information may be obtained from Tammy Smith, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9320820.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinity Street, Gilmer, April 12, 1993, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0200, (903) 843-3041. TRD-9320814.

The West Central Texas Council of Governments Private Industry Council met at 1025 E.N. 10th Street, Abilene, April 1, 1993, at 10 a.m. Information may be obtained from Mary Ross, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9320823.

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**Meetings Filed March 26,
1993**

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124A Regal Row, Austin. Information may be obtained from William Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9320878.

The Dallas Area Rapid Transit (DART) The Board (Special Workshop) met at 1401 Pacific Avenue, (DART Headquarters) Conference Room C, Dallas, March 30,

1993, at 1 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9320849.

The East Texas Council of Governments Private Industry Council met at the ETCOG Office, Kilgore, April 1, 1993, at 1 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9320870.

The South Texas Private Industry Council, Inc. met at 901 Kennedy Street, Zapata, April 1, 1993, at 4 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9320867.

The Trinity River Authority of Texas The Joint Meeting of Executive Committee and Administration Committee will meet at 5300 South Collins, Arlington, April 2, 1993, at 9:30 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9320847.

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**Meetings Filed March 29,
1993**

The Austin Transportation Study Policy Advisory Committee met at the Austin History Center (Downtown Austin), 810 Guadalupe Street, Reception Room, Austin, April 1, 1993, at 5 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9320938.

The Austin Transportation Study Policy Advisory Committee will meet at the Round Rock City Hall, First Floor Council Chambers, 221 East Main Street, Round Rock, April 6, 1993, at 5 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9320937.

The Austin Transportation Study Policy Advisory Committee will meet at the Bedichek Junior High School (South Austin) Cafeteria, 6800 Bill Hughes Road (William Cannon and South First), Austin, April 8, 1993, at 5 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9320939.

The Golden Crescent Regional Planning Commission Board of Directors held an emergency meeting at the GCRPC Board Room, Regional Airport, Building 102, Victoria, March 31, 1993, at 5 p.m. The emergency status was necessary as deadline for submission of TRACS reviews and criminal justice plan activities were due prior to next scheduled meeting. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9320927.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business Office, One Block West of FM 765 and FM 2134, Millersview, April 5, 1993, at 8 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9320899.

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**Meetings Filed March 30,
1993**

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, April 7, 1993, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9320944.

The Region IX Education Service Center North Texas Quality Work Force Planning Committee will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, April 2, 1993, at 10:30 a.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9320945.

The San Patricio County Appraisal District Board of Directors will meet at 1146 East Market Street, Sinton, April 8, 1993, at 10 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9320943.

The Texas Rural Communities, Inc. Board of Directors met at One La Costa Office Building, Suite 280, Austin, April 1, 1993, at 9 a.m. (Rescheduled from March 4, 1993). Information may be obtained from Leslie Janca, 314 Highland Mall Boulevard, Austin, Texas 78752, (512) 458-1016. TRD-9320942.

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 Contested Case Hearing Number 306

An Examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing for the general purpose of determining whether emissions into the air from a proposed facility operated by Exxon Corporation (Applicant) will comply with all rules and regulations of TACB and with the intent of the Texas Clean Air Act (the Act), including protection of the health and physical property of the people. This hearing will consider whether a permit should be issued to the Applicant to construct and operate an oil and gas production tank battery, located approximately two miles east of Denver City on Yoakum County Road P-10, Denver City, Yoakum County, Texas 79323.

Deadline for Requesting To Be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the Applicant and the TACB Staff. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Janis Boyd Hudson and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753, Fax (512) 908-1212, by 5 p.m. on Thursday, April 15, 1993. The Examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to TACB before publication of this notice will not be considered as a request for party status. No correspondence should be sent to any member of the Texas Air Control Board at any time regarding this hearing. The Examiner will decide on final party status at the prehearing conference.

Prehearing Conferences. The Examiner has scheduled a prehearing conference at 1:30 p.m. on Monday, April 26, 1993, at the TACB Central Office, Room 143-E, 12124 Park 35 Circle, Austin, Texas 78753. At this conference, party status will be determined and a schedule will be set for the exchange of: written and documentary evidence, and a list of prospective witnesses and a short narrative summary of their prospective testimony. In addition, the parties may propose contested case issues and stipulations on those issues. A date for the second prehearing conference will also be decided, if necessary. At the second prehearing conference the Examiner will accept any stipulations as to contested issues and will determine the contested case issues. The Examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause.

Time and Place of Hearing. The Examiner has set the hearing to begin at 1:30 p.m. on Monday, May 24, 1993, at the TACB Central Office, Room 143-E, 12124 Park 35

Circle, Austin, Texas 78753.

What the Applicant Must Prove. This hearing is a contested case hearing under §13, the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. It is generally conducted like a trial in district court. The Applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of Texas Health and Safety Code, §382.0518, the Act, Chapter 382, and TACB Rule 116.3. These requirements include compliance with all applicable TACB and federal regulations, including the requirement that the proposed facility will use the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating emissions. TACB has no legal jurisdiction over vehicular traffic per se or noise which may result from a facility's operation.

Public Attendance and Testimony. Members of the general public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin at (512) 908-1770 a day or two prior to the prehearing conference and the hearing date in order to confirm the settings, since continuances are sometimes granted. Any person who wants to give testimony at the hearing, but who does not want to be a party, may call the Hearings Section of the TACB Legal Division at (512) 908-1770 to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony. Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 908-1815 (requests should be made as far in advance as possible).

Information About the Application and TACB Rules. Information about the application and copies of the TACB's rules and regulations are available at the TACB Regional Office located at 4630 50th Street, Suite 600, Lubbock, Texas 79414, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753, and also at the City Hall Office of Denver City located at 102 West Third Street, Denver City, Texas 79323.

Legal Authority. This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.0291, 382.030, 382.031, 382.0518, and 382.056(d) and TACB Procedural Rules 103.11(3), 103.31, and 103.41-103.66.

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

TRD-9320896 William R. Campbell
Executive Director
Texas Air Control Board

Filed: March 29, 1993

State Banking Board Notices of Hearing

The Hearing Officer of the State Banking Board will conduct a hearing on May 7, 1993, at 9 a.m., at 2601 North Lamar Boulevard, Austin, on the charter application for Texas City Bank, Texas City. The application is a conversion from Texas City Bank, N.A., located in Texas City, to a state-chartered bank.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

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

TRD-9320839 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: March 26, 1993

The Hearing Officer of the State Banking Board will conduct a hearing on May 6, 1993, at 9 p.m., at 2601 North Lamar Boulevard, Austin, on the change of domicile application for Security State Bank, McCamey.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

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

TRD-9320805 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: March 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 aviation based vocational training and academic remediation summer youth program in behalf of youth 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., Central Standard Time, April 16, 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 Austin, Texas, on March 22, 1993.

TRD-9320869 Susan Kamas
Employment and Training Director
Central Texas Council of Governments

Filed: March 26, 1993

Texas Department of Commerce Request for Proposal

In accordance with the National Literacy Act of 1991 providing funding for states to establish or expand a State Literacy Resource Center, the Texas Department of Commerce (Commerce) announces a Request for Proposals (RFP) to operate the Texas Literacy Resource Center. The Governor of the State of Texas has designated the Texas Literacy Council as the agency in Texas to conduct a competitive procurement process using the Request for Proposal method to select an organization to operate the Texas Literacy Resource Center. The Texas Literacy Resource Center will promote a State-of-the-Art teaching methods, develop innovative approaches to the coordination of literacy services, encourage government and industry partnerships and provide technical assistance to government and community groups.

Detailed information regarding the project format is set forth in the Request for Proposal Instructions which will be available on March 22, 1993, at the following location: Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728.

The deadline for receipt of proposals in response to this request will be Friday, May 14, 1993, at 5 p.m. Central Standard Time. Responses received after this deadline will not be considered.

Commerce reserves the right to accept or reject any or all proposals submitted. Commerce is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives. Commerce intends to use responses as a basis for further negotiation of specific project details with potential contractors. Commerce will base its choice on demonstrated competence, qualifications, and evidence of superior conformance with criteria.

This RFP does not commit Commerce to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates Commerce to award a contract to pay any costs incurred in the preparation of a response. Commerce specifically reserves the right to vary all provisions set forth any time prior to execution of a contract where Commerce deems it to be in the best interest of the State of Texas.

Availability of funds for the Texas Literacy Resource Center is subject to the approval of the Texas Literacy Council.

For further information regarding this notice, or to obtain copies of the RFP Instructions, please contact: Sheila Rosenberg, PhD., Texas Literacy Council, Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728, (512) 320-9800.

Issued in Austin, Texas, on March 26, 1993.

TRD-9320846

Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: March 26, 1993

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East Texas State University
Request for Proposal

This request for proposal is filed pursuant to Texas Civil Statutes, Article 6252-11c.

East Texas State University invites professionals with documented expertise in the field of Performance and Compensation Management to submit proposals to review and upgrade areas of the personnel management system.

East Texas State University is a public four-year university offering educational programs at three sites: Commerce, Texarkana, and Mesquite. East Texas State University employs approximately 750 full-time employees of which approximately 300 are in the Classified Pay Plan occupying approximately 130 jobs. East Texas State University serves approximately 8,300 students, both on and off campus.

Currently, East Texas State University's employees receive an annual increase as authorized by the Board of Regents of the university. Historically, these general increases become effective September 1 of each year with the fiscal year running September 1-August 31. The hiring rate practices for East Texas State University are market-driven based upon market conditions such as: background, experience, previous and/or current salary, candid availability, etc. General increases are, in most cases, the only mode of raise for individuals, unless there happens to be a position change or job responsibility change. East Texas State University does have job descriptions for most non-faculty jobs.

Scope of Work to be Performed. Review of the Classified Pay Plan shall include review and consolidation of job titles; development of job descriptions incorporating ADA requirements; determination of Fair Labor Standard Act exemption; review of the classified plan salary scale; and estimate of the cost to align employees with revised salary scale. Review of the non-classified positions shall include development of job descriptions, incorporating ADA requirements; determination of Fair Labor Standard Act exemption; review of the salary scale for non-classified positions; and estimate of the cost to align employees with revised salary scale; develop a Performance Evaluation Program, including training workshops for supervisors; in conjunction with the items listed previously, conduct a comprehensive compensation survey; gather wage and benefit information from numerous market areas; provide related recommendations as to the implementation and maintenance of the classification and compensation system; prepare a final report for presentation to the Board of Regents of the university; provide training for university staff; and prepare implementation and maintenance manuals.

Request for Proposal. The request for proposal may be obtained from Charles Morrow, Vice President for Business and Administration, East Texas State University, E.T.

Station, Commerce, Texas 75429 or by phone (903) 886-5027. The deadline for all bid responses will be 4 p.m., Friday, May 14, 1993. Bids received after this date will not be considered. All bids should be sent to Charles Morrow, Vice President for Business and Administration, East Texas State University, Commerce, Texas 75429. ETSU reserves the right to reject any or all bids received as a result of this request or to cancel, in part or in whole, the request for proposal responses if it is in the best interest of ETSU. ETSU encourages female and minority owned businesses to respond to this request for proposal.

Issued in Commerce, Texas, on March 26, 1993.

TRD-9320894

Charles Turner
University Attorney
East Texas State University

Filed: March 29, 1993

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Texas Education Agency
Public Notice, State Plan for Fiscal Year
1994-1996

The Texas Education Agency notifies all interested parties of the intent to make available and provide information about the state plan for federal funds for the education of the disabled in Texas for Fiscal Year 1994-1996.

The first draft of the State Plan for Fiscal Year 1994-1996 has been developed for public review and comment before a final draft is submitted to the United States Department of Education, Office of Special Education and Rehabilitative Services.

The state plan includes provisions for identifying students with disabilities in the State of Texas, assessing their educational needs, developing individual educational plans based upon those needs, and providing those students with a free and appropriate public education.

In Texas, 13.4% of the total cost of special education is financed with federal funds. This 13.4% amounts to \$160,380,936. No part of the total cost of special education in Texas is financed with nongovernmental sources.

Copies of the state plan are available for public review in each regional education service center in Texas. Copies are also available for public review at the Texas Education Agency, Division of Special Education, 1717 West Sixth Street, Suite 310, Austin. Parties interested in reviewing the state plan should contact the special education director at the nearest education service center, or Jill Flannery, Division of Special Education, Texas Education Agency, (512) 463-9414. Any party is invited to submit written comments regarding the State Plan for Fiscal Year 1994-1996 to Mrs. Flannery. All written comments received by May 10, 1993, will be included in the final draft copy to be submitted to the Office of Special Education and Rehabilitation Services in Washington.

To further promote the opportunity for the public to be informed, to review, and to comment on the State Plan for Fiscal Year 1994-1996, notice is also given that four public hearings will be held throughout the state from April 15-April 22, 1993. The public hearings from 11 a.m.-1 p.m. will be held in each of the following locations throughout the state:

<u>City</u>	<u>Date</u>	<u>Location</u>
Richardson	April 21, 1993	Region X Education Service Center 400 East Spring Valley Road Conference Room (214) 231-6301
San Antonio	April 22, 1993	Region 20 Education Service Center 1314 Hines Avenue Conference Center Building (210) 299-2444
El Paso	April 15, 1993	Region XIX Education Service Center 6501 Boeing Bldg. J, Suite 1 Room 603 (915) 779-1551
Houston	April 19, 1993	Region IV Education Service Center 7145 W. Tidwell Road Conference Room 4 (713) 462-7708 Request for Applications Number 701-93-011

All locations for the public hearings are barrier free. Interpreters for the deaf will be provided at all public hearings. The agency invites all interested parties to attend the public hearings and give oral and/or written testimony on the State Plan for Fiscal Year 1994-1996. Both written and oral comments should: include the commenter's name, title, and address; identify the specific section to which the comment is directed; and be specific.

The time period for public review and comment on the State Plan for Fiscal Year 1994-1996 begins April 5, 1993, and ends May 10, 1993.

Issued in Austin, Texas, on March 26, 1993.

TRD-8320914 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: March 29, 1993

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Request for Applications (RFA) Number 701-93-011: This RFA is filed in accordance with the Job Training Partnership Act (JTPA) as amended by the Job Training Reform Amendments of 1992 (Public Law 102-367).

Eligible Applicants: The Texas Education Agency (TEA) is requesting applications (RFA Number 701-93-011) from JTPA service delivery areas for the development of local 8.0% education coordination projects.

Description: TEA will fund approximately 35 projects for the delivery of services that provide school-to-work transition, literacy and lifelong learning, and statewide coordinated approaches to education and training services designed to train, place, and retain women in non-traditional employment.

Dates of Projects: The 8.0% education coordination projects will be implemented during program year

1993-1994. Applicants should plan for a project starting date no earlier than July 1, 1993, and an ending date of no later than June 30, 1994.

Project Amount: Funding will be provided for approximately 35 projects. Each project will receive funding at a level not to exceed 95% of previous finding levels. Final amounts will be negotiated. These projects are funded 50% from JTPA, 8.0% education coordination funds and 50% from local non-JTPA sources. Matching may be in-kind.

Selection Criteria: Applications will be approved through a formal review process based upon the score each applicant receives. Applications must address all requirements and specifications contained in the request for application.

Requesting the Application: A copy of the RFA (RFA Number 701-93-011) may be obtained by writing or calling the: Document Control Center, TEA, Room 6-108, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Please refer to the RFA number in your request.

Further Information: For clarifying information about this application, contact Dr. L. G. Ferguson, Division of Vocational and Applied Technology Education, Texas Education Agency, (512) 463-9286.

Deadline for Receipt of Applications: The deadline for submitting an application is 5 p.m., Monday, May 3, 1993.

Issued in Austin, Texas, on March 29, 1993.

TRD-9320913

Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: March 29, 1993

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Texas Department of Health
Statewide Request for Proposal-Case
Management Services

The Texas Department of Health (TDH) is soliciting proposals for the provision of case management services to eligible children in selected areas of the state. Case management is the assessment of a client's overall service needs, and the development and implementation of a course of action or plan for meeting those needs, which is family centered, community-based, culturally competent, comprehensive, and is intended to assist those clients who need a variety of services. The purpose of case management is to access, organize and assure services and resources for clients through the activities of advocacy, mutual goal setting, monitoring and tracking, education, information and referral, family empowerment, and system development. To be eligible for services, a resident must be under the age of 21, a resident of Texas, and have a special health need.

Case management services will be reimbursed through contractual arrangements with TDH, Bureau of Chronically Ill and Disabled Children's Services (CIDC). Contracts will be awarded for a one-year period from September 1, 1993 through August 31, 1994. Contract awards will be based on available funding. Contracts will be in accordance with Texas law, TDH policies, CIDC policies, and the Uniform Grant and Contract Management Act (UGCMA) manual, which is available from TDH, Grants

Management Division, 1100 West 49th Street, Austin, Texas 78756-3199.

Contracts will be awarded on the basis of the most cost-effective and professionally appropriate plan of operation. Proposals must contain service delivery systems that promote family-centered, community-based, culturally competent, coordinated care for children with special health needs and their families. Proposals will be evaluated on the following criteria: the extent to which the proposal will meet identified needs; the provision of comprehensive services delivered in a culturally competent environment in unserved or underserved areas of the state; the cost of initiating or operating a program (cost effectiveness, allocation of direct services, elimination of duplication of services); the availability of other funding sources including general agency funds, program income, and foundation and community support; the assurance of community support as exhibited by cooperative service agreements or letters of support documenting coordination of services among local agencies and resources, community volunteers, and parent advocacy groups; equal distribution of resources across the state; and for funded projects, past contract performance.

Proposals submitted will include a comprehensive needs assessment; the identification of the target population and area, the estimated number of clients to be served, the medical conditions of children to be served, and the specific needs to be addressed by the proposed service; a comprehensive description of the project's purpose, goals, services, objectives, and strategies; an evaluation plan to assess process and outcome measures of the program's performance objectives; and documented evidence of support from local parent groups, the Regional CIDC Director of Social Work Services, and area service providers.

All income generated from third party payments and clients fees must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMA regulations. Proposal packets may be obtained by contacting Marjorie Simmons, Bureau of Chronically Ill and Disabled Children's Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179 (512) 458-7355, extension 3028. Proposals must be received in the CIDC office by 5 p. m. on Friday, June 11, 1993, or postmarked on or before Wednesday, June 10, 1993. Proposals which do not meet this deadline will not be considered.

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

TRD-9320909

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

Filed: March 29, 1993

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Statewide Request for Proposal-Direct
Services Outreach Program

The Texas Department of Health (TDH) is soliciting proposals for the provision of direct outreach services to eligible individuals in selected areas of the state. These services will include screening, diagnosis and evaluation services, treatment services, and rehabilitation services. An outreach clinic is a primary or secondary level health care facility adequately equipped and staffed by local and secondary or tertiary level (outreach) staff. The clinics must meet a recognized need of the community and sur-

rounding geographic area. The clinic must be located a significant distance from tertiary centers of health care. The purpose of the Direct Services Outreach Program is to provide access to health services and resources for children with special health needs in unserved or underserved areas of the state.

Direct outreach services will be reimbursed through contractual arrangements with TDH, Bureau of Chronically Ill and Disabled Children's Services (CIDC). Contracts will be awarded for a one-year period from September 1, 1993 through August 31, 1994. Contract awards will be based on available funding. Contracts will be in accordance with Texas law, TDH policies, CIDC policies, and the Uniform Grant and Contract Management Act (UGCMA) manual, which is available from TDH, Grants Management Division, 1100 West 49th Street, Austin, TX 78756-3199.

Proposals will be evaluated on the following criteria: documentation of community need for the outreach service; coordination with TDH Regional Office in the planning process; the extent to which the proposal will meet identified needs (specifically culturally competent, comprehensive care in unserved or underserved areas of the state; the quality of the proposal's written statement of goals (operating plan), especially with regard to measurable and obtainable objectives; the cost of initiating or operating a program (cost effectiveness, allocation of direct services, elimination of duplication of services); the availability of other funding sources including third party reimbursement, contributions, grants, parent payment, and general agency support; the assurance of community support as exhibited by letters of support, and evidence of or a plan for coordination of services among local medical providers, local agencies and resources (including the local health department), and Regional TDH office; and the caliber and experience of the project staff. Contracts will be awarded on the basis of the most cost-effective and professionally appropriate plan of operation. Agencies must have a base of operation physically located in the geographic catchment area specified in the contract and provide services within the geographical limits of the contract.

Proposals submitted will include a comprehensive needs assessment; the identification of target population and area, the estimated number of children to be served, the medical conditions of the children to be served, and the specific needs to be addressed by the proposed service; a detailed plan describing the project's purpose, goals, services, objectives, and strategies; an evaluation plan to assess project's performance objectives; specific professional responsibilities of staff members providing these services; a description of how the contractor will coordinate, or possibly subcontract, with existing resources in order to provide comprehensive services without duplicating existing services; demonstrated ability, based on staff, experience, and organizational structure to provide quality care; and documented support of the local medical community and the TDH Regional Office.

All income generated from third party payments and client fees must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMA regulations.

Proposal packets may be obtained by contacting Marjorie Simmons, Bureau of Chronically Ill and Disabled Children's Services, Texas Department of Health, 1100 West

49th Street, Austin, Texas 78756-3179 (512) 458-7355 extension 3028). Proposals must be received in the CIDC office by 5:00 p.m. on Friday, June 11, 1993, or post-marked on or before Wednesday, June 9, 1993. Proposals which do not meet this deadline will not be considered.

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

TRD-9320908

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

Filed: March 29, 1993

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Texas Department of Insurance
Company Licensing

The following applications have been filed with the Texas Department of Insurance and are under consideration:

1. Application for Admission in Texas for Nurses Service Organization (assumed name for Aon Direct Group, Inc.), a foreign third party administrator. The home office is in Trevose, Pennsylvania.
2. Application for Admission in Texas for Atlanta Casualty Company, a foreign fire insurance company. The home office is in Norcross, Georgia.
3. Application for Admission in Texas for BenePro, Inc., a foreign third party administrator. The home office is in Wilmington, Delaware.
4. Application for Admission in Texas for the Block Group, Inc. (assumed name for Block Buying Group, Inc.), a foreign third party administrator. The home office is in Roseland, New Jersey.
5. Application for Incorporation in Texas for Caronia Corporation, a domestic third party administrator. The home office is in Houston.
6. Application for Incorporation in Texas for Commonwealth Mortgage Assurance Company of Texas, a domestic fire insurance company. The home office is in Austin.
7. Application for Admission in Texas for FCLIC Administrative Services (assumed name for First Capital Life Insurance Company of Louisiana), a foreign third party administrator. The home office is in New Orleans, Louisiana.
8. Application for Admission in Texas for Jardine Group Services Corporation, a foreign third party administrator. The home office is in Schenectady, New York.
9. Application for Incorporation in Texas for Haney Group Services (assumed name for Pat Haney & Son Administrators, Inc.), a domestic third party administrator. The home office is in Dallas.
10. Application for Admission in Texas for SMC, Inc., a foreign third party administrator. The home office is in Searcy, Arkansas.
11. Application for Admission in Texas for Third Party Administration Group, Inc., a foreign third party administrator. The home office is in Lincoln, Nebraska.
12. Application for Admission in Texas for USA National Insurance Company, a foreign fire insurance company. The home office is in St. Louis, Missouri.

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

TRD-9320837

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

Filed: March 25, 1993

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Public Utility Commission of Texas
Notices 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 March 17, 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 the City of Georgetown and Texas Utilities Electric Company to amend Certificated Service Area Boundaries within Williamson County, Docket Number 11865 before the Public Utility Commission of Texas.

The Application. In Docket Number 11865, the City of Georgetown and Texas Utilities Electric Company requests approval of a joint application to amend certificated service area boundaries within Williamson 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 March 25, 1993.

TRD-9320798

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 24, 1993

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 17, 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 Cap Rock Electric Cooperative, Inc. to amend Certificated Service Area Boundaries within Glasscock County.

The Application. In Docket Number 11868, Cap Rock Electric Cooperative requests approval of an application to amend certificated service area boundaries within Glasscock 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 March 25, 1993.

TRD-9320875

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 26, 1993

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Requests Comments on Expanded
Interconnection and Related Issues

The Public Utility Commission of Texas (the Commission) is considering adopting a rule to provide for expanded interconnection and collocation for intrastate services (hereinafter "expanded interconnection"). The Commission seeks comments from interested parties in response to the following questions. Parties are requested to organize their comments to address the specific questions asked in the order asked. Parties should also include an executive summary emphasizing the main points of their comments to each question.

Should the Commission go forward with a rulemaking to address expanded interconnection? Why or why not?

Please comment on the potential benefits or likely drawbacks you anticipate with expanded interconnection. In your response, please address both physical and virtual collocation arrangements (as provided for in the October 19, 1992, Report and Order in CC Docket Number 91-141).

To which local exchange carriers (LECs) should a rule on expanded interconnection apply? Why? If applicable to all LECs, should the rule impose different requirements upon smaller LECs?

Should a rule to address expanded interconnection for special access and private line services be drafted similarly to the rule proposed by Metropolitan Fiber Systems (MFS) in Project Number 11708, specifically subsections (b), (c), (f), and (g) of MFS' proposed Substantive Rule 23.69? Why or why not? If not, in what manner should the rule be drafted?

Should a rule to address expanded interconnection include switched access services? Why or why not?

If the rule includes switched access services, should the rule be drafted similarly to the rule proposed by MFS in Project Number 11708, specifically subsection (d) of MFS' proposed Substantive Rule 23.69? Why or why not? If not, in what manner should the rule be drafted?

Is unbundling necessary to ensure effective interconnection? Why or why not? If unbundling is necessary, what constitutes the minimum acceptable level of unbundling and why?

When and in what manner should the Commission proceed on the unbundling of private line, special access, and switched access services? Why?

When and in what manner should the Commission proceed on the unbundling of switched local exchange services? Why?

Can expanded interconnection and/or unbundling be effectively accomplished with continued tariff restrictions on the resale and sharing of LEC services? Why or why not? Please include in your comments a discussion of specific tariff restrictions that should remain and/or be eliminated and why. When and in what manner should the Commission proceed? Why?

Should the Commission pursue rulemakings on interconnection and cost allocation (Project Number 9075) without simultaneously addressing issues pertaining to unbundling and tariff restrictions? Why or why not?

Please comment on the implication of and the potential for expanded interconnection to have adverse effects on the jurisdictional separation of LEC costs.

What effect, if any, would expanded interconnection, unbundling, and removal of tariff restrictions on resale and sharing have on universal service and why? Please discuss each issue separately and include in your response your definition of universal service.

Should safeguards be established to protect universal service and why? If so, what safeguards are needed and how should they be implemented?

Parties interested in providing additional comments are welcome to do so. The Commission also welcomes data and documentation supporting the parties' comments.

General Counsel and staff will review the comments and use them in preparing a recommendation to the Commission.

Comments (18 copies) should contain a reference to Project Number 11833 and should be submitted to John R. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice.

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

TRD-9320827 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 25, 1993

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Request for Comments on Settlement Procedures

The Public Utility Commission of Texas is considering adopting a rule to address settlement procedures applicable to contested proceedings. The Commission seeks comments from interested parties in response to the following questions.

Should the Commission engage in a rulemaking to formalize settlement procedures? What are the anticipated benefits and drawbacks associated with formal procedures?

Do the opinions in *Cities of Abilene, et al. v. Public Utility Commission*, Number 3-92-065 (Texas Application-Austin, February 3, 1993, n.w.h.) and *City of El Paso v. Public Utility Commission*, 839 S.W.2d895 (Texas Application-Austin 1992, writ requested), establish adequate guidelines for the settlement process at the Commission?

Should the Commission model its settlement rule on the settlement rules adopted by the Federal Energy Regulatory Commission (18 Code of Federal Regulations §385.602, and §385.603)?

Should a settlement rule contain both mandatory provisions and non-binding guidelines? If so, please identify those areas for which mandatory provisions are necessary.

Should the Commission implement settlement procedures designed specifically for larger and smaller utilities? If so,

what criteria should the Commission use for these classifications?

Should separate settlement procedures apply for different types of contested proceedings? If so, what criteria should the Commission use to categorize proceedings?

Should the rule allow for both contested and uncontested settlements?

Should the rule provide for a settlement judge? If so, what responsibilities should that judge be assigned? Would your response to either question change if the responsibilities of the Hearings Division were transferred to the State Office of Administrative Hearings?

What type of notice would be appropriate with respect to settlement meetings?

Should the rule establish dates before which the parties may not engage in settlement discussions or after which the parties may not propose settlement agreements? If so, at what point in the procedural schedule should each of these dates be set?

Should parties be allowed to meet for preliminary discussions or to caucus without notice to all parties? If so, should the rule preclude a public utility, the rates of which are the subject of the proceeding, from participating in such discussions or caucuses without notice to all parties?

How can the Commission ensure that participants in settlement meetings negotiate in good faith? Is it necessary to incorporate a good-faith standard into the rule?

What procedures should the rule include to ensure the confidentiality of settlement discussions?

What procedural steps should the rule include to ensure that non-settling parties have an opportunity to object to a proposed settlement? Should a non-settling party's failure to request a hearing constitute a waiver of all objections to the proposed settlement?

Should a non-settling party have the right to veto a proposed settlement? Should such a veto right be limited to certain parties? If so, which parties?

What procedures should the rule include to ensure that each party retains the right to a full hearing before the Commission on issues that remain in dispute? In your response, please address by whom and in what manner issues that remain in dispute are to be identified. In addition, please address what constitutes a full hearing before the Commission.

How can the rule ensure that each party retains the right to judicial review of issues that remain in dispute?

How can the rule ensure that an issue of fact raised by a non-settling party cannot be waived by a settlement or stipulation of other parties?

How can the rule ensure that a non-settling party may use an issue of fact raised by that party as the basis for judicial review?

Should the rule identify the minimum contents of the evidentiary record that must accompany a proposed settlement agreement? If so, please identify the minimum contents of such a record.

Should the rule address statutory deadlines? If so, in what manner?

Should the rule include standards by which to evaluate a proposed settlement? If so, in the event a proposed settle-

ment is uncontested, should it be presumed to be consistent with the public interest?

Should the rule address the settling parties' rights and obligations in the event the Commission modifies a proposed settlement agreement? If so, please specify those rights and obligations.

Should the Commission use mediation as a tool to encourage settlement? Does the Commission have the legal authority to require parties to use Alternative Dispute Resolution (ADR)?

Please identify and comment on elements that you believe are essential to a settlement rule but have not been addressed in the foregoing questions.

The Commission staff and general counsel will review the comments and use them in preparing a recommendation to the Commission for further action. The Commission may formally propose amendments to its substantive rules to govern settlement procedures.

Comments (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757 within 30 days of the date of publication of this notice. Comments should refer to Project Number 11785. The names and mailing addresses of commenters will be used to compile a service list for this project. The service list will be used to notify commenters of future proceedings in this project.

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

TRD-9320828

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: March 25, 1993

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Texas Department of Transportation, Division of Aviation

Notices of Contract Award

Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6122).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 93-27-013, Chambers County Airport.

The engineering firm for these services is the Quadrant Consultants, Inc., 7322 Southwest Freeway, Suite 470, Houston, Texas 77074.

The total value of the contract is \$28,900 and the contract period started on March 18, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320883

Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993

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Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6124).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-04-031, Brownwood Municipal Airport.

The engineering firm for these services is the Bucher, Willis, and Ratliff, Inc., 3620 Old Bullard Road, Suite 206, Tyler, Texas 75701-7851.

The total value of the contract is \$50,415 and the contract period started on March 18, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320884

Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993

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Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6121).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-11-031, Gilmer-Upshur County Airport.

The engineering firm for these services is the Carter and Burgess, 3880 Hulen Street, Suite 400, Fort Worth, Texas 76107.

The total value of the contract is \$82,860 and the contract period started on March 19, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320885

Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993

Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6121).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-20-041, Terrell Municipal Airport.

The engineering firm for these services is the Brannon Corporation, 1321 South Broadway, Tyler, Texas 75711.

The total value of the contract is \$153,097 and the contract period started on March 9, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320886 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993



Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6122).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 93-34-063, Tyler County Airport.

The engineering firm for these services is the Brannon Corporation, 1321 South Broadway, Tyler, Texas 75711.

The total value of the contract is \$26,294 and the contract period started on February 23, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320887 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993



Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6123).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-17-011, Franklin County Airport.

The engineering firm for these services is K.S.A. Engineers, Inc., 140 East Tyler Street, Suite 600, Longview, Texas 75606-1552.

The total value of the contract is \$44,050 and the contract period started on March 8, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320888 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993



Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6120).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-09-021, Galveston Municipal Airport, Scholes Field.

The engineering firm for these services is Klotz and Associates, Inc., 1155 Dairy Ashford, Suite 705, Houston, Texas 77079.

The total value of the contract is \$158,100 and the contract period started on February 19, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

Issued in Austin, Texas, on March 26, 1993.

TRD-9320881 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993



Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6115).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 93-28-053, Dell City Municipal Airport.

The engineering firm for these services is Parkhill, Smith, and Cooper, Inc., 810 East Yandell, El Paso, Texas 79902.

The total value of the contract is \$20,920 and the contract period started on March 17, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

Issued in Austin, Texas, on March 23, 1993.

TRD-9320882 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993

Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6114).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 94-23-051, Wharton Municipal Airport.

The engineering firm for these services is the Anthony Rachunek and Associates, Inc., P.O. Box 1111, Wharton, Texas 77488.

The total value of the contract is \$59,500 and the contract period started on March 8, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320889 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 1993

Under the provision of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the October 20, 1992, issue of the *Texas Register* (17 TexReg 7481).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 93-38-013, Mustang Beach Airport, Port Aransas.

The engineering firm for these services is W. P. Wills Consulting Engineers, Inc., LoveField, Suite N103, Terminal Building, Lock Box 6, Dallas, Texas 75235.

The total value of the contract is \$15,619 and the contract

period started on March 24, 1993, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

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

TRD-9320890 Diane L. Northam
Legal Administration Assistant
Texas Department of
Transportation/Division of Aviation

Filed: March 26, 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 Burlington Northern Railroad (Permit 02839) on March 12, 1993, assessing \$54,600 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Kevin McLeod, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8045.

Issued in Austin, Texas, on March 23, 1993.

TRD-9320807 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: March 25, 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 Laidlaw Waste Systems/Tiger Corporation (Permit Number MSW-1327) on March 12, 1993, assessing \$20,800 in administrative penalties with \$10,400 deferred contingent upon funding for supplemental environmental project.

Information concerning any aspect of this order may be obtained by contacting Victor Ramirez, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8090.

Issued in Austin, Texas, on March 23, 1993.

TRD-9320806 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: March 25, 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 Ralph Berg doing business as Ramblewood Mobile Home Park (Permit 11038-01) on March 17, 1993, assessing \$2,660 in administrative penalties. Stipulated penalties were also imposed.

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 March 23, 1993.

TRD-9320808 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: March 25, 1993

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Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of March 22-26, 1993.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Anchor West, Inc.; a vegetable processing and freezing plant; the plant site is at 200 East Palmer, south of Interstate Highway 20, in the City of Pecos in Reeves County; amendment; 02667.

Ralph J. Berg; the wastewater treatment facilities; are on the southeast side of Leonard Road (FM Road 1688), approximately two miles southwest of the City of Bryan in Brazos County; renewal; 11038-01.

Coastal States Crude Gathering Company, Crude Terminal; a petroleum pipeline pumping station, and a storage and truck loading facility; the plant site is on the north side of the Corpus Christi Ship Channel at the east end of Navigation Street adjacent to the channel bridge (U.S. Highway 181), Nueces County; new; 03538.

Coastal States Crude Gathering Company, Falfurrias Terminal and Station; a refined petroleum products pipeline pump station, storage and loading facility; the plant site is approximately 0.5 mile west of U.S. Highway 281 on FM Road 405, and approximately three miles north of the City of Falfurrias, Jim Wells County; new; 03552.

Coastal States Crude Gathering Company, Texas City Terminal; a petroleum storage and loading facility, and pipeline pumping station; the plant site is 1/2 a mile south of Highway 1765 on the west side of 14th Street in Texas City, Galveston County; new; 03555.

Coastal States Crude Gathering Company, Hobby Terminal; a jet fuel storage and loading facility; the plant site is at 8376 Monroe Road in the City of Houston, Harris County; new; 03557.

City of Decatur; the wastewater treatment facility; is approximately 1,300 feet east of FM Road 51, approximately one mile south of the intersection of FM Road 51 and U.S. Highway 81 in Wise County; amendment; 10009-01.

Encanto Real Utility District; the wastewater treatment facilities; are approximately 3 1/4 miles northwest of the intersection of Interstate Highway 45 and Spring-Stuebner Road, just south of Spring Creek and north of the City of Houston in Harris County; new; 13648-01.

Frio Foods, Inc.; a food processing plant where vegetables are washed, blanched and frozen; the plant is approximately two miles west of the City of Uvalde, immediately south of FM Road 2369 and 1,000 feet east of the intersection of FM 2369 and FM 1403 in Uvalde County; amendment; 02752.

Gulf Chemical and Metallurgical Corporation, Freeport Plant; a plant that recovers metals (molybdenum and vanadium) from spent refinery hydro-desulfurizing catalyst; the plant site is at 302 Midway Road in the City of Freeport in Brazoria County; amendment; 01861.

City of Harlingen; the Plant Number 1 Wastewater Treatment Facilities; the plant site is at 1102 East Taft, approximately 800 feet southwest of the intersection of 15th Street and Commerce in the City of Harlingen in Cameron County; renewal; 10490-02.

Harris County Municipal Utility District Number 11; the wastewater treatment facilities; are approximately 500 feet west of the intersection of Steubner-Airline Road and Aldine Western Road and south of and adjacent to a Harris County Flood Control Ditch in Harris County; amendment; 11351-01.

Heather Glen Company; the wastewater treatment facilities; are approximately 1,600 feet south-southwest of the intersection of FM Road 149 and Steubner-Airline Road on the west side of Harris County Flood Control Ditch Number P-118-32-00 in Harris County; renewal; 11231-01.

City of Houston, Department of Public Utilities; the wastewater treatment facilities; are at 5565 Kirkpatrick in the City of Houston in Harris County; amendment; 10495-23.

Joe Huereque; a dairy operation; the dairy is on the southeast side of FM Road 1110 approximately one mile northeast of the intersection of FM Road 1110 and State Highway 76 in El Paso County; new; 03576.

J.K.M. Cattle Trailer Washout, Inc.; a cattle trailer cleaning facility; the site is approximately four miles north of

the City of Dumas on U.S. Highway 287 and State Highway FM 119 in Moore County; renewal, 02985.

Lumberton Municipal Utility District; the wastewater treatment facilities; are on the northeast bank of Boggy Creek, approximately 4,000 feet southwest of the intersection of FM Road 421 and U.S. Highway 69 in Hardin County; amendment; 11709-02.

City of New London; the New London South Wastewater Treatment Facilities; the plant site is approximately 7,500 feet northwest of the intersection of the State Highway 323 and FM Road 838 and approximately 5,000 feet east of FM Road 2089 in Rusk County; amendment; 12376-01.

Jimmy Don and Larry Pack; a dairy operation; the dairy operation is on the north side of State Highway 8 approximately five miles northwest of the intersection of State Highway 8 and FM Road 988 in Erath County; new; 03563.

Pineywoods Marketing and Promotions, Inc.; a poultry operation; the poultry operation is located on the west side of an unnamed County Road approximately seven miles southwest of the intersection of FM Road 500 and State Highway 96 in Shelby County; new; 03528.

Randee Corporation; a facility that receives and treats restaurant grease trap wastewater; the plant site is on the northeast corner of FR 2021 and Allen Gin Road, about four miles northwest of the City of Lufkin in Angelina County; new; 03512.

Southern Clay Products, Inc.; the Byler Clay Mine; the plant site is on 1/2 mile east of FM 154, 4.8 miles south of the intersection of FM 154 and SH 71 in the City of Muldoon in Fayette County; new; 03573.

Trinity River Authority; the Central Wastewater Treatment Facilities; are approximately 6,000 feet northwest of the intersection of Interstate Highway 30 and Loop 12, at the confluence of the West Fork Trinity River and Mountain Creek in Dallas County; renewal; 10303-01.

United States Department of the Air Force, Kelly Air Force Base; the Kelly Air Force Base industrial wastewater treatment plant; is south of Military Highway and 100 feet north of Leon Creek and 2,640 feet east of the intersection of Leon Creek and Military Highway, southwest of the City of San Antonio in Bexar County; amendment; 02356.

Universal Tubular Services, Inc. doing business as North Steel Houston; the wastewater treatment facilities; are off Sheldon Road, approximately 1.5 miles south of U.S. Highway 90 and approximately 0.75 mile north of Miller Road Number 1 in Harris County; renewal; 12436-01.

Issued in Austin, Texas, on March 26, 1993.

TRD-9320897

Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: March 29, 1993

Notice of Availability

Notice is hereby given that the document entitled "State of Texas Approved Plumbing Fixtures List" is available for review and sale. This document lists those plumbing fixtures related to water closets, urinals, flushvalves, aerators, faucets, showerheads, and drinking fountains approved for

sale and use within the State of Texas. By Acts of the 72nd Legislature, the Health and Safety Code, Chapter 421, which consisted of §§421.001 to 421.005, was renumbered as Chapter 372. The purpose of the Act, *inter alia*, is to establish water saving performance standards for sink and lavatory faucets, showerheads, drinking water fountains, urinals, toilets, and flushvalve toilets that are manufactured, imported, or otherwise supplied for sale in the state. Specifically, §372.002(c) directs the Texas Natural Resource Conservation Commission (presently named the Texas Water Commission) to make and maintain a current list of plumbing fixtures that are certified to the commission by the manufacturer or importer to meet the water saving performance standards established in Chapter 372. The list contains the following categories: Vitreous China Water Closets, Stainless Steel Water Closets, Urinals, Flushvalves, Aerators, Faucets, Washfountain Faucets, Showerheads, and Drinking Fountains.

Interested persons may review the list in Room B-20 of the Stephen F. Austin Building located at 1700 North Congress Avenue, Austin. Copies of the list can be obtained for the cost of photocopying. Information on how to obtain copies of the list is available by contacting James M. Highberg, Consumer and Utility Assistance Section, Water Utilities Division at (512) 908-6136.

A directory of manufacturers certified to sell plumbing fixtures for use within the state is shown as follows.

Acorn Engineering Company, 15125 East Proctor Avenue, City of Industry, California 91744-0527.

Afeel Corporation, 15240 Transistor Lane, Huntington Beach, California 92649.

Alsons Corporation, 525 East Edna Place, Covina, California 91723-1311.

Allen Company, 14409 Cedar Road, Cleveland, Ohio 44121.

American Standard, Inc., P.O. Box 8305, Trenton, New Jersey 08650.

Artistic Brass, 4100 Ardmore Avenue, South Gate, California 90280.

B and K Industry, 655 Wheat Lane, Wood Dale, Illinois 60191.

Barnett Brass and Cooper, 3333 Lenox Avenue, Jacksonville, Florida 32205.

Bradley Corporation, P.O. Box 309, Menomonee Falls, Wisconsin 53052-0309.

Brass Craft Manufacturing Company, 100 Galleria Officecentre, Suite 100, Southfield, Michigan 48034.

Briggs Plumbingware, Inc., 4350 West Cypress Street, Suite 800, Tampa Florida 33622.

The Broadway Collection, 1010 West Sante Fe, Olathe, Kansas 66061-3125.

Central Brass Manufacturing Company, 2950 East 55th Street, Cleveland, Ohio 44127.

Chatham Brass Company, Inc., 5 Olsen Avenue, Edison, New Jersey 08820.

Chicago Faucet Company, 2100 South Clearwater Drive, Des Plaines, Illinois 60018-5999.

Chicago Specialty, 377 Woodland Avenue, Elyria, Ohio 44036.

Comco Corporation, 39-40 22nd Street, Long Island City, New York 11101.

Coyne and Delany Company, P.O. Box 411, Charlottesville, Virginia 22902.

Crane Plumbing, Inc. P.O. Box 389, Nevada, Missouri 64772.

Delta Faucet Company, 55 East 111th Street, Indianapolis, Indiana 46280.

Domestic Environmental Alter, 495 Main Street, Murphys, California 95247.

Ebco Manufacturing Company, 265 North Hamilton Road, Columbus, Ohio 43213-0150.

Eljer Plumbingware, Inc., P.O. Box 869037, Plano, Texas 75086-9037.

Elkay Manufacturing Company, 2222 Camden Court, Oak Brook, Illinois 60521.

Energy Technology Laboratories, 2351 Tenaya Drive, Modesto, California 95353-3405.

EPIC Products, 55 East 111th Street, Indianapolis, Indiana 46280.

Fabricas Orion, S.A. Dec.V. Avenue, Colon 2712 PTE, Monterrey, Nuevo Leon, Mexico.

Filtrine Manufacturing Company, Harrisville, New Hampshire 03450.

Fisher Manufacturing Company, 5332 Sante Fe, Vernon, California 90058.

Gemini Bath and Kitchen Products, 3790 East 44th Street, Tucson, Arizona 85713.

Gerber Plumbing Fixtures Corporation, 2500 North Union Street, Kokomo, Indiana 46901.

Gerber Plumbing Fixture Corporation, P.O. Box 278, Delphi, Indiana 46923.

Grohe America, Inc., 900 Lively Boulevard, Wood Dale, Illinois 60191.

Halsey Taylor, P.O. Box 9001, Oak Brook, Illinois 60521.

Hansgrohe, Inc., 2840 Research Park Drive, Suite 100, Soquel, California, 95073.

Harrington Brass Works, 166 Collidge Avenue, Englewood, New Jersey 07631.

Haws Drinking Faucet Company, P.O. Box 1999, Berkeley, California 94701.

Hydrotek USA, Inc., 927 North Pennsylvania Avenue, Winter Park, Florida 32789.

In-Sink-erator Division, 4700 21st Street, Racine, Wisconsin 53406-5093.

Indiana Brass, 800 West Clinton Street, Frankfort, Indiana 46041.

Interbath, Inc., 427 North Baldwin Park Boulevard, City of Industry, California 91746.

Intersan Manufacturing Company, P.O. Box 19104, Phoenix, Arizona 85005. J.A. Sexauer Company, 1800 Research Drive, Louisville, Kentucky 40299.

Jaclo, Inc., 162 Carlton Avenue, Brooklyn, New York 11205-3287.

Kilgore Plumbing Products, Highway 259N, Kilgore, Texas 75662.

Kirkhill, Inc., 12021 Woodruff Avenue, Downey, California 90241.

Kohler Company, 444 Highland Drive, Kohler, Wisconsin 53044.

Leonard Valve Company, 1360 Elmwood Avenue, Cranston, Rhode Island 02910.

Lifetime Faucets, Inc., 5050 Poplar Avenue, Suite 2403, Memphis, Tennessee 38157.

Mansfield Plumbing Products, 150 East First Street, Perrysville, Ohio 44864.

Norris Plumbing Products, 700 Fairway Drive, Walnut, California 91788.

Matco-Norca Corporation, P.O. Box 27, Brewster, New York 10509.

Melard Manufacturing Corporation, 153 Linden Street, Passic, New Jersey 07055.

Microphor, Inc., 452 East Hill Road, Willits, California 95490.

Moen, Inc., 377 Woodland Avenue, Elyria, Ohio 44036-2111.

Newport Brass, Inc., 320 East Alton Avenue, Santa Ana, California 92707.

Niagara Products, 230 Route 206, Flanders, New Jersey 07836.

Omni Products, Inc., 21011 South Figueroa Street, Carson, California 90745.

Peerless Faucet Company, 55 East 111th Street, Indianapolis, Indiana 46280.

Peerless Pottery, Inc., P.O. Box 145, Rockport, Indiana 47635-0145.

Phoenix Products, Inc., 583 Miller Road, Avon Lake, Ohio 44012.

Plumbmaster, Inc., 4056 Calle Platino, Oceanside, California 92056.

Porcher, Inc., 13-160 Merchandise Mart, Chicago, Illinois 60654.

Price Pfister, Inc., 13500 Paxton Street, Pacoima, California 9133-4518.

Pro-Flo Products, Inc., 29 Ryder Road, Wayne New Jersey 07470.

Resources Conservation, Inc., 7 Market Street, Greenwich, Connecticut 06836-0071.

Santarios Azteca, S.A., Avenue San Jeronimo 829 PTE, Monterrey, Mexico.

Sepeco Industries, Inc., 491 Wortman Avenue, Spring Creek, New York 11208.

Sloan Valve Company, 10500 Seymour Avenue, Franklin Park, Illinois 60131-1259.

Speakman Company, 301 East 30th Street, Wilmington, Delaware 19899-0191.

St. Thomas Creations, 9270 Trade Place, Suite 100, San Diego, California 92126.

Sterling Plumbing Group, Inc., P.O. Box 798, Morgantown, West Virginia 26505.

Stern-Williams Company, P.O. Box 8004, Shawnee Mission, Kansas 66208.

Symmons Industries, Inc., 31 Brooks Drive, Braintree, Massachusetts 02184.

T and S Brass and Bronze Wks., Inc., Route 4, Old Buncombe Road, Travelers Rest, South Carolina 29690.

TBP and Associates, Inc., 11580 Oakhurst Road, Largo, Florida 34649-0410.

Teledyne Water Pik, 1730 East Prospect Street, Fort Collins, Colorado 80553-0001.

Therm-O-Disc, Inc., 1320 South Main Street, Mansfield, Ohio 44907-0538.

Titon Industries, P.O. Box 566848, Atlanta, Georgia 30356.

Toto Kiki USA, Inc., 415 West Taft Street, Unit A, Orange, California 92665.

U.S. Brass, 2117 Interstate Highway, Abilene, Texas 79604.

Universal-Rundle Corporation, P.O. Box 828, Monroe, Georgia 30655.

Valley Ceramic Supply, Inc., 5304 FM 828, Brownsville, Texas 78520.

Vitromex, Boulevard Isidro Lopez Z4103, 25230 Satillo, Coah. Mexico.

W. C., Inc., 115 River Road, Edgewater, New Jersey 07020.

Wal-Mart Stores, Inc., 702 Southwest Eighth Street, Bentonville, Arkansas 72716-0313.

Waxman Industries, Inc., 24455 Aurora Road, Bedford Heights, Ohio 44146-1794.

Woodmark International, P.O. Box 831268, Richardson, Texas 75083-1268.

Zin Plas Corporation, 25 North Park Street, Grand Rapids, Michigan 49501.

Zum Industries, Inc., P.O. Box 13801, Erie, Pennsylvania 16514.

Issued in Austin, Texas, on March 22, 1993.

TRD-9320906

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: March 29, 1993

Public Notice

The Texas Water Commission has announced that it is compiling a directory of vendors in the field of used oil collection and recycling for the purpose of assisting local governments in developing grant-funded used oil collection programs. Such assistance to local governments is directed by the provisions of Senate Bill 1340, 72nd Legislature.

Specifically, the vendors should be able to provide equipment including, but not limited to, collection containers, tanks, and testing equipment for the purpose of assisting communities to collect used automotive oil from do-it-yourself oil changers.

Information provided through the Office of Pollution Prevention and Conservation, Recycling and Waste Minimization Section is provided by each vendor and the Texas Water Commission is not responsible for and makes no representation concerning the accuracy of information supplied or the quality of the work provided by anyone or any entity or business listed in the vendors' directory. Listing in the directory does not constitute an endorsement of any particular business. The Office of Pollution Prevention and Conservation reserves the right not to list a vendor or to edit the information provided by the listing party.

Vendors who would like to be included in the list, which will be made available to local governments state-wide, should submit the name of their company including the name of contact person and a brief description of their services and products to the Texas Water Commission, Office of Pollution Prevention and Conservation; Recycling and Waste Minimization Section; Automotive Waste Recycling, P.O. Box 13087, Austin, Texas 78711-3087.

Issued in Austin, Texas, on March 22, 1993.

TRD-9320907

Mary Ruth Holder
Director, Legal Services
Texas Water Commission

Filed: March 29, 1993

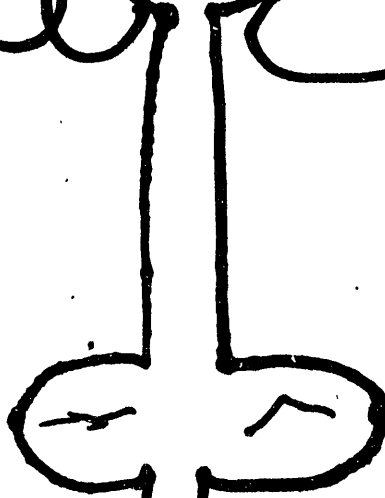
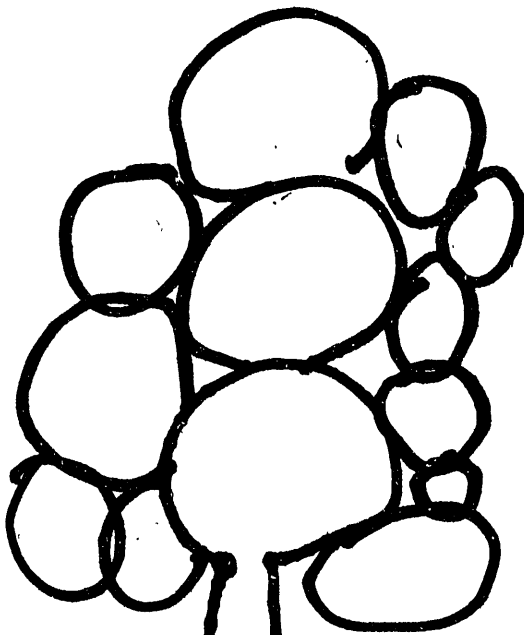
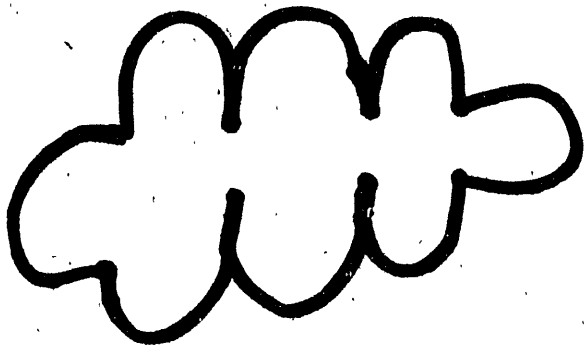
1993 Publication Schedule for the *Texas Register*

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 ININDEX	
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	

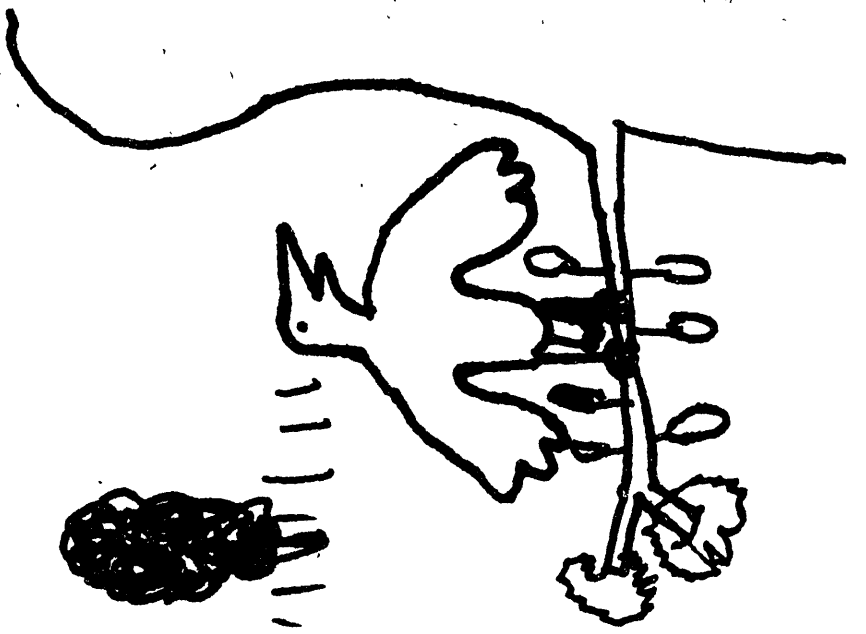
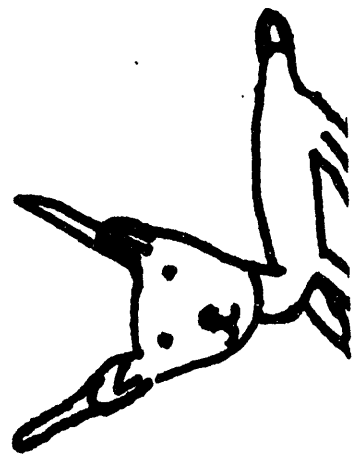
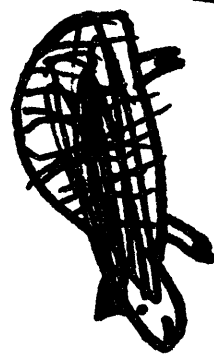
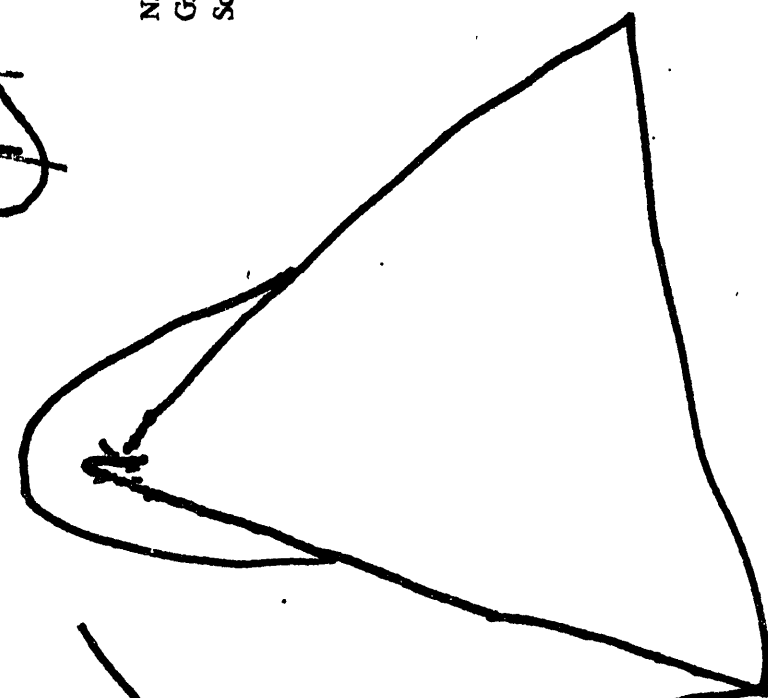
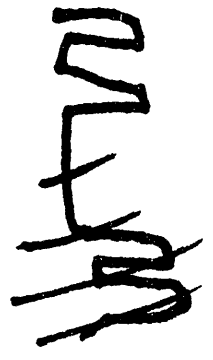
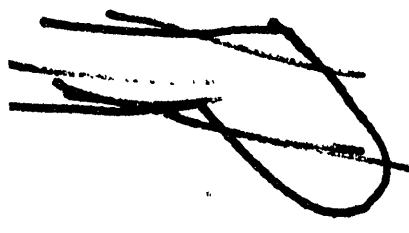
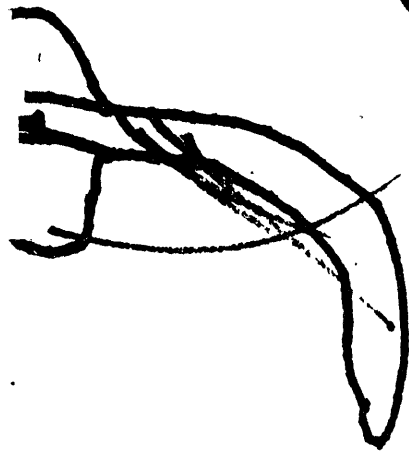


Name: Kevin Lehman
Grade: 1
School: Buda Primary Elementary School

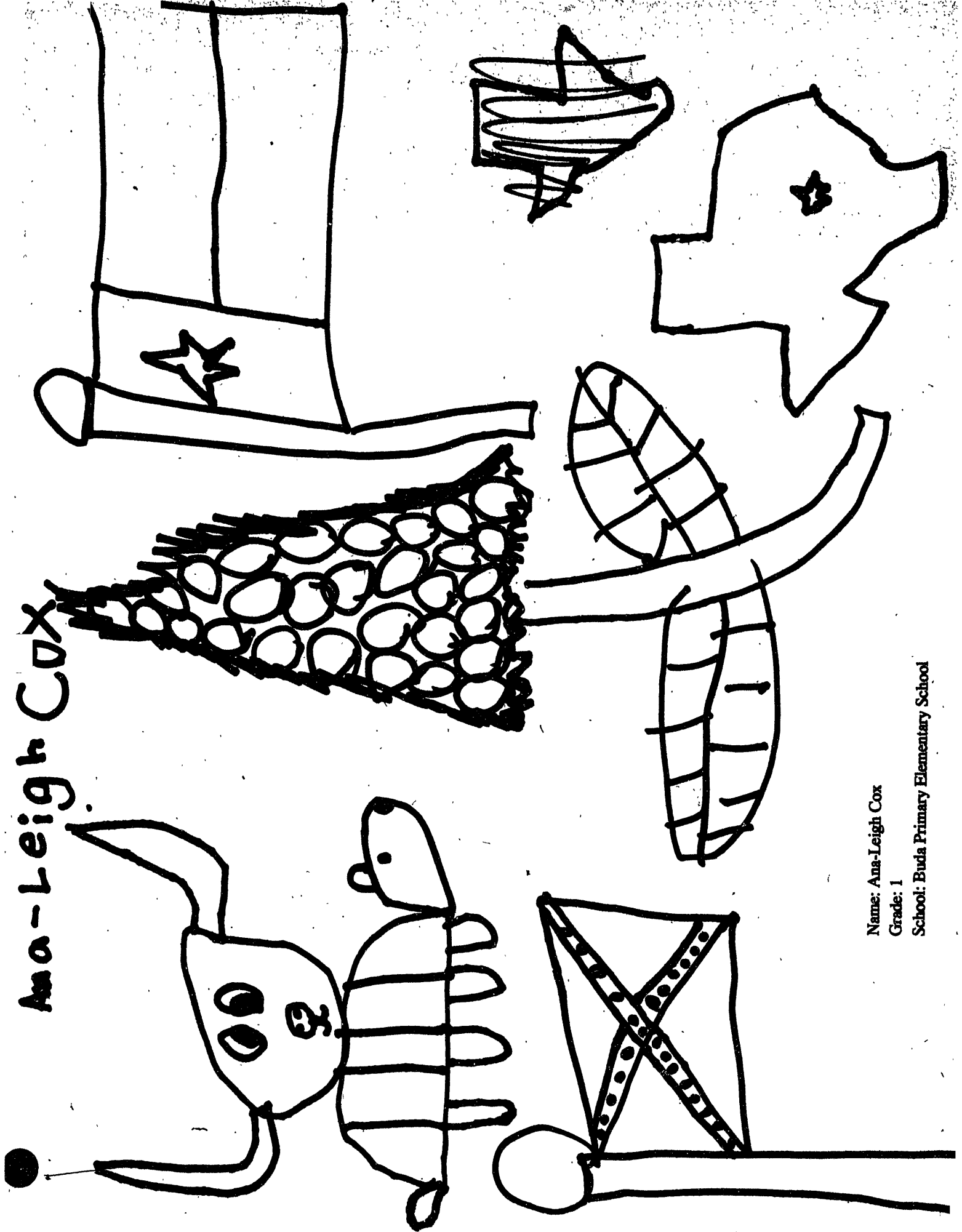




Name: Holly Crumley
Grade: 1
School: Buda Primary Elementary School



Ana-Leigh Cox



Name: Ana-Leigh Cox

Grade: 1

School: Buda Primary Elementary School

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