

Texas Register

Volume 18, Number 35, May 7, 1993

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Texas Register



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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.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

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

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

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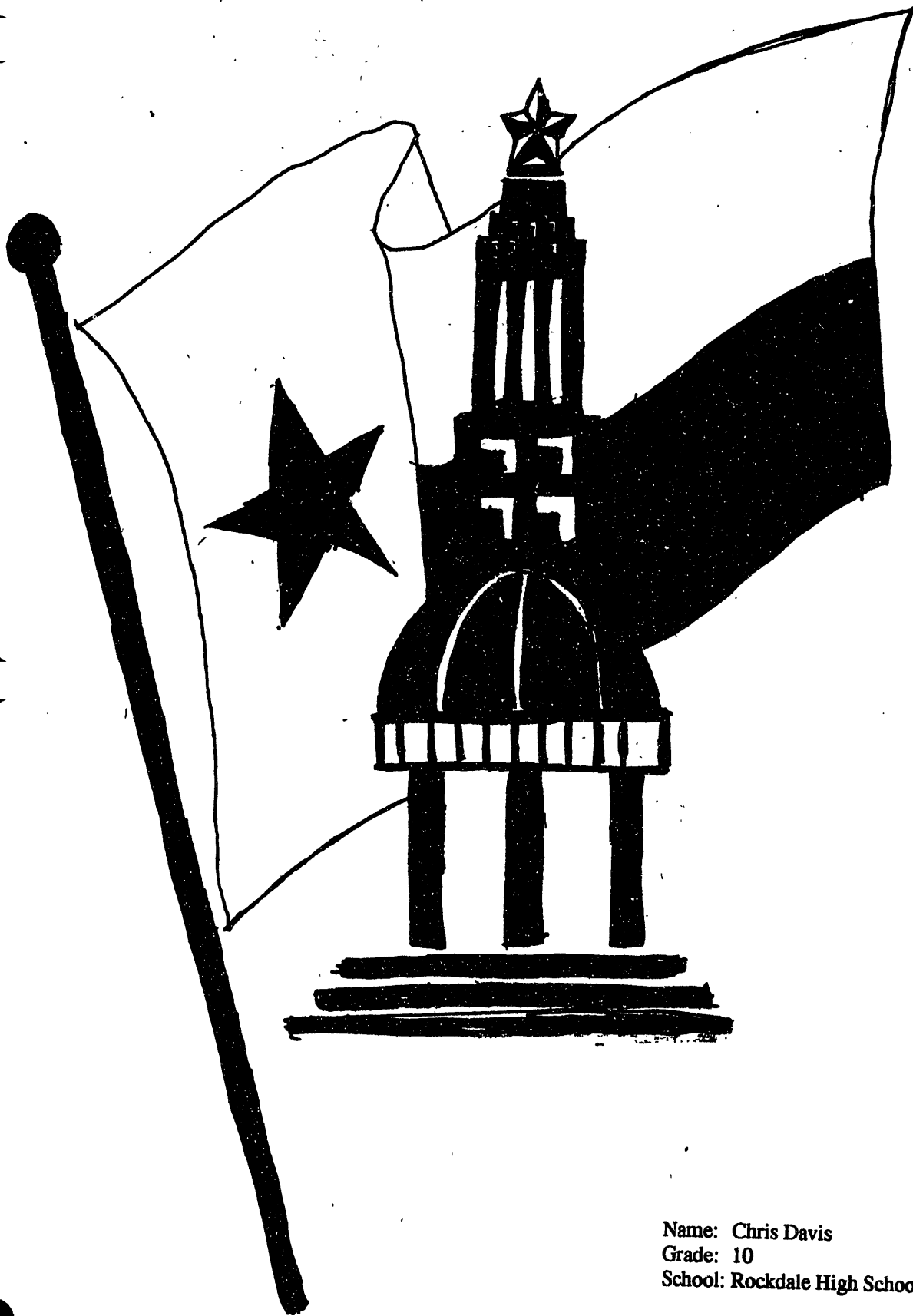
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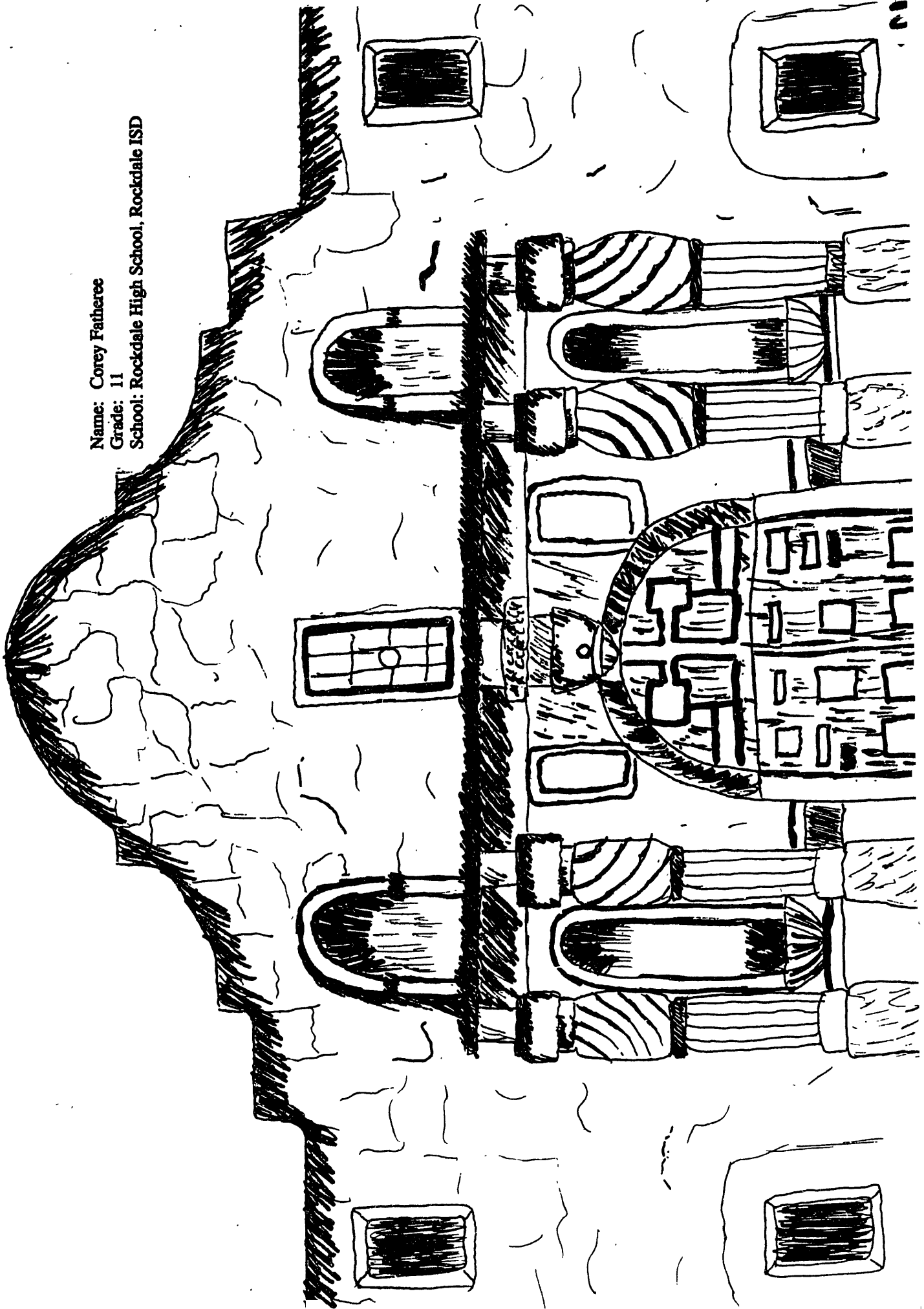
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The Clams

Name: Corey Fatherec

Grade: 11

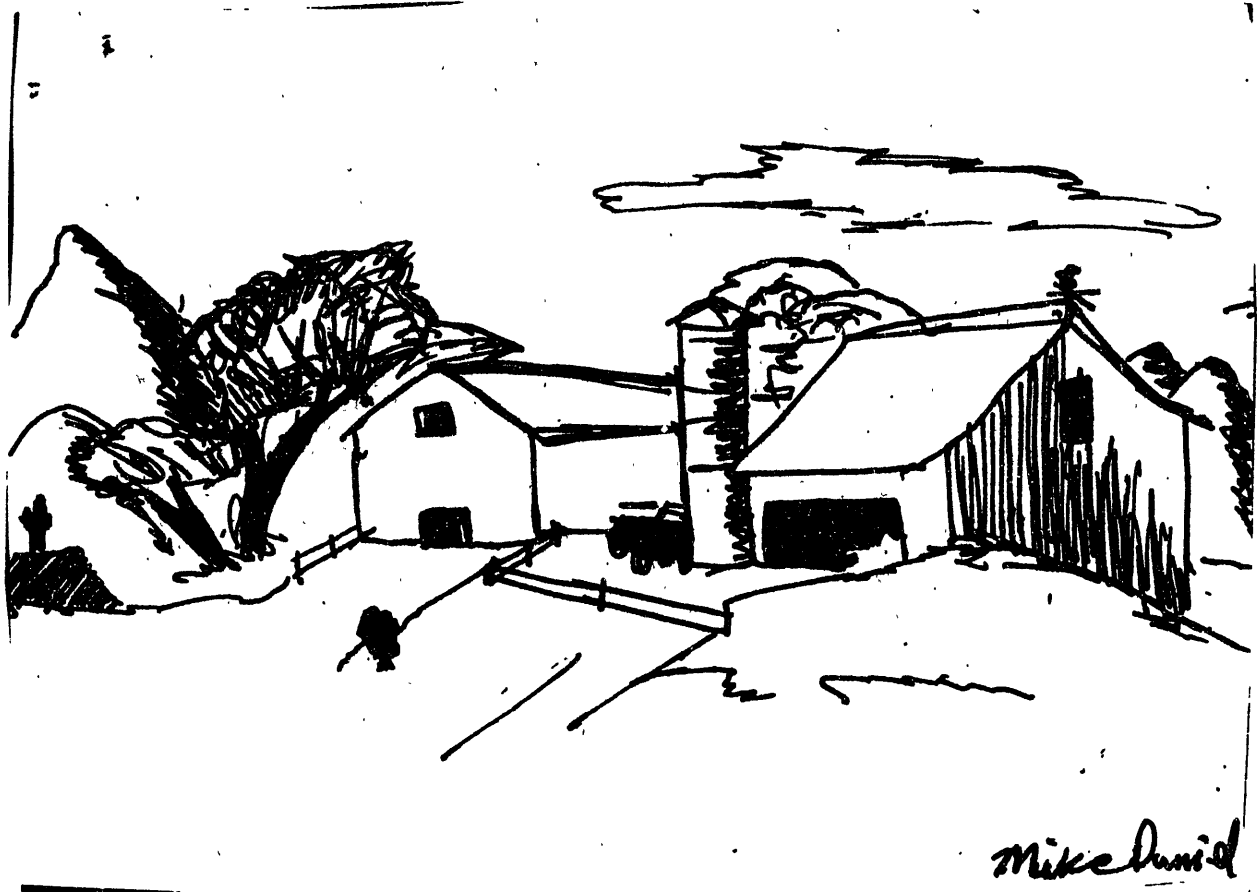
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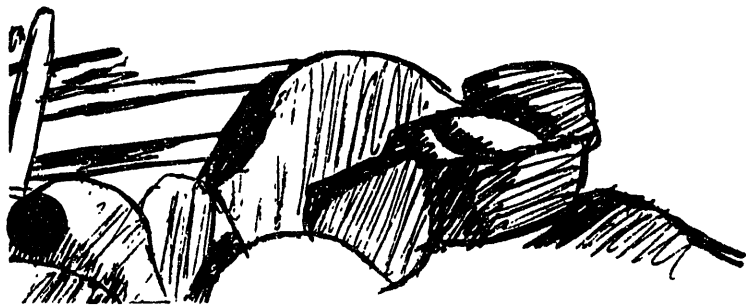
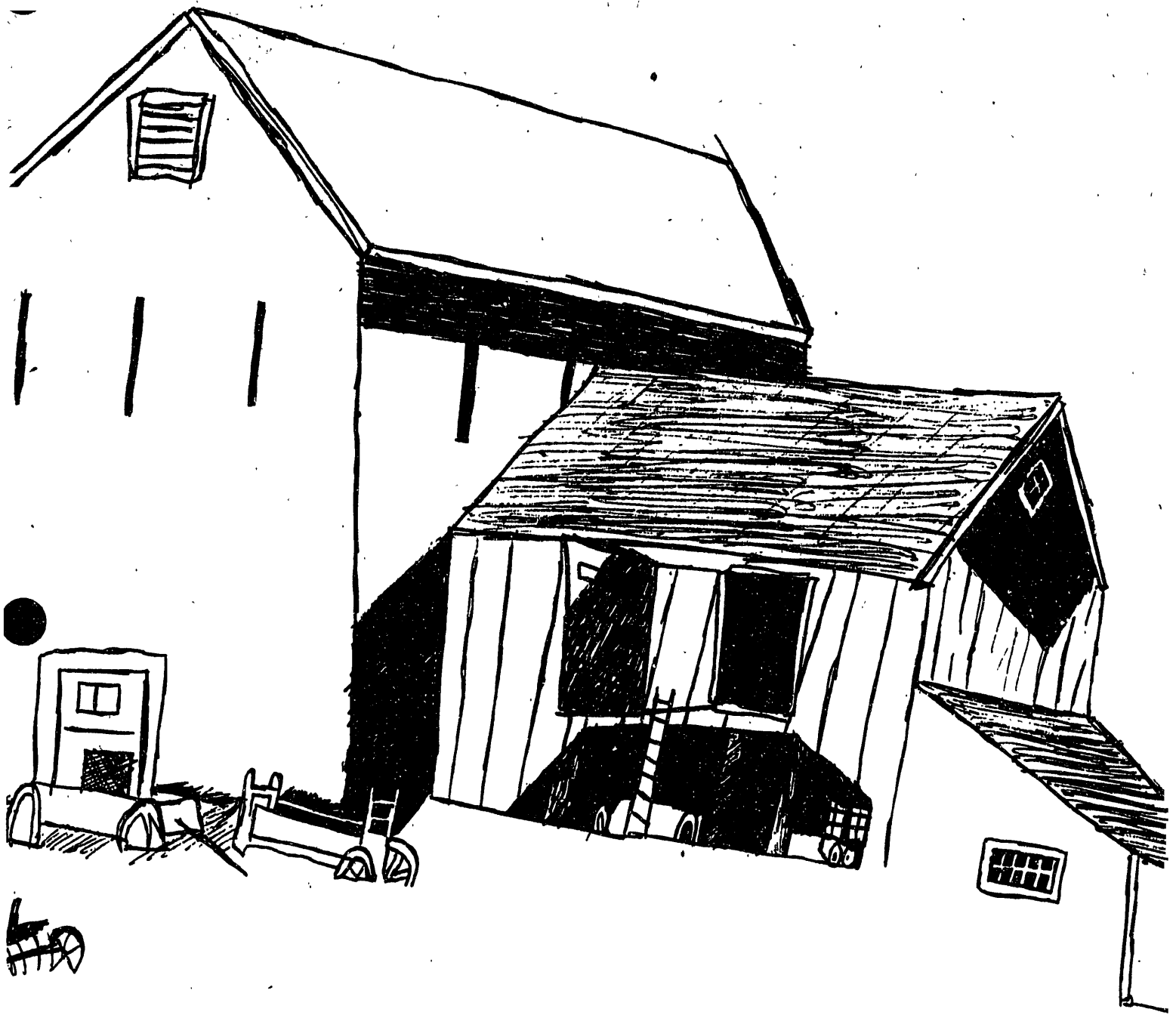


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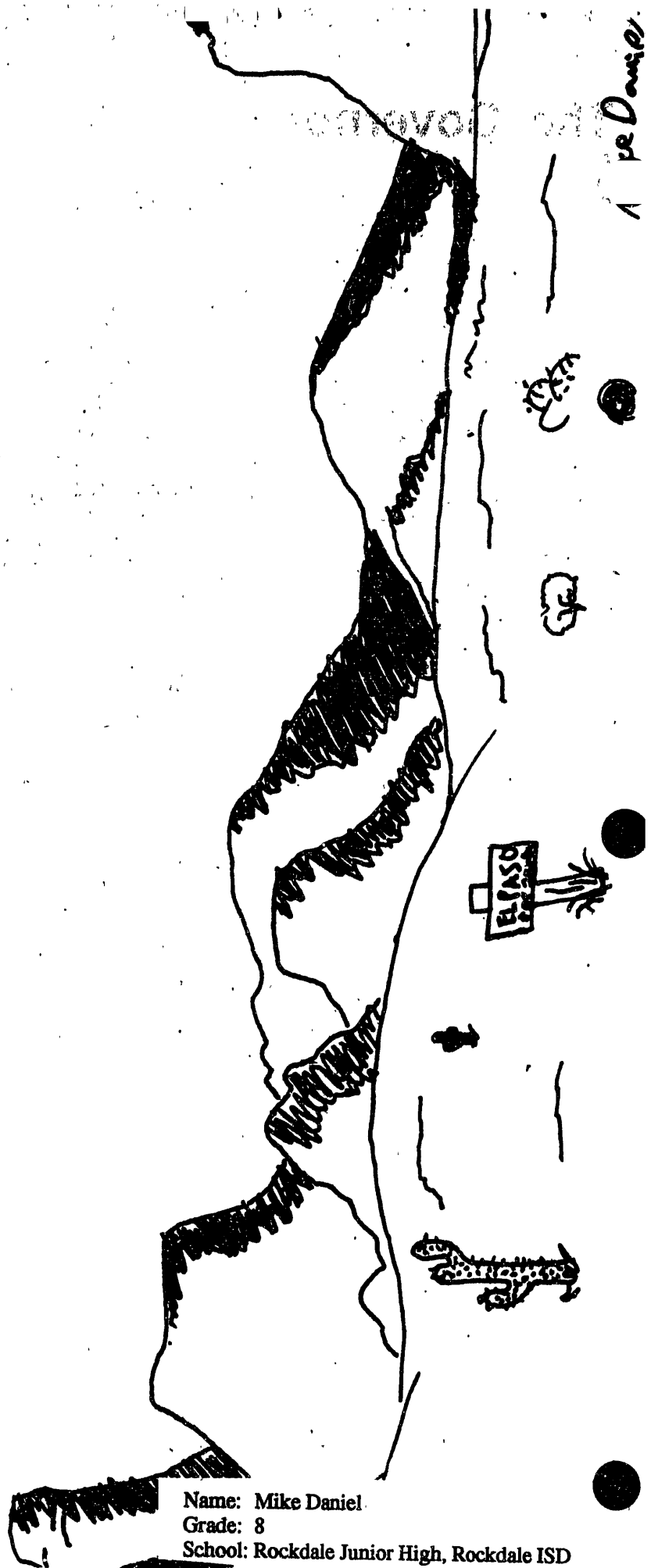
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School: Rockdale Junior High, Rockdale ISD



A se Daniel

Name: Mike Daniel

Grade: 8

School: Rockdale Junior High, Rockdale ISD

The Governor

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

Appointments Made April 26, 1993

To be a member of the Texas State Board of Public Accountancy for a term to expire January 31, 1999: Wanda Lorenz, 6519 Camille, Dallas, Texas 75252. Ms. Lorenz will be replacing John F. Lanier, Jr. of Austin, whose term expired.

To be a member of the Texas State Board of Public Accountancy for a term to expire January 31, 1999: Nita J. Dodson, Ph.D., 805 Lakeshore Drive, Rockwall, Texas 75087. Dr. Dodson will be replacing Ladelle M. Hyman of Houston, whose term expired.

To be a member of the Upper Guadalupe River Authority Board of Directors for a term to expire February 1, 1997: John R. Mosty, P.O. Box 175, Center Point, Texas

78010. Mr. Mosty will be replacing Richard G. Eastland of Hunt, whose term expired.

To be a member of the Upper Guadalupe River Authority Board of Directors for a term to expire February 1, 1999: Ernest Linares, 136 Stephanie Drive, Kerrville, Texas 78028. Mr. Linares will be replacing Lorita Ann Tipton of Kerrville, whose term expired.

To be a member of the Upper Guadalupe River Authority Board of Directors for a term to expire February 1, 1999: Georgia H. Christley, 600 Cardinal Drive, Kerrville, Texas 78028. Ms. Christley will be replacing A. J. Brough of Kerrville, whose term expired.

To be a member of the Upper Guadalupe River Authority Board of Directors for a term to expire February 1, 1997: Waldean Groff, 408 Harper Road, Kerrville, Texas

78028. Ms. Groff will be replacing H. Ritman Johns of Kerrville, whose term expired.

To be a member of the Upper Guadalupe River Authority Board of Directors for a term to expire February 1, 1999: Laresa Smith, 113 Pearl Street, Kerrville, Texas 78028. Ms. Smith will be replacing T. Beck Gipson of Kerrville, whose term expired.

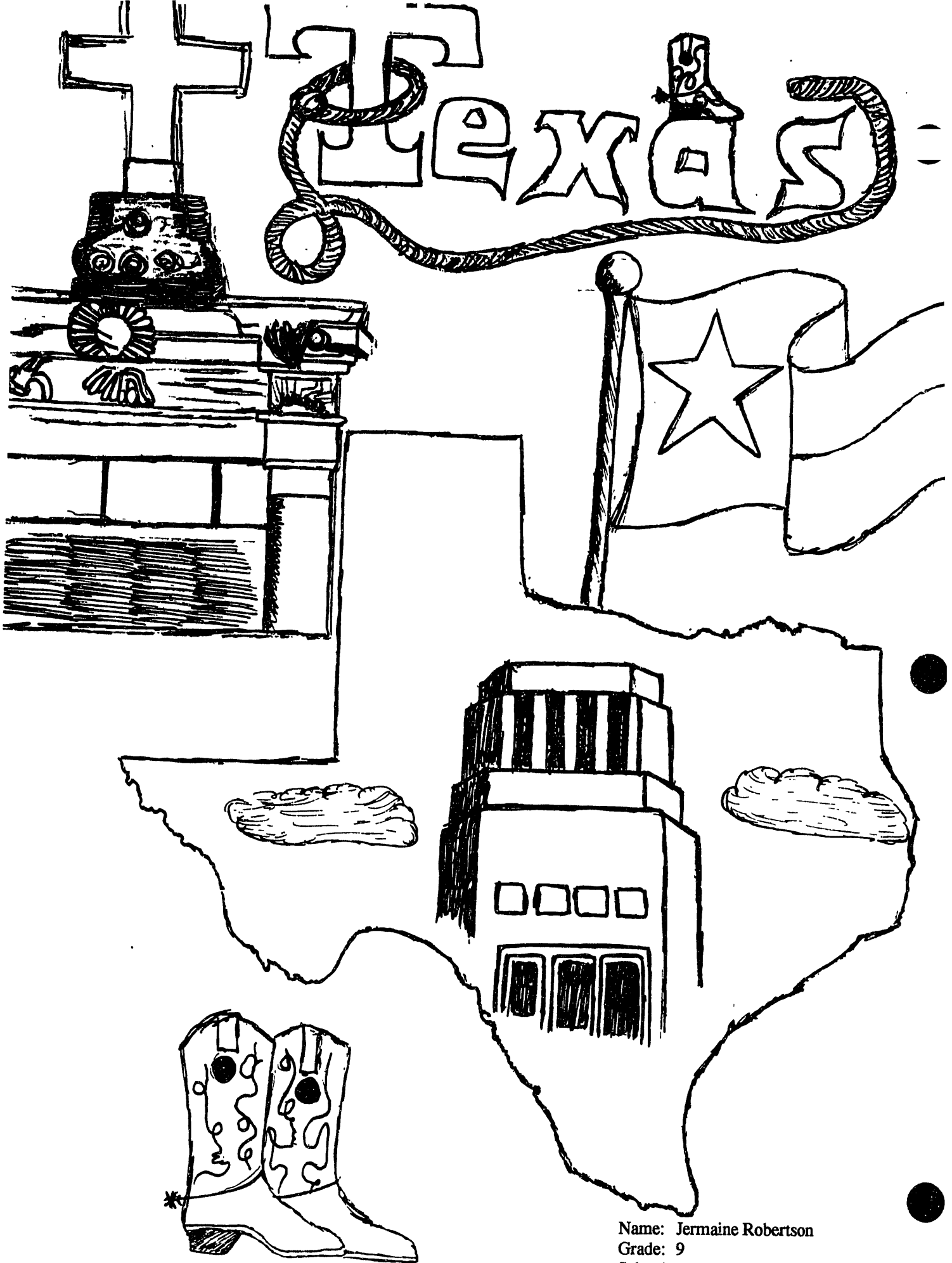
On March 30, 1993, I submitted the name of Angel M. Ramos of Rowlett for appointment to the Governing Board of the Texas School for the Deaf. Mr. Ramos has asked that his nomination to this board be withdrawn.

Issued in Austin, Texas, on April 28, 1993.

TRD-9322239

Ann W. Richards
Governor of Texas





Name: Jermaine Robertson
Grade: 9
School: Rockdale High School, Rockdale ISD

Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Texas Ethics Commission Opinions

EAO-139. Whether the chair of a legislative committee may buy gifts for legislative staff members and committee members. (AOR-176).

Summary. Gifts from legislators to legislative staff members and gifts from committee chairs to committee members may be permissible under the Penal Code except for gifts given on the basis of an independent relationship. Penal Code, §36.10(a)(2).

EAO-140. Whether members of the State Conservatorship Board are state officers required to file annual financial disclosure statements under Texas Civil Statutes, Article 6252-9b. (AOR-174).

Summary. The State Conservatorship Board is a state agency whose board members are required to file annual financial disclosure statements with the Texas Ethics Commission under Texas Civil Statutes, Article 6252-9b.

EAO-141. Whether appointed members of the Texas Judicial Council are required to file annual financial disclosure statements pursuant to Texas Civil Statutes, Article 6252-9b. (AOR-165).

Summary. Appointed members of the Texas Judicial Council are not required to file annual financial statements as "appointed state officers" under Texas Civil Statutes, Article 6252-9b.

EAO-142. Whether members of the board of directors of the Texas Certified Self-Insurer Guaranty Association are required to file annual financial disclosure statements under Texas Civil Statutes, Article 6252-9b, which requires every "state officer" to file an annual financial disclosure statement. (AOR-170).

Summary. The members of the board of directors of the Texas Certified Self-Insurer Guaranty Association who file financial disclosure statements because of other positions are not required to file an additional statement because of their membership on

the board of the association. The other board members are not required to file statements.

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: (1) Texas Civil Statutes, Article 6252-9b; (2) Chapter 302, Government Code; (3) Chapter 305, Government Code; (4) Title 15, Election Code; (5) Chapter 36, Penal Code; and (6) Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on April 30, 1993.

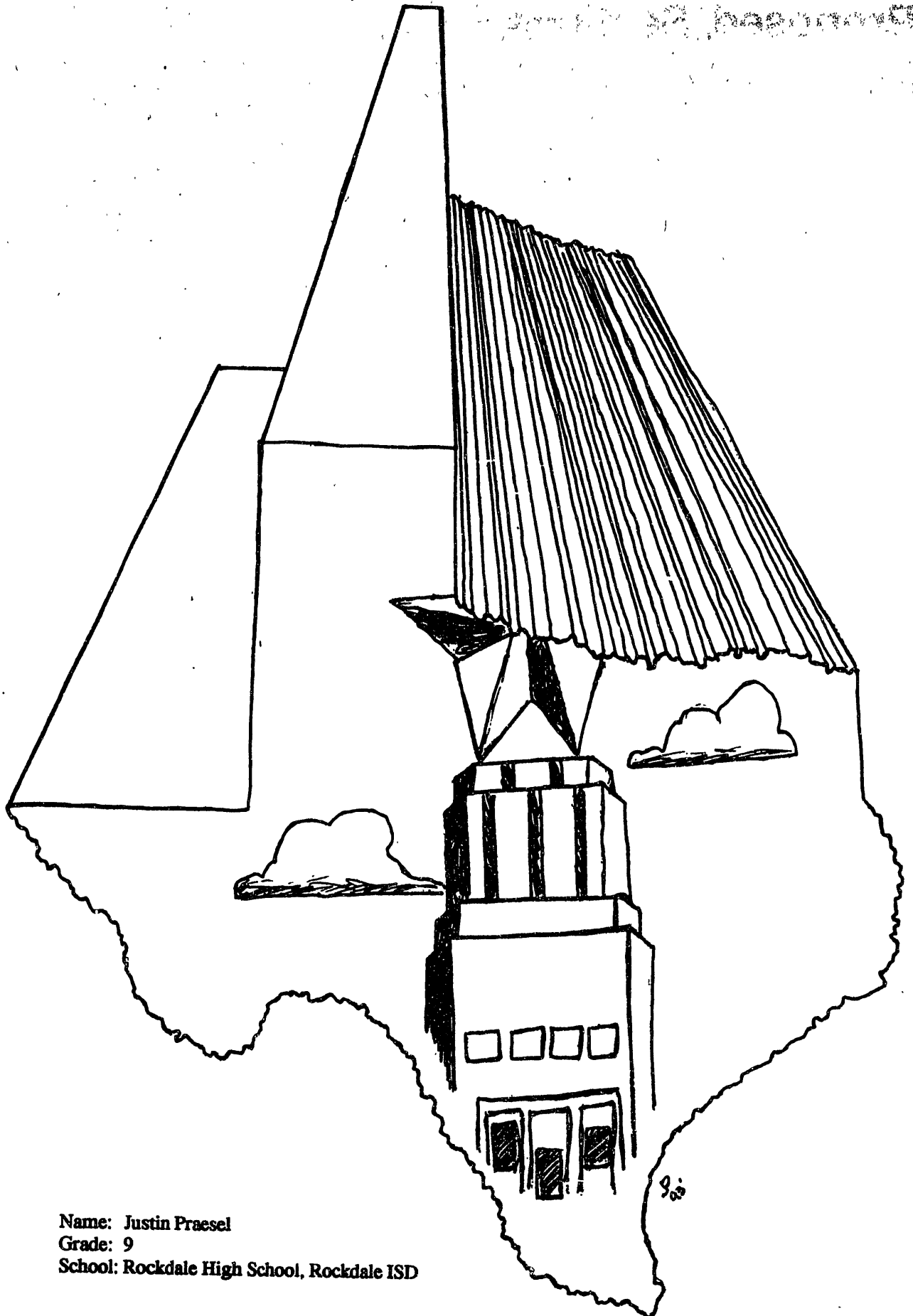
TRD-8322382

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: April 30, 1993

For further information, please call: (512) 463-5800





Name: Justin Praesel
Grade: 9
School: Rockdale High School, Rockdale ISD

Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 22. Practice and Procedure

Subchapter O. Rulemaking

• 16 TAC §§22.281-22.284

The Public Utility Commission of Texas proposes new §§22.281-22.284, concerning rulemaking proceedings before the Public Utility Commission. The new sections establish the requirements for petitions for rulemakings; provide for public comment on petitions for rulemaking and other proposed rulemaking proceedings at the commission; establish a schedule for written comments, reply comments, workshops and public hearings; prohibit communications with commissioners about a proposed rule after the filing of staff recommendations; provide for emergency rulemaking proceedings; and allow the use of informal information gathering in rulemaking proceedings. The new sections constitute a major revision to the current rules of practice and procedure concerning rulemaking, and, if adopted, would replace existing rules governing rulemaking proceedings.

Patrick J. Sullivan, assistant general counsel, 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 rule.

Mr. Sullivan 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 greater procedural consistency among rulemaking proceedings, additional opportunity for participation at all aspects of most rulemaking proceedings and provision of guidance for persons who participate in rulemaking proceedings at the Public Utility Commission. There will be no effect on small businesses as a result of enforcing the sections.

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

Comments on the proposal (14 copies) may be submitted to John M. Renfrow, Secretary

of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Comments should refer to Project Number 11399.

The new sections are proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its power and jurisdiction.

§22.281. Initiation of Rulemaking.

(a) Petition for Rulemaking. Any interested person may petition the commission requesting the adoption of a new rule or the amendment of an existing rule.

(1) The petition shall be in writing and shall include a brief explanation of the rule, the reason(s) the new or amended rule should be adopted, the statutory authority for such a rule or amendment, and complete proposed text for the rule. The proposed text for the rule shall be indicated by striking through the words, if any, to be deleted from the current rule and by underlining the words, if any, to be added to the current rule.

(2) The commission may solicit comments on any rulemaking petition by publishing notice in the miscellaneous documents section of the *Texas Register*. The notice shall include a summary of the petition and the name of the individual, organization, or entity that submitted the petition. A copy of the petition will be available for review and copying in the commission's central records. Comments on the petition shall be due two weeks from the date of publication of the notice.

(3) Within 60 days after submission of a petition, the commission either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings.

(b) Commission Initiated Rulemaking. The commission may initiate rulemaking proceedings on its own motion or on the motion of the commission general counsel. Nothing in this section shall preclude the commission general counsel or commission staff from consideration or development of new rules or amendments to existing rules without express direction from the commission.

§22.282. Notice and Public Participation in Rulemaking Procedures.

(a) Initial Comments. Prior to publishing a proposed rule or initiating a major amendment to an existing rule, the commission may solicit comments on the need for a rule and potential scope of the rule by publication of a notice of rulemaking project in the miscellaneous documents section of the *Texas Register*. A notice filed pursuant to this section shall contain a brief description and statement of the intended objective of the proposed rule and indicate if a draft of the proposed rule is available for review by interested persons. Unless otherwise prescribed by the commission, any comments concerning the rulemaking project shall be due within 30 days from the date of publication of the notice. The commission may hold workshops and/or public hearings on the rulemaking project at least 45 days but no later than 60 days from the date of publication of the notice. The notice of rulemaking project and time period for initial comments is not required for emergency rules adopted pursuant to §22.283 of this title (relating to Emergency Adoption); minor amendments of existing rules; or other rulemaking projects for which good cause exists to act immediately.

(b) Notice. After consideration of initial comments or comments on a petition for rulemaking, if comments are solicited, the commission may initiate a rulemaking project by publishing notice of the proposed rule in accordance with APTRA, §5.

(c) Public Comments. Prior to the adoption of any rule, the commission shall afford all interested persons reasonable opportunity to submit data, views, or arguments in writing. Written comments must be filed within 30 days of the date the proposed rule is published in the *Texas Register* unless the commission establishes a later date for submission of comments. The commission may also establish a schedule for reply comments if it determines that additional comments would be appropriate or helpful in reaching a decision on the proposed rule.

(d) Public Hearing. If the commission determines from comments received that disputes remain as to the effect of the

proposed rule or that additional information is needed, the commission may schedule workshops or public hearings on the proposed rule. In the case of substantive rules, opportunity for public hearing shall be granted if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members. Any workshops and/or public hearings shall be at least 60 days and no later than 90 days from the date of publication of the proposed rule.

(e) Staff Recommendation. After reviewing written comments and/or testimony presented at a workshop or public hearing, staff shall submit a recommendation for commission action on the proposed rule within 120 days after the publication of the proposed rule. The staff recommendation shall be filed in central records at the same time it is submitted to the commission. Any interested person may file written comments in response to the staff recommendation within 15 days after the filing of the staff recommendation. Staff's final recommendation shall be submitted to the commission and filed in central records at least 10 days prior to the date on which the commission is scheduled to consider the matter and not later than 150 days after the publication of the proposed rule.

(f) Contact with Commissioners. After staff submits its final recommendation to the commissioners, written or oral communication from staff or an interested person to the commissioners concerning the proposed rule is prohibited. However, this prohibition does not apply if the communication is requested by a commissioner for the purpose of clarifying the position or views of the staff or an interested person.

(g) Final Adoption. During the Final Order Meeting at which the commission considers the proposed rule for final action, the commission shall allow interested persons to present oral comments in response to the staff's final recommendation. Following consideration of comments from staff and interested persons, the commission will issue an order adopting, adopting as amended, or withdrawing the rule within six months after the date of publication of the proposed rule or the rule is automatically withdrawn.

§22.283. Emergency Adoption. Notwithstanding any other provision of these rules, if the commission finds that an imminent peril to the public health, safety, or welfare or a requirement of state or federal law requires adoption of a rule on fewer than 30 days notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or on any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. The commission shall set forth the requisite

finding in the preamble to the rule. An emergency rule adopted under the provisions of this section, and the commission's written reasons for the adoption, shall be filed in the office of the secretary of state for publication in the *Texas Register*. All of the requirements of APTRA, §5(d) apply to this section.

§22.284. Informal Information Gathering.

(a) The commission, the general counsel, and the commission staff may use informal conferences and consultations as a means of obtaining the viewpoints and advice of interested persons concerning a contemplated rulemaking.

(b) The commission may create committees of employees, non-employees, or both to advise it with respect to any contemplated rulemaking or other issues of interest to the commission, utilities, ratepayers, or other members of the public. Powers of these committees are advisory only.

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 April 29, 1993.

TRD-9322308

John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: June 7, 1993

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

◆ ◆ ◆ Chapter 23. Substantive Rules

Certification

• 16 TAC §23.34

The Public Utility Commission of Texas proposes new §23.34, concerning certification of electric utilities' least cost planning processes or least cost plans. This new rule would permit utilities to apply for bonus allowances related to renewable energy and conservation programs, under the Clean Air Act Amendments of 1990.

Title IV of the Clean Air Act Amendments of 1990 established a new regulatory scheme for reducing the emissions of sulfur-dioxide from electric utilities. Sulfur-dioxide (SO₂) is believed to be one of the causes of acid rain, and the new Federal legislation creates a nationwide limit on SO₂ emissions. Under this new scheme of regulation, a utility will be permitted to emit SO₂ from a powerplant only if it holds an allowance for each ton of emissions. Utilities will be granted a number of allowances, in accordance with the terms of the Act, and utilities that need additional allowances can buy them from other utilities. The buying, selling, or trading of allowances

is intended to achieve the reductions in emissions required by the Act at the least cost to society.

The Act also requires the Environmental Protection Agency to issue up to 300,000 bonus allowances as an incentive to utilities to provide service to their customers through conservation and renewable energy. These are means of meeting customers' needs for electricity that do not involve SO₂ emissions. Utilities may apply to the EPA for bonus allowances related to their conservation and renewable energy measures, and one of the criteria for granting these allowances is that the utility has adopted a least cost planning process or least cost plan that is consistent with the Act and the EPA's regulations. Under the EPA regulations, the utility must obtain the certification of the State regulatory agency that its least cost planning process or least cost plan is consistent with the EPA requirements, in order to be granted bonus allowances.

Jess K. Totten, assistant general counsel, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Totten also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the electric utilities in Texas will have an additional incentive to provide electric service by conservation and renewable energy. If utilities respond to this incentive and adopt new conservation and renewable energy measures, the emissions of SO₂ should be lower than if they provide service with the existing mix of resources. The economic cost to utilities required to comply with the proposed rule is expected to be minimal. Utilities are not required to apply for this certification. Presumably, utilities will apply for the certification if they believe that the value of any bonus allowances they may obtain is greater than the administrative costs of pursuing the certification at the commission and the application for the allowances at the Environmental Protection Agency. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

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

Comments on the proposal (13 copies) may be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of publication. Comments should refer to Project Number 11232.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§23.34. Optional Approval for Conservation and Renewable Energy Measures.

(a) Scope and purpose. The purpose of this section is to establish procedures for electric utilities to apply for the certification that is necessary in connection with an application for bonus allowances under the Clean Air Act, §404(f) Amendments of 1990 for qualified energy conservation and renewable energy measures. This section does not require a utility to adopt such measures or apply for bonus allowances for such measures. An electric utility may request that the commission certify that the utility's least-cost plan or least-cost planning process for meeting the future electrical energy requirements of its customers meets the requirements of the regulations of the Environmental Protection Agency in Title 40 of the Code of Federal Regulations, Part 73, Subpart F, relating to bonus allowances for energy conservation and renewable energy measures.

(b) Definitions. For the purpose of this section, the following term shall have the following meaning.

Least-cost plan or least-cost planning process—Includes a utility's planning process, whether referred to as a least-cost planning process, integrated resource planning process, or resource planning process, by which the utility prepares long-range plans to meet the electric service requirements of its customers, or a plan that results from such a planning process.

(c) Criteria for granting certification. A utility may apply for a certification from the commission that the utility's least-cost plan or least-cost planning process meets the requirements of the regulations of the Environmental Protection Agency in 40 Code of Federal Regulations, Part 40, Subpart F. Such certification may be based on the least-cost plan or the least-cost planning process described by the utility in a load and resource forecast filing, an application for a notice of intent to build a new generating plant, an application for amendment of the utility's certificate of convenience and necessity for a new generating plant, or any other commission proceeding in which the commission makes findings concerning the adequacy of the plan or planning process. The commission shall issue such a certification if the utility's plan or planning process:

- (1) provides an opportunity for public participation;
- (2) evaluates the full range of resources in order to meet expected future demand at lowest system cost;
- (3) treats demand- and supply-side resources on a consistent and integrated basis;

(4) takes into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk; and

(5) is being implemented to the maximum extent practicable.

(d) Additional criteria. A utility's planning process may take into account other factors, in addition to the factors specified in subsection (c) of this section, including environmental and social costs and benefits. The public participation requirement in subsection (c) of this section may be met by the opportunity for public participation in a commission proceeding.

(e) Notice and docketing. An applicant under this section shall provide notice of the application by direct notice to parties that participated in its most recent major rate case, parties that participated in its most recent application for a notice of intent to build a new generating plant or application for amendment of the utility's certificate of convenience and necessity for a new generating plant, and the Office of Public Utility Counsel. The application shall be docketed if any party requests to intervene or if the commission's staff recommends that the application be disapproved.

(f) Delegation of authority to issue order. In cases in which the application is not docketed, the presiding examiner is delegated the authority to issue an order on the application. In his discretion, the examiner may issue an order without holding a hearing. The examiner shall provide a copy of the order to the commissioners, and at the request of a majority of the commission, the matter shall be considered at the next open meeting of the commission at which notice of the commission's consideration of the matter may be provided. If, within 20 days of the date of the issuance of the order, the commission has not scheduled the application to be considered at an open meeting, the examiner's order shall be a final order of the commission. If the commission schedules the matter to be considered at an open meeting, the commission shall treat the examiner's order as a proposed order and may approve the order, vacate the order and remand the matter to the hearings examiner for additional proceedings, or modify the order.

(g) Examiner's report and proposed order. If an application is docketed, the presiding examiner shall issue a proposed order for the consideration of the commission, in accordance with §21.141 of this title (relating to Examiner's Reports and Proposals for Decision).

(h) Certifying official. If the commission or a presiding examiner approves an application under this section, the secretary of the commission shall prepare a certificate attesting that the utility's least-cost

plan or least-cost planning process for meeting the future electrical energy requirements of its customers meets the requirements of the regulations of the Environmental Protection Agency in Title 40 of the Code of Federal Regulations, Part 73, Subpart F.

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 April 30, 1993.

TRD-9322373

John Fenrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: June 7, 1993

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

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TITLE 19. EDUCATION
Part I. Texas Higher
Education Coordinating
Board

Chapter 5. Program
Development

Subchapter S. Transfer of
Lower Division Course
Credit

• **19 TAC §5.391**

The Texas Higher Education Coordinating Board proposes an amendment to §5.391, concerning transfer of lower division course credit (Requirements and Limitations) This is a technical amendment changing the word "and" to "including those." This amendment was inadvertently omitted from the final adoption in January 1992 of rules enhancing the transferability of credit from community colleges to universities by requiring universities to identify comparable courses in its catalog.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sanford also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will not be applicable. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §61.051(g) and §61.078(e), Texas Civil Statutes, which provides the

Texas Higher Education Coordinating Board with the authority to adopt rules regarding transfer to lower-division course credit.

§5.391. Requirements and Limitations.

(a) (No change.)

(b) Each university must identify at least 45 semester credit hours of academic courses that are substantially equivalent to courses listed in the "Community College General Academic Course Guide Manual" including those [and] that fulfill the lower-division portion of the institution's Core Curriculum.

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

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

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

TRD-9322230

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: June 7, 1993

For further information, please call: (512) 483-8160

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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 department to administer a certification program for environmental laboratories in order to perform drinking water analyses under the federal Safe Drinking Water Act (Act) and the primary drinking water regulations promulgated thereunder as found in Title 40, Code of Federal Regulation, §141.

The United States Environmental Protection Agency (EPA) is authorized by the Act to provide for the analysis of potable water in all states by certified laboratories only. The mechanism for achieving the ends mandated in the Act is for EPA to certify a principal laboratory in each state and require that laboratory to perform all testing on drinking water itself or else to certify other laboratories for that purpose. The department laboratory is the principal laboratory in Texas. Until now, only the department's laboratory has performed chemical analyses. Selected public laboratories, such as local public health de-

partment laboratories and laboratories in water treatment plants operated by local governments, have been certified to perform microbiological analyses; this testing was decentralized due to the time-sensitive nature of microbiological samples.

The amendment establishes a program by which all laboratories, public, industrial, and independent, may perform drinking water analyses for compliance with the Act. A large and complicated state program is avoided by creating an administrative function with a small clerical staff and limited decision-making role for the director of the department's laboratory. Certification will be based on accreditation of any interested laboratory by one of a number of nationally recognized accrediting agencies approved by the department. Applying laboratories must obtain accreditation at their own expense and pay a nominal administrative fee for the department to certify them. The department will weigh the results of onsite inspections and outside performance evaluations that are conducted as part of the accrediting action to decide on certification.

James W. Drake, Chief of Staff Services for Disease Prevention Associateship, has determined that for the first five year period the section as proposed will be in effect, there will be fiscal implications as a result of administering the section as proposed. The additional cost to the state government is estimated to be \$50 per laboratory certified annually, or up to \$30,000. The estimated increase in revenue will be up to \$30,000, recovered in fees for certification. There is no impact on local governments, which will have the option to receive testing from the state laboratory as now at published rates or from independent laboratories if lower bids can be obtained.

Mr. Drake also has determined that for each year of the first five years the section as proposed will be in effect the public benefit anticipated will be the continued analysis of potable water to satisfy the Act and the added benefit of privatization of the service. Independent Texas-based laboratories, gaining certification in this manner, will be able to compete commercially in other states and offer the advantage of competitive bidding to water systems within the state. There may be an additional cost to small or large laboratory businesses that voluntarily seek accreditation/certification at approximately \$300 annually in order to be permitted to bid on analytical work under the Act. There will be no cost to individuals and no impact on local employment.

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 change in the Texas Register. In addition, a public hearing on the proposed new section will be held at 1:00 p.m. on Wednesday, May 12, 1993, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The new section is proposed under the Health and Safety Code, §12.031 and §12.032, which provides the Board of Health (board) with the authority to adopt rules con-

cerning fees for public health services; 40 Code of Federal Regulations, §141.28, which allows the Texas Department of Health to certify other laboratories in Texas; 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)-(c) (No change.)

(d) Services concerning certification of microbiological and chemical testing laboratories.

(1) Definitions.

(A) Accreditation-Recognition by an approved accrediting agency that a laboratory has met the minimum standards related to performance evaluation, employee credentials, onsite inspection of operations, and methodology.

(B) Certification-Official and legal approval granted by the Texas Department of Health (department) to a laboratory, permitting analysis of drinking water samples in accordance with the Safe Drinking Water Act (Act) based on the accreditation process or based on identical steps taken by the certifying agency itself.

(2) Application.

(A) Accreditation.

(i) An applicant laboratory must submit an application for accreditation directly to a department-approved accrediting agency. The application form will be provided by the accrediting agency. A list of approved accrediting agencies is available from the department.

(ii) Payment of the required fee for accreditation, performance evaluation samples, and for onsite inspections will be as specified by the accrediting agency.

(iii) A laboratory may apply for a single or any combination of categories for which to be accredited from among the following: chemistry-routine inorganics, chemistry-nitrate and nitrite, chemistry-metals, chemistry-lead and copper, chemistry-trihalomethanes, chemistry-volatile organics, chemistry-insecticides and herbicides, chemistry-carbamate insecticides, chemistry-EDB and DBCP, chemistry-synthetic organics, chemistry-endothal, chemistry-glyphosate, chemistry-diquat, chemistry-radiochemicals, chemistry-asbestos, chemistry-dioxin, and/or microbiology.

(B) Certification.

(i) An applicant laboratory must submit an application for certification directly to the department on a form specified by the department; and must be accompanied by evidence of accreditation by a department-approved accrediting agency.

(ii) Payment of the public health service fee for certification will be upon billing by the department for the recovery of actual costs of conducting the certification program.

(iii) Payment may be by check or money order made payable to the Texas Department of Health.

(iv) A laboratory may apply for certification in a single or any combination of categories from among the following: chemistry-routine inorganics, chemistry-nitrate and nitrite, chemistry-metals, chemistry-lead and copper, chemistry-trihalomethanes, chemistry-volatile organics, chemistry-insecticides and herbicides, chemistry-carbamate insecticides, chemistry-EDB and DBCP, chemistry-synthetic organics, chemistry-endothal, chemistry-glyphosate, chemistry-diquat, chemistry-radiochemicals, chemistry-asbestos, chemistry-dioxin, and/or microbiology.

(3) Standards.

(A) The minimum standards for accreditation and certification are as set out in the United States Environmental Protection Agency's publication titled "Manual for the Certification of Laboratories Analyzing Drinking Water" dated April 1990. The department adopts this manual by reference. This manual is available for review during normal business hours at the department's Bureau of Laboratories, 1100 West 49th Street, Austin, Texas.

(B) Each applicant laboratory will be evaluated, at a minimum, on the following factors: credentials and experience of staff; quality assurance plan; manuals of procedures; performance on evaluation unknowns; equipment; calibrations and standards; methodology; facilities; sample acceptance policies; sample tracking; record keeping; reporting; and results interpretation.

(4) Inspections. The department's laboratory may conduct inspections of certified laboratories to ascertain the continuing adherence to minimum standards and the effectiveness of the accreditation system.

(5) Withdrawal of Certification.

(A) A laboratory must meet all minimum standards, pass all performance evaluation sets and pass onsite inspections no less frequently than every three years to be certified.

(B) A laboratory that fails to meet requirements by scoring outside the acceptable limits on a set of performance evaluation unknowns as determined by the EPA, that has serious deficiencies at the time of an onsite inspection, that fails to notify the department within 30 days of major changes which might impair analytical capability (personnel, equipment, location), and/or that fails to notify the state or public as required by notification regulations may be placed on provisionally certified status.

(C) Failure on two consecutive performance evaluation sets or failure to correct major deficiencies within 90 days following onsite inspection will result in the withdrawal of certification.

(D) If decertification is warranted, the affected laboratory will be notified in writing and will have the right to an administrative hearing conducted by the department if requested in writing within 30 days of receipt of the notice of intent to revoke certification. The hearing will be conducted according to the Administrative Procedures and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the department's formal hearing procedures in Chapter 1 of this title (relating to Texas Board of Health).

(E) A laboratory that has been decertified may gain reinstatement after six months by submitting an application as required. The laboratory seeking reinstatement must additionally show at least one successful participation in an EPA performance evaluation set and must have corrected all major deficiencies.

(6) Reciprocity.

(A) The department may certify any laboratory from another state that possesses certification in that state or from the EPA, if the criteria for certification in that state is comparable to the minimum standards set by the EPA.

(B) A laboratory may be certified by the department for work in

Texas even if the laboratory's home state has no certification program, if that laboratory is accredited by an agency approved by the department and if the standards for accreditation are at least as stringent as those for laboratories within the state.

(7) Reporting.

(A) The jurisdiction and regulation of water quality in public drinking water supplies rests with the Texas Water Commission, and that agency makes determinations as to the number, type, and frequency of laboratory tests.

(B) All test results conducted in accordance with the Act must be reported to the Texas Water Commission in the fashion, in the format, and with the frequency specified by that agency.

(8) Competition.

(A) The department's laboratory will avoid unfair competition with the certified laboratories by restricting the submissions it will accept on a geographical basis.

(B) The department's laboratory must continue to analyze drinking water samples in keeping with the requirement by the EPA that principal laboratories must perform all analyses.

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 May 3, 1993.

TRD-9322399

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

Proposed date of adoption: July 24, 1993

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

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TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

Chapter 128. Benefits-
Calculation of Average
Weekly Wage

• 28 TAC §128.2

The Texas Workers' Compensation Commission proposes an amendment to §128.2, con-

cerning Carrier Presumption of Employee's Wage; Employer Wage Statement Required. This amendment will require the employer to send a copy of the wage statement to the employee or the employee's representative but not to the commission unless the commission requests the employer to provide a wage statement to the commission.

Janet Chamness, chief of budget, 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.

The amendment will have the same effect on large businesses as on the smallest businesses.

Ms. Chamness 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 from improved utilization of agency resources and from the timely identification and resolution of disputes regarding average weekly wage. Enforcing or administering this section will not cost the public any more than the current rule does. While it will not cost more, the benefit of timely resolution of disputes issues will work to the public good as described in the previous paragraph.

Written comments on the proposal may be submitted to Ken Forbes, Policy and Rules Administrator, Mail Stop #4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Act and Article 8308-4.10(f), which requires employers to file wage statements.

§128.2. Carrier Presumption of Employee's Wage; Employer Wage Statement Required.

(a) A carrier shall promptly initiate the payment of income benefits as required by the Workers' Compensation Act (Act). To expedite payment, the carrier shall presume that the employer's last payment to the employee for personal services based on a full week's work (partial work week shall be prorated for a full week) accurately reflects the employee's wage until:

(1) the employer files the wage statement required by subsection (b) of this section; or

(2) the correct wage is determined by other evidence, if the employer does not file the wage statement.

(b) An employer shall file a signed wage statement with the carrier and the injured employee or injured employee's representative [the commission] within 30 days of the date benefits begin to accrue [of receipt of notice of the injury, but only if the employee is disabled for at least eight days.] and with the commission within

seven days of receiving a request from the commission. The wage statement shall be on a form TWCC 3, be signed and dated by the person filing the wage statement for the employer, and contain the following information:

(1) the employee's name, address, and social security number;

(2) the dates of employee's employment with the employer;

(3) the date of injury;

(4) the employee's wage, as defined in §128.1 of this title (relating to Average Weekly Wage: General Provisions), paid to the employee for the previous 13 weeks before the date of injury. If the employee was not employed for 13 continuous weeks before the date of injury, the employer shall identify a similar employee performing similar services, as those terms are defined in §128.3 of this title (relating to Average Weekly Wage Calculation For Full-Time Employees, and For Temporary Income Benefits For All Employees), and list the wages of that similar employee for the 13 weeks prior to the date of the injury;

(5) the employer's name, address, and federal tax identification number;

(6) a certification that the wage listed includes the fair market value of non-pecuniary remuneration not provided after the date of injury, and that the statement is complete, accurate, and complies with this rule; and

(7) an identification of the employee's status as full-time, part-time, or seasonal worker, including the number of hours worked during the previous 13 weeks, and whether the employee was also a student, apprentice or trainee.

[(c) An insurance carrier shall provide to the employee or his representative a copy of a wage statement within 20 days of receipt.]

(c)[(d)] An employer shall file a subsequent wage statement within seven days if any information contained on the previous wage statement changes.

(d)[(e)] A carrier that fails to promptly begin payment of compensation may be assessed an administrative penalty under the Act, §5.22.

(e)[(f)] An employer that fails to file a complete wage statement as required by this rule without good cause may be assessed an administrative penalty, not to exceed \$500, under the Act, §4.10(f).

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 April 30, 1993.

TRD-9322348

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: June 7, 1993

For further information, please call: (512) 440-3592

Chapter 140. Dispute Resolution/General Provisions

• 28 TAC §140.3

The Texas Workers' Compensation Commission proposes an amendment to §140.3, concerning Expedited Proceedings. This amendment will allow the commissioners to specify in rules whether an issue will be subject to expedited dispute resolution proceedings. It will also allow flexibility to establish through policy expedited processing of issues for which the Act and rules do not require expedited proceedings.

Janet Chamness, chief of budget, 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.

The amendment will have the same effect on large businesses as on the smallest businesses.

Ms. Chamness 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 from the amendment by having disputes resolved in the most timely fashion possible. Enforcing or administering this section will not cost the public any more than the current rule does. While it will not cost more, the benefit of timely resolution of disputed issues will work to the public good as described in the previous paragraph.

Written comments on the proposal may be submitted to Ken Forbes, Policy and Rules Administrator, Mail Stop #4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Act.

§140.3. Expedited Proceedings.

[(a)] In addition to expedited proceedings provided by any other commission rule, the [The] commission may provide expedited benefit review conferences and benefit contested case hearings for resolution of disputes involving compensability, [or] liability for essential medical treatment, or any type of issue as

defined by commission policy for which the executive director or delegate determines an expedited proceeding will serve the best interests of the workers' compensation system or its participants.

[(b) A dispute involves compensability when the carrier or the employer contests the compensability of an injury, as provided by the Act, §5.10(4) or §5.21.

[(c) A dispute involves liability for essential medical treatment when the carrier or the employer refuses to pay for medical treatment on the grounds that the injury is not compensable.]

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 April 30, 1993.

TRD-9322347

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: June 7, 1993

For further information, please call: (512) 440-3592

Chapter 145. Hearings Under the Administrative Procedures and Texas Register Act

• 28 TAC §145.28

The Texas Workers' Compensation Commission proposes new §145.28, concerning Expenses to be Paid by Petitioner. This rule will allow the commission to charge back the costs of duplicating the record of hearings held by the commission under the Administrative Procedures and Texas Register Act (APTRA) when one of the parties files a petition in district court. APTRA requires that the agency produce a certified record of the proceeding for the court.

Janet Chamness, chief of budget, has determined that for the first five-year period the section is in effect there will be fiscal implications for state or local government as a result of enforcement of administration. The effect will be that the costs incurred by the commission will be offset by the amount recovered from the petitioner.

The section will have the same effect on large businesses as on the smallest businesses in that the cost of duplicating the record will be based on the length of the proceeding and the number of exhibits introduced rather than the size of the business that files the petition.

Ms. Chamness 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 by the commission offsetting some of the costs of doing business. Enforcing or administering

this section will not cost the general public anything, though it will potentially pass on the costs of using the courts to review actions of the commission. Those costs will vary based on the length of the proceeding and on the number of pages of exhibits introduced in the proceeding.

Written comments on the proposal may be submitted to Ken Forbes, Policy and Rules Administrator, Mail Stop #4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Act, and Texas Civil Statutes, Article 6252-13a(19)(f), which authorize an agency to pass on the costs of duplicating the record for district court.

§145.28. Expenses to be Paid by Petitioner.

(a) Upon receiving a copy of a petition filed in district court which seeks judicial review of a final decision in a contested case decided under this chapter, the commission shall prepare a certified copy of the entire record of the proceeding under review, including a transcript of the hearing audiotape, and transmit it to the reviewing court.

(b) The commission shall assess to the party seeking judicial review, expenses incurred by the commission in preparing this copy, including transcription costs. Upon request, the commission shall consider the financial ability of the party to pay the costs or any other factor which is relevant to a just and reasonable assessment of costs. If the party seeking judicial review is an injured employee, the commission shall not charge for duplicating the record.

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 April 30, 1993.

TRD-9322346

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: June 7, 1993

For further information, please call: (512) 440-3592

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §§101.24, 101.27, 101.28

The Texas Air Control Board (TACB) proposes amendments to §101.24, concerning Inspection Fees; §101.27, concerning Emissions Fees, and §101.28, concerning Asbestos Fees. The proposed revisions to §101.24 include language changes to coincide with §101.27 and add to subsections (a) and (b) wording to indicate that inspection fees must be paid to any successor of TACB. The TACB is scheduled to be merged into a new environmental agency in September of 1993, but the name of the new agency is subject to change in the meantime. The proposed revisions to §101.27 and §101.28 involve similar changes and also include fee increases for §101.27.

In §101.27(b), the proposed rule identifies the option that companies required to submit emissions fees can report either allowable levels or actual levels or both. In §101.27(c), TACB proposes to set the Emissions Fee rate for fiscal year 1994 at \$25 per ton, and for fiscal year 1995, at \$26 per ton. The increase to \$26 per ton for fiscal year 1995 is adjusted according to the consumer price index. The minimum Emissions Fee is being increased from \$25 to \$26 for fiscal year 1995, for consistency with the new fee rate. TACB must demonstrate to the United States Environmental Protection Agency (EPA) that adequate funding is provided to implement the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990. EPA is presuming that the proposed emissions fee rate is necessary to fund this program. The Title V permitting program will go into effect during fiscal year 1994.

House Bill Number 1 (General Appropriations Act), Rider 9, 72nd Texas Legislature, authorizes TACB to collect fees from contractors performing demolition and renovation projects that may involve asbestos to support oversight and enforcement activities required under the federal requirements of the National Emission Standards for Hazardous Air Pollutants. The 73rd Texas Legislature may write the 1994-1995 Appropriations Bill using the term "owner/operator" as defined in 40 Code of Federal Regulations 61, Subpart M, instead of the term "contractor," to indicate who will be required to pay Asbestos Fees. If that change occurs, the term "owner/operator" will replace the term "contractor" in §101.28 and the last sentence in §101.28(a), which defines "contractor," definition will be deleted. Some minor wording improvements are proposed in §101.28(d) and (e).

Mr. Lane Hartssock, Deputy Director of Air Quality Planning, has determined that for the first five-year period the rules in effect the anticipated fiscal implications for state units of government as a result of enforcing and administering §101.27 will be approximate reve-

nues as follows: fiscal year (FY) 1994, \$39 million; FY 1995, \$40 million; FY 1996, \$42 million; FY 1997, \$44 million; and FY-1998, \$46 million. This revenue is expected to recover the costs of administering the requirements of Title V of the FCAA. The anticipated costs to units of government, businesses, and persons will be the increased fee amounts as calculated pursuant to the new rates in §101.27(c). The proposed fee amount for §101.27(c) is a minimum of \$25 for fiscal year 1994 and \$26 for fiscal year 1995 with no statutory maximum.

Mr. Hartsock also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules would be to enable TACB and its future successor agency to fund all programs associated with the Title V requirements of the FCAA from sources other than the state's General Revenue Fund. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

A public hearing on this proposal will be held on June 1, 1993, at 10:00 a. m. in the Auditorium (Room 201S) of the TACB Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, TACB staff members will be available to discuss the proposal and answer questions at 9:30 a.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to TACB, 12124 Park 35 Circle, Austin, Texas 78753 through June 11, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed sections. Copies of the proposal are available at the TACB Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information, contact Diane Stallings at (512) 908-1471.

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

The amendments are proposed under the Texas Clean Air Act (TCAA), §382. 017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.24. Inspection Fees.

(a) Applicability. The owner or operator of each account to which this rule applies, as defined in this subsection, shall remit to the Texas Air Control Board (TACB) or any successor or agency successor an inspection fee each fiscal year. A fiscal year is defined as the period from

September 1 through August 31. An account subject to both an inspection fee and an emissions fee, pursuant to §101.27 of this title (relating to Emissions Fees), is required to pay only the greater of the two fees. For purposes of this section, an account shall be defined as all of the facilities located at a property, including those that are permitted, non-permitted, exempted, and grandfathered. Properties under common ownership, but containing separate operations, or managed independently, or carried on the records of this agency under separate account numbers, will be charged a separate fee for each such account, even if the properties are contiguous or are contiguous except for intervening roads, railroads, rights-of-way, waterways, and the like. The inspection fee shall apply to each account which contains one or more of the types of plants, facilities, and/or processes described in the TACB Inspection Fee Schedule, dated August 30, 1991, as filed with the Secretary of State's Office and herein adopted by reference. References for the industrial categories used are provided in the *Standard Industrial Classification (SIC) Manual* (Executive Office of the President, Office of Management and Budget, 1987). If more than one SIC category can apply to an account, the fee assessed shall be the highest fee listed for the applicable classifications in the fee schedule. Provisions of the section apply to all accounts, including accounts which have not been assigned specific TACB account numbers. The owner or operator of an account subject to an inspection fee requirement is responsible for contacting the appropriate TACB regional office to obtain an account number. TACB will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full inspection fee is due. In the event that an account is not operated for the entire fiscal year for which the fee is assessed, an inspection fee is not due, provided TACB is notified in writing that the plant is not and will not be in operation during that fiscal year. If an account commences or resumes operation later during the fiscal year, a full inspection fee will be due prior to commencement or resumption of operations.

(b) Payment. Fees shall be remitted to the Texas Air Control Board or any successor or agency successor (Attention: Inspection Fees), 12124 Park 35 Circle, Austin, Texas 78753, in the form of a check or money order made payable to the Texas Air Control Board. A completed fee return form shall accompany fees remitted. The fee return form shall include, at least, the company name, property address, mailing address, TACB account number, the SIC category on which the fee was determined, and the name and telephone number of the

person to contact in case questions arise regarding the fee payment.

(c)-(d) (No change.)

§101.27. Emissions Fees.

(a) Applicability. The owner or operator of each account to which this rule applies, as defined in this subsection, shall remit to the Texas Air Control Board (TACB) or any successor or agency successor an emissions fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. An account subject to both an emissions fee and an inspection fee, pursuant to §101.24 of this title (relating to Inspection Fees), is required to pay only the greater of the two fees. For purposes of this section, an account shall be defined as all of the facilities located at a property including those that are permitted, nonpermitted, exempted, and grandfathered. Properties under common ownership, but containing separate operations, or managed independently, or carried on the records of this agency under separate account numbers, will be charged a separate fee for each such account, even if the properties are contiguous or are contiguous except for intervening roads, railroads, rights-of-way, waterways, and the like. Provisions of the section apply to all accounts, including accounts which have not been assigned specific TACB account numbers. The owner or operator of an account subject to an emissions fee requirement is responsible for contacting the appropriate TACB regional office to obtain an account number. TACB will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full emissions fee is due. In the event that an account is not operated for the entire fiscal year for which the fee is assessed, an emissions fee is not due, provided TACB is notified in writing that the plant is not and will not be in operation during that fiscal year. If an account commences or resumes operation later during the fiscal year, a full emissions fee will be due prior to commencement or resumption of operations. All regulated air pollutants, as defined in subsection (c) of this section, including, but not limited to, those emissions from point and fugitive sources during normal operations with the exception of (for applicability purposes only) hydrogen, oxygen, carbon dioxide, water, nitrogen, methane, and ethane, are used to determine applicability of this section. In accordance with rules proposed by the United States Environmental Protection Agency (EPA) at 40 Code of Federal Regulations (CFR) 70, concerning the use of fugitive emissions in major source determinations, fugitive emissions shall be considered toward applicability of this section

only for those source categories listed at 40 CFR, §51.166(b)(1) (iii). For purposes of this section, an affected account shall have met one or more of the following conditions:

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

(b) Payment. Fees shall be remitted to the Texas Air Control Board or any successor or agency successor (Attention: Emissions Fees), 12124 Park 35 Circle, Austin, Texas 78753, in the form of a check or money order made payable to the Texas Air Control Board. A completed fee return form shall accompany fees remitted. The fee return form shall include, at least, the

Fiscal Year

1992

1993

1994

1995

Rate Per Ton

\$ 3

[at least] \$ 5

\$25

\$26

Minimum Fee

\$25

\$25

\$26

The account shall pay the calculated emissions fee or the [a] minimum fee [of \$25], whichever is greater.

(2)-(3) (No change.)

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

§101.28. Asbestos Notification Fees.

(a) Applicability. On or after September 1, 1992, the contractor of a demolition or renovation activity shall remit to the Texas Air Control Board (TACB) or any successor or agency successor a fee that is based upon the amount of asbestos subject to the reporting requirements of the National Emission Standards for Hazardous Air Pollutants (for Asbestos) promulgated in the Code of Federal Regulations (CFR) at 40 CFR 61, Subpart M. For purposes of this section, the term "contractor" is the individual or organization responsible for the asbestos removal.

(b) Payment. Within 30 calendar days of the date on the TACB Asbestos Billing Invoice, the billed fee(s) which are calculated by the TACB from the notification form shall be payable to the Texas Air Control Board or any successor or agency successor in the form of a check or money order and the original TACB Billing Invoice shall be remitted to the Texas Air Control Board or any successor or agency successor (Attention: Asbestos Fees), 12124 Park 35 Circle, Austin, Texas 78753.

(c) (No change.)

(d) Schedule. A check or money order for the dollar amount of the fee due

company name, property address, mailing address, TACB account number, the allowable levels and/or [and] actual emissions [(if used)] of all regulated air pollutants at the account for the reporting period, and the name and telephone number of the person to contact in case questions arise regarding the fee payment.

(c) Basis for Fees.

(1) The emissions fee shall be based on allowable levels and/or actual emissions at the account during the last full calendar year preceding the beginning of the fiscal year for which the fee is assessed. The fee applies to the tonnage of regulated

shall be remitted within 30 calendar days of the date on the Asbestos Billing Invoice sent by TACB. The following fee schedule shall apply for all notification revisions:

(1) (No change.)

(2) If a revision is made with an official TACB notification form in which the original amount of asbestos reported is less than the actual amount removed, an additional fee covering the difference shall be invoiced [remitted at the same time that renotification is made].

(3) If a revision is made with an official TACB notification form in which the original amount of asbestos reported remains unchanged, no additional fee will be assessed [payment is not required when the renotification is made].

(e) Nonpayment of Fees. The provisions of this section, as first adopted and as amended thereafter, are and shall remain in effect for purposes of any unpaid assessments [assessment], and the fees assessed pursuant to such provisions, as adopted or as amended, remain a continuing obligation. Failure to remit the full asbestos fee with the original TACB Asbestos Billing Invoice shall result in formal enforcement action under the Texas Clean Air Act, §382.082 or §382.088. In addition, §382.091(a)(2) provides for criminal penalties for those failing to pay fees.

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

pollutants at the account, including those emissions from point and fugitive sources during normal operations.

Although certain fugitive emissions are excluded for applicability determination purposes pursuant to subsection (a) of this section, all fugitive emissions must be considered for fee calculations after applicability of the fee has been established. A maximum of 4,000 tons of each regulated pollutant will be used for fee calculations. The fee for each fiscal year is set at the following rates:

Issued in Austin, Texas, on April 28, 1993.

TRD-9322316 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: July 16, 1993

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

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Chapter 103. Procedural Rules

Adjudicative Hearings

• 31 TAC §103.46

The Texas Air Control Board (TACB) proposes an amendment to §103.46, concerning Prehearing Conference. The proposed changes have been developed in response to an initiative by the Hearings Oversight Committee of TACB to improve the hearings process.

The proposed changes to §103.46 require that all parties to the hearing make pertinent information available to all other parties at a time and place to be determined by the hearing examiner. The current language only requires such disclosure of the permit applicant.

Mr. Lane Hartsock, Deputy Director of Air Quality Planning, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local units of government as a result of enforcing or administering the rule.

Mr. Hartsock also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a more equitable and efficient hearing process. There will be no significant effect on small businesses. There is no significant economic cost to per-

sons who are required to comply with the rule as proposed.

A public hearing on this proposal will be held at 2:00 p.m. on June 1, 1993, in Room 201S of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753. The hearing is structured for the receipt of oral and written comments by interested persons. Interrogation or cross-examination is not permitted; however, the TACB staff will discuss the proposal at 1:30 p.m. and will be available to answer questions.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin through June 11, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposal. Copies of the proposal are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB Regional offices. For further information, contact James Braddock at (512) 908-1835 or Bill Ehret at (512) 908-1772.

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

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

§103.46. Prehearing Conference.

(a) (No change.)

(b) To facilitate transfer of basic information and preparation of the parties for the hearing and without precluding further discovery by any of the parties, in all contested cases each party [the applicant] shall make available to the other named parties or their representative at a time and place to be determined by the hearing examiner:

(1) copies of the permit application (applies only to the applicant); and

(2) any information which the party [applicant] will rely upon in the hearing, such as facts or data upon which an expert bases an opinion or inference, including, but not limited to the following:

(A) any engineering or technical studies performed regarding [in support of] the application;

(B) (No change.)

(C) any health effects assessment conducted regarding [by or for the applicant for] the proposed facility; and

(D) resumes and reports of any experts who will testify for the party [applicant] in the hearing.

(c)-(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 April 29, 1993.

TRD-9322317

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

Earliest possible date of adoption: June 7, 1993

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

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

The Texas Department of Human Services (DHS) proposes the repeal of §29.609 and §29.610, and proposes new §29.609 and §29.610, concerning additional reimbursement to disproportionate share hospitals, in its Purchased Health Services chapter.

New §29.609 describes the methodology that DHS will use to identify and provide additional reimbursement to hospitals that provide a disproportionate share of health care and access to health care to indigent clients. The Indigent Health Care and Treatment Act, passed by the 69th Texas Legislature in 1985, first apportioned funds to DHS to provide assistance to hospitals providing a disproportionate share of inpatient indigent health care. Section 29.609 is the basis for identifying eligible hospitals and for distribution of disproportionate share funds.

New §29.610 includes the disproportionate share hospital program for state-owned teaching hospitals. This program is the same as the current program specified in the old §29.609(f). The conditions of participation being proposed in new §29.609 do not apply to this program.

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

Mr. Raiford also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be improved health care and improved access to health care for the citizens of Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of this proposal may be directed to Henry Welles at (512) 450-4046 in DHS's Provider Reimbursement Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-107, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. DHS will hold a public hearing on the proposal on Tuesday, May 18, 1993, at 9 a.m. in the John H. Winters Building Public Hearing Room, first floor, East Tower, 701 West 51st Street, Austin. A copy of this proposal is being sent to each DHS field office where it will be available for public review and comment.

• 40 TAC §29.609, §29.610

The repeals 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 provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

§29.609. Additional Reimbursement to Disproportionate Share Hospitals.

§29.610. Designation of Certain Hospitals as Disproportionate Share Hospitals.

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 May 3, 1993.

TRD-9322391

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

Proposed date of adoption: September 1, 1993

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

The new sections 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 Commission with the authority to administer federal medical assistance funds.

\$29.609. Additional Reimbursement to Disproportionate Share Hospitals.

(a) Introduction. Hospitals participating in the Texas Medical Assistance (Medicaid) program that meet the conditions of participation and that serve a disproportionate share of low-income patients are eligible for additional reimbursement from the disproportionate share hospital fund. The single state agency or its designee establishes each hospital's eligibility for and amount of reimbursement as specified in this section. For purposes of Medicaid disproportionate share eligibility determination, a multisite hospital is considered as one provider unless it has separate Medicare cost reports for each site.

(b) Definitions. For purposes of this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Charity care—Care provided to medically or financially indigent individuals who have no source of payment, third-party or personal.

(2) Charity charges (excluding bad-debt expenses)—Total amount of hospital charges for inpatient and outpatient services attributed to charity care in a cost reporting period. The total inpatient and outpatient charity charges attributable to charity care do not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under an approved Medicaid State Plan); that is, reduction or discounts, in charges given to other third-party payers such as, but not limited to, Health Maintenance Organizations (HMOs), Medicare, or Blue Cross (according to a survey of hospitals by the single state agency or its designee). The amount of total charity charges must be consistent with the amount reported on the Texas Department of Health's (TDH's) annual hospital survey.

(3) Cost-to-charge ratio—A hospital's ratio of overall costs to charges, as determined from the Medicare cost report (tentative or final audited cost report, if available) submitted for the hospital's fiscal year ending in the previous calendar year.

(4) Financially indigent—Uninsured or underinsured patients accepted for care with no obligation or a discounted obligation to pay for services based on the hospital's formal eligibility system, which may include income levels and means testing (indexed to an accepted standard such as the federal poverty guidelines), or other criteria for determining a patient's inability to pay that are consistent with the hospital's mission and established policy.

(5) Gross inpatient revenue—Total annual revenue for inpatient care from all sources, as reported in the inpatient column of the item titled "Total Patient Revenue" on the "Statement of Patient Revenues and Operating Expenses" worksheet of the Medicare cost report (tentative or final audited cost report, if available) for the hospital's fiscal year ending in the previous calendar year. Gross inpatient revenue excludes revenue related to the professional services of hospital-based physicians.

(6) Hospital eligibility criteria—Financial and other criteria used by the hospital to determine if a patient is eligible for charity care.

(7) Low-income days—Number of days derived by multiplying a hospital's total inpatient census days by its low-income utilization rate.

(8) Low-income utilization rate—The result of the following computation: ((Title XIX inpatient hospital payments plus total state and local revenue) divided by gross inpatient revenue multiplied by cost-to-charge ratio) plus ((total inpatient charity charges minus total state and local revenue) divided by gross inpatient revenue)).

(9) Medicaid inpatient utilization rate—Title XIX inpatient days divided by total inpatient census days.

(10) Medically indigent—Patients who are responsible for their other living expenses but whose medical and hospital bills, after payment by third-party payers, where applicable, exceed a specified percentage of the patients' annual gross income (catastrophic medical expenses) according to the hospital's eligibility system in such instances where payment would require liquidation of assets critical to living or earning a living or other criteria for determining patient's inability to pay that are consistent with the hospital's mission and established policy.

(11) Medicare inpatient utilization rate—Medicare inpatient days divided by total inpatient census days.

(12) Operating costs—Total operating costs of a hospital during its fiscal year ending in the previous calendar year (according to the hospital's Medicare cost report).

(13) Rural area—Area outside a Metropolitan Statistical Area (MSA) or a Primary Metropolitan Statistical Area (PMSA). MSA and PMSA are defined by the Office of Management and Budget.

(14) Title XIX inpatient days—Total number of billed Medicaid inpatient days based on the latest available state fiscal-year data for patients entitled to Medicaid benefits, excluding days for patients

entitled to both Medicare and Medicaid benefits (according to the single state agency or its designee).

(15) Title XIX inpatient hospital payments—Total amount of Medicaid funds, excluding Medicaid disproportionate share funds, a hospital received for admissions during the latest available state fiscal year for inpatient services (according to the single state agency or its designee).

(16) Total inpatient census days—Total number of inpatient hospital days of a hospital during its fiscal year ending in the previous calendar year (according to a survey of hospitals by the single state agency or its designee and the Texas Hospital Association and American Hospital Association).

(17) Total inpatient charity charges (excluding bad-debt expenses)—Total amount of the hospital's charges for inpatient hospital services attributed to charity care in a cost-reporting period. The total inpatient charges attributable to charity care does not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under an approved Medicaid State Plan); that is, reduction or discounts, in charges given to other third-party payers such as, but not limited to, HMOs, Medicare, or Blue Cross (according to a survey of hospitals by the single state agency or its designee). The amount of total charity charges must be consistent with the amount reported on TDH's annual hospital survey.

(18) Total state and local revenue—Total amount of state and local revenue a hospital received for inpatient care, excluding all Medicaid payments, during its fiscal year ending in the previous year (according to a survey of hospitals by the single state agency or its designee).

(19) Urban—Area inside an MSA or PMSA.

(20) Weighted low-income days—Low-income days multiplied by an appropriate weighting factor.

(21) Weighted Medicaid days—Medicaid days multiplied by an appropriate weighting factor.

(c) Conditions of participation. Before the beginning of each state fiscal year, which begins September 1, the single state agency or its designee surveys Medicaid hospitals to determine which hospitals meet the state's conditions of participation. Hospitals must allow state personnel access to the hospital and its records to ensure compliance with the conditions of participation. Failure to meet all of the conditions of participation results in ineligibility for participation in the program. These conditions of participation do not apply to state-owned teaching hospitals as specified in \$29.610 of

this title (relating to Disproportionate Share Hospital Reimbursement Methodology for State-Owned Teaching Hospitals). The conditions of participation are:

(1) Hospital eligibility criteria for indigent patients needing medical care. Each Medicaid hospital must submit to the state Medicaid director its hospital eligibility criteria for indigent patients and the procedures for identifying those indigent patients eligible for emergency and non-emergency medical care. Hospital eligibility criteria address financially indigent people as well as the medically indigent and are indexed to the federal poverty guidelines. Hospitals must identify the number of patients to whom they provide charity care and must make available to state personnel sufficient records to document the amount of charity care provided to those patients. A hospital must allow state personnel to observe the implementation of its stated charity policy and must permit state personnel access to the hospital or its records evidencing charity care. Exception: The indigent care criteria of state-owned mental hospitals and state chest hospitals are defined by statute and are not indexed to the federal poverty guidelines.

(2) Charity charge requirements.

(A) In order to receive Medicaid disproportionate share funds in:

(i) state fiscal year 1995, a hospital's fiscal year 1993 total charity charges must be equal to or greater than 10% of its net state fiscal year 1994 disproportionate share payments;

(ii) state fiscal year 1996, a hospital's fiscal year 1994 total charity charges must be equal to or greater than 15% of its net state fiscal year 1995 disproportionate share payments;

(iii) state fiscal year 1997, a hospital's fiscal year 1995 total charity charges must be equal to or greater than 20% of its net state fiscal year 1996 disproportionate share payments; and

(iv) state fiscal year 1998, a hospital's fiscal year 1996 total charity charges must be equal to or greater than 25% of its net state fiscal year 1997 disproportionate share payments.

(B) The ratio of total charity charges to net disproportionate share payments must be equal to or greater than 25% in subsequent years. Exceptions: urban hospitals with combined Medicaid and Medicare inpatient utilization rates equal to or greater than 80% are exempt. Rural and children's hospitals with combined Medicare and Medicaid inpatient utilization rates equal to or greater than 65% are exempt. Any hospital that qualifies for Medicaid

disproportionate share funds in a state fiscal year, and that did not get Medicaid disproportionate share funds in the previous year, is exempt from this specific condition.

(3) Posting requirements. Each hospital must annually provide assurances to the state Medicaid director that it posts policies informing patients and prospective patients of its eligibility and charity care. These policies must be posted prominently and continuously in common patient entry-points. Hospitals must advise all patients of the availability of no-cost medical care and the application procedures. The posting must be in English and Spanish.

(4) Reporting requirements. Each hospital must report receipt and expenditure of Medicaid disproportionate share funds to the Medicaid director at least once a year. Each hospital must maintain records for the receipt and expenditure of its disproportionate share funds for five years.

(5) Community health care assessment. Each hospital must annually furnish to the state Medicaid director a copy, developed at the direction of the hospital's governing board, of its assessment of the health care needs of its community. The assessment must demonstrate how the hospital is using its disproportionate share funds to address its community health needs. Exceptions: Texas Department of Mental Health and Mental Retardation (TXMHMR) psychiatric hospital and state chest hospital expenditures are governed by state statutes.

(6) Alternative access to primary care. Each hospital must annually report to the state Medicaid director the availability of alternative access (other than emergency care) to primary care in its community. Hospitals must have plans to arrange for nonemergency patients to receive care that is not in their emergency rooms, unless they can demonstrate that there is no feasible alternative in the community. Hospitals also must report their progress in treating nonemergency patients apart from their emergency rooms. Exceptions: the following hospitals are exempt from this condition: state-owned psychiatric and chest hospitals; psychiatric hospitals licensed by TXMHMR; and these hospitals licensed as "special" by TDH, including long-term care hospitals, ventilator hospitals, burn institutes, and alcohol-chemical dependency hospitals; rehabilitation hospitals; maternity hospitals; college infirmaries; contagious disease hospitals; and hospitals for the terminally ill.

(7) Trauma system. Disproportionate share hospitals must actively participate in the development of a regional trauma system, which includes trauma facility designation as defined in the state

trauma laws (the Health and Safety Code, §§773.111-773.120) and TDH rules.

(A) Hospitals qualifying for the disproportionate share program for the first time must meet the regional trauma system development participation requirement in the first year of their participation, regional trauma system development participation and application for trauma facility designation in the second year of their participation, and regional trauma system development participation and trauma facility designation in subsequent years of their participation.

(B) Hospitals can be designated as trauma facilities under four levels that range from "basic" (stabilization and transfer of major and severe trauma patients) to "comprehensive" (care and management of all trauma patients, plus education and research). Hospitals identified as disproportionate share hospitals effective September 1, 1993, must be designated as trauma facilities or hospitals participating in regional trauma system development by March 1, 1994. Participation in regional trauma system development and application for designation as a trauma facility are required in the second year of participation. Participation in regional trauma system development, application for trauma facility designation, and designation as a trauma facility are required in subsequent years.

(C) Documentation of regional trauma system development participation is periodically provided to the Bureau of Emergency Management (Bureau) by the trauma service areas. Beginning January 1, 1994, and before January 1 of each subsequent year, the Bureau annually reports hospital participation in regional trauma system development, application for trauma facility designation, and trauma facility designation status to the state Medicaid director. Exceptions: The following hospitals are exempt from the trauma system condition: state-owned psychiatric and chest hospitals; psychiatric hospitals licensed by TXMHMR; and these hospitals licensed as "special" by TDH, including long-term care hospitals, ventilator hospitals, burn institutes, and alcohol-chemical dependency hospitals; rehabilitation hospitals; maternity hospitals; college infirmaries; contagious disease hospitals; and hospitals for the terminally ill. Pediatric and adolescent facilities are exempt from trauma facility designation requirements until the time that state law authorizes the designation of pediatric and/or adolescent trauma facilities.

(8) Maintenance of effort. Hospital districts and city/county hospitals with

greater than 250 licensed beds in the state's largest metropolitan statistical areas or primary metropolitan statistical areas are not eligible for disproportionate share payments if local revenues are reduced as a result of disproportionate share funds received.

(9) Two-physician requirement. In order to qualify for disproportionate share hospital payments, each hospital must have at least two physicians (M.D. or D.O.) who have hospital staff privileges and who have agreed to provide nonemergency obstetrical services to Medicaid clients. The

two-physician requirement does not apply to hospitals whose inpatients are predominantly under 18 years old, as defined by the single state agency or its designee, or that did not offer nonemergency obstetrical services as of December 21, 1987.

(d) Qualifying formulas for determining disproportionate share status. The single state agency or its designee identifies the qualifying Medicaid disproportionate share providers from among the hospitals that meet the two-physician requirement and the state's conditions of participation,

as specified in subsection (c)(1)-(8) of this section, by using the following formulas. Children's hospitals that do not otherwise qualify as disproportionate share hospitals are deemed disproportionate share hospitals.

(1) A Medicaid inpatient utilization rate at least one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals participating in the Medicaid program;

$$\frac{\text{Title XIX Inpatient Days}}{\text{Total Inpatient Census Days}}$$

OR

(2) For rural hospitals, a Medicaid inpatient utilization rate greater than the mean Medicaid inpatient utilization rate for all hospitals participating in the Medicaid program; or

(3) A low-income utilization rate exceeding 25%. For a hospital, the low-

income utilization rate is the sum (expressed as a percentage) of the fractions calculated as follows:

(A) the total Medicaid inpatient payments paid to the hospital, plus the amount of revenue received directly from state and local governments, excluding all

Medicaid payments, in a cost reporting period, divided by the total amount of revenues of the hospital for inpatient services (including the amount of state and local revenue) in the same cost reporting period multiplied by the hospital's cost-to-charge ratio for the same cost-reporting period;

$$\frac{\text{Title XIX Inpatient Hospital Payments} + \text{Total State and Local Revenue}}{\text{Gross Inpatient Revenue} \times \text{Cost to Charge Ratio}}$$

AND

(B) the total amount of the hospital's charges for inpatient hospital services attributable to charity care in a cost-reporting period, minus the amount of revenue for inpatient hospital services received

directly from state and local governments, excluding all Medicaid payments, in a cost-reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributable to charity care does not include contractual allowances and discounts (other

than for indigent patients not eligible for medical assistance under an approved Medicaid State Plan); that is, reductions or discounts in charges given to other third-party payers such as, but not limited to, HMOs, Medicare, or Blue Cross;

$$\frac{\text{Total Inpatient charity charges} - \text{Total State and Local Revenue}}{\text{Gross Inpatient Revenue}}$$

OR

(4) Title XIX inpatient-days at

least one standard deviation above the mean Medicaid inpatient-days for all hospitals

participating in the Medicaid program.

(e) Determining disproportionate

share status. To determine Medicaid disproportionate share status:

(1) the single state agency or its designee arrays each hospital's Medicaid utilization rate in descending order. The single state agency or its designee first selects hospitals whose Medicaid utilization rates are greater than the mean plus one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals participating in the Medicaid program. The state considers these hospitals to be Medicaid disproportionate share hospitals.

(2) the single state agency or its designee arrays each rural hospital's Medicaid utilization rate in descending order. The single state agency or its designee then selects rural hospitals whose Medicaid utilization rates are above the mean Medicaid utilization rate for all hospitals participating in the Medicaid program. These hospitals are considered to be Medicaid disproportionate share hospitals.

(3) the single state agency or its designee then arrays each remaining hospital's low-income utilization rate in descending order. The single state agency or its designee selects hospitals whose low-income utilization rates are greater than 25%. These hospitals are considered to be Medicaid disproportionate share hospitals.

(4) the single state agency or its designee then arrays each remaining hospital's total Medicaid inpatient-days in descending order. The single state agency or its designee selects hospitals whose total Medicaid inpatient-days are at least one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals participating in the Medicaid program. These hospitals are considered to be Medicaid disproportionate share hospitals.

(f) Reimbursing Medicaid disproportionate share hospitals.

(1) A state-owned chest or mental hospital that meets the requirements for disproportionate share status and provides psychiatric care or acute care services receives between 50% and 100% of the hospital's total operating costs, less Medicaid payments (other than disproportionate share adjustments), less all funding from nonstate and nonlocal government sources for services provided in the particular hospital's fiscal year.

(2) For the remaining hospitals, payments are based on both weighted Medicaid inpatient-days and weighted low-income days. The single state agency or its designee weights each hospital's total Medicaid inpatient-days and low-income days by the appropriate weighting factor. Hospi-

tal districts and city/county hospitals with greater than 250 licensed beds in the state's largest MSAs or PMSAs would receive weights based proportionally on the MSA's or PMSA's population according to the 1990 census. Children's hospitals also receive weights because of the special nature of the services they provide. The Medicaid inpatient-days of each hospital is based on the latest available state fiscal year data for patients entitled to Medicaid benefits. The available disproportionate share fund is divided into two parts. Two-thirds of the available fund reimburses each qualifying hospital on a monthly basis by its percent of the total Medicaid inpatient-days. One-third of the available fund reimburses each qualifying hospital by its percent of the total low-income days. Reimbursement for the remaining hospitals is determined monthly as follows:

(A) The single state agency or its designee determines the average monthly number of weighted Medicaid inpatient-days and weighted low-income days of each qualifying hospital.

(B) A qualifying hospital receives a monthly disproportionate share payment based on the following formula:

$$\frac{\text{Monthly Charity Charges of the State-owned Teaching Hospital}}{\text{Total Monthly Charity Charges of All State-owned Teaching Hospitals}} \times \text{Allocated Fund}$$

[graphic]

(g) Review of agency determination. The single state agency or its designee notifies hospitals of their eligibility or ineligibility and the estimated amount of payment before the beginning of the state fiscal year. The actual amount of payment may vary if a successful review request by one or more hospitals necessitates an adjustment in the amount of payments to the other hospitals in the program. Hospitals that do not qualify or that believe the amount of payment is incorrect may request a review by the single state agency or its designee.

(1) The hospital's written request for a review must be made to the director of acute care services and must be received by the director within 10 days after the hospital receives notification of its eligibility or ineligibility. The hospital's request must contain specific documentation supporting its contention that factual or calculation errors were made, which, if corrected,

would result in the hospital qualifying for payments or receiving payment in a corrected amount.

(2) The review is:

(A) limited to allegations of factual or calculation errors,

(B) limited to a review of documentation submitted by the hospital or used by the single state agency or its designee in making its original determination; and

(C) not conducted as an adversary hearing.

(3) The single state agency or its designee conducts the review as quickly as possible and makes its decision before the first monthly payment is made for that fiscal year. Hospitals that have requested a review are notified of the results of the

review at the time of the first monthly payment. Any adjustments made as a result of these reviews will not exceed the limits of available funds for implementing the applicable disproportionate share program. Once the first monthly payment is made, no additional review or appeal is available to hospitals.

(h) Disproportionate share funds held in reserve.

(1) Hospitals participating in the disproportionate share program are required to comply at all times with the conditions of participation specified in subsection (c) of this section. If the single state agency or its designee has reason to believe that a hospital is not complying with the conditions of participation, the single state agency or its designee notifies the hospital of possible noncompliance. Upon receipt of the notice of possible noncompliance, the hospital has 30 days to demonstrate its compliance with conditions of participation. If the hospital

fails to demonstrate its compliance within 30 days, the single state agency or its designee has the authority to hold that hospital's disproportionate share payments in reserve until the:

(A) hospital can demonstrate its compliance with the conditions of participation;

(B) decision to hold payments in reserve is reviewed and the decision results in favor of the hospital; or

(C) date the last monthly payment in the relevant state fiscal year occurs; whichever occurs first.

(2) If a hospital's disproportionate share payments are being held in reserve on the date of the last monthly payment in the state fiscal year, the amount of the payments is divided proportionately among the hospitals receiving a last monthly payment and is not restored to the hospital. If the hospital demonstrates its compliance with the conditions of participation or if the hospital receives a favorable review decision, the funds are restored to the hospital.

(3) Hospitals that have had disproportionate share payments held in re-

serve may request a review by the single state agency or its designee.

(A) The hospital's written request for a review must:

(i) be made to the director of acute care services;

(ii) be received by the director within 10 days after the hospital's disproportionate share payments are held in reserve; and

(iii) contain specific documentation supporting its contention that it is in compliance with the conditions of participation.

(B) The review is:

(i) limited to allegations of compliance with conditions of participation;

(ii) limited to a review of documentation submitted by the hospital or used by the single state agency or its designee in making its original determination; and

(iii) not conducted as an adversary hearing.

(C) The single state agency conducts the review as quickly as possible and notifies hospitals requesting the review of the results. Once the last monthly payment for the relevant state fiscal year is made, no additional review or appeal is available to hospitals.

(i) Provision for reduction in federal disproportionate share cap. If the federal government reduces the amount of Medicaid disproportionate share funds allotted to Texas, the state must reduce the net amount allotted to each disproportionate share hospital during the state fiscal year by the same percentage.

§29.610. Disproportionate Share Hospital Reimbursement Methodology for State-owned Teaching Hospitals. The Health and Human Services Commission or its designee provides additional disproportionate share reimbursement to state-owned teaching hospitals through a supplemental disproportionate share program. A state-owned teaching hospital is a hospital owned and operated by a state university or other agency of the state. Additional reimbursement is provided to each state-owned teaching hospital on a monthly basis using the following formula:

$$\begin{aligned} & \left(\frac{2}{3} \times \text{Available Fund} \right) \times \frac{\text{Hospital's Medicaid Days} \times \text{Weight}}{\text{Weighted Medicaid Days}} \\ & + \\ & \left(\frac{1}{3} \times \text{Available Fund} \right) \times \frac{\text{Hospital's Low Income Days} \times \text{Weight}}{\text{Weighted Low Income Days}} \end{aligned}$$

Issued in Austin, Texas, on May 3, 1993.

TRD-9322390

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

Proposed date of adoption: September 1, 1993

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

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

Texas Department of Insurance Exempt Filing

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

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the

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

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

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 1983 met on April 29, 1993, at 1:30 p.m. in Room 100 of the Texas

Department of Insurance Building, 333 Guadalupe Street in Austin, to consider a proposal filed by the staff of the Workers' Compensation Division of the Texas Department of Insurance. The staff was proposing several recommendations to the workers' compensation classification system as a result of a study performed by Dr. Mark Crawshaw, consulting actuary for the firm of Wakely and Associates, Atlanta Georgia. The recommendations were proposed in a petition (Reference Number W-0393-05), filed by the staff on March 3, 1993.

The Board decided to recess this hearing until May 27, 1993, at 9:00 a.m. to allow the public additional time to provide comments.

According to the staff's petition, the following recommendations are being presented to the State Board of Insurance for possible adoption:

1. The number of workers' compensation classifications should be substantially reduced by consolidating into single classifications the multiple classifications that describe similar businesses and for purposes of determining classification relativities and experience rating values, by grouping classifications with similar claims experience and hazard.
2. The classification phraseology used in the Workers' Compensation Manual should be updated, modernized and simplified wherever appropriate. In addition, definitions should be expanded to include a listing of as many specific types of businesses included within a classification as possible.

3. The classification system should not at this time be territorially based or allow for differences in wage levels by employers.

4. The classifications for 8 of the 22 classifications that currently include clerical workers should be revised to exclude clerical workers from the basic classification wording.

5. The classification definitions should be revised so that within a single class, drivers are treated uniformly, either as a standard exception or not.

6. The three current classifications related to mining should be consolidated into a single "a" rated classification.

7. The 11 current classifications related to explosive manufacturing should be consolidated into two "a" rated classifications.

8. The 26 current classifications related to chemical manufacturing should be consolidated into nine "a" rated classifications.

9. The four current classifications for domestic workers should be consolidated into a single "a" rated classification.

10. The following five classifications should no longer be "a" rated: Code 1748-Abrasive Wheel Mfg.; Code 2030-Beet Sugar Mfg.; Code 3022-Pipe or Tube Mfg. NOC; Code 5705-Salvage Operation; Code 7425-Aircraft or Helicopter NOC Flying Crew.

11. The disease designator "d" should be dropped from all classifications, except supplemental disease classifications which should be "a" rated. Consideration should be given to establishing additional supplemental

disease classifications for statistical reporting purposes.

A copy of the petition containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe (512)322-4147, refer to Reference Number W-0393-05.

Comments on the proposal must be submitted in writing prior to May 25, 1993, to Linda K. Von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC-113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Melissa Nunnelee, Associate Commissioner Life/Health & Workers' Compensation, P.O. Box 149104, MC-107-2A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas, on April 30, 1993.

TRD-9322352 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

For further information, please call: (512) 463-6328

Withdrawn Sections

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 22. Practice and Procedure

Subchapter O. Rulemaking

• 16 TAC §§22.281-22.284

The Public Utility Commission of Texas has withdrawn from consideration for permanent adoption a proposed new §§22.281-22.284 which appeared in the April 6, 1993, issue of the *Texas Register* (18 TexReg 2273). The effective date of this withdrawal is April 29, 1993.

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

TRD-9322307

John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Effective date: April 29, 1993

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



TITLE 31. NATURAL RE- SOURCES AND CON- SERVATION

Part IX. Texas Water Commission

Chapter 334. Underground and Aboveground Storage Tanks

Subchapter J. Registration of Corrective Action Specialist for Product Storage Tank Remediation Projects

• 31 TAC §334.464

The Texas Water Commission has withdrawn from consideration for permanent adoption a proposed new §334.464 which appeared in the November 3, 1992, issue of the *Texas Register* (17 TexReg 7762). The effective date of this withdrawal is May 20, 1993.

Issued in Austin, Texas, on April 30, 1993.

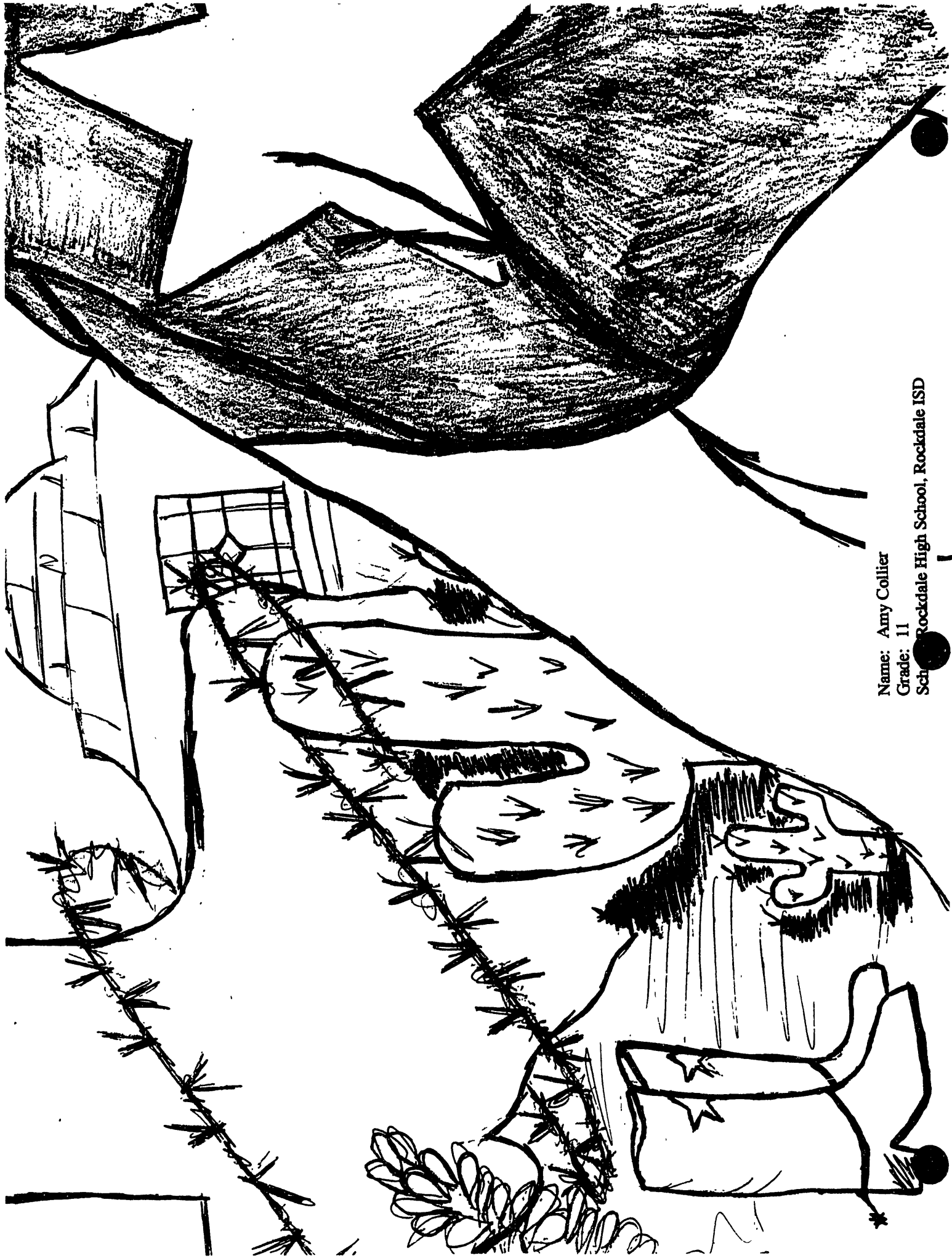
TRD-9322369

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: May 20, 1993

For further information, please call: (512)
463-8069





Name: Amy Collier
Grade: 11
School: Rockdale High School, Rockdale ISD

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 II. Texas Ethics Commission

Chapter 20. Campaign Financing

Subchapter C. Rules Concerning Reports

• 1 TAC §20.131

The Texas Ethics Commission adopts an amendment to §20.131, concerning the calculation and imposition of a fine by the commission for the late filing of a report, without changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1331).

This rule eases the burden concerning the payment of late penalties by those persons who are required to file reports with the commission.

This rule moves the deadline for enforcing the rule from March 1, 1993, to January 1, 1994.

No public comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the Texas Election Code, Title 15, administered and regulated by the commission.

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

Issued in Austin, Texas, on April 28, 1993.

TRD-9322384 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 21, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 463-5800

Chapter 30. Personal Financial Statement

Subchapter A. Disclosure Statements

• 1 TAC §30.1

The Texas Ethics Commission adopts the repeal of §30.1, concerning penalty for late

filing of personal financial statement, without changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1331).

This section is being replaced with new §§30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, and 30.137, which will provide a more comprehensive procedure for dealing with the filing of late reports by those person required to file reports pursuant to Texas Civil Statutes, Article 6252-9b.

No comments were received regarding adoption of the repeal.

This repeal is adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate, adopt, amend, and repeal unless concerning the administration of Texas Civil Statutes, Article 6252-9b.

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 April 28, 1993.

TRD-9322382 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 21, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 463-5800

Chapter 30. Personal Financial Disclosure

Subchapter C. Rules Concerning Reports

• 1 TAC §§30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, 30.137

The Texas Ethics Commission adopts new §§30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, and 30.137, concerning reports, without changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1331).

These rules are in response to a need to set out more comprehensive and systematic guidelines, procedures, requirements, fines and penalties, and exceptions, in the assessment, calculation, and imposition of a civil penalty by the commission due to the late filing of any report mandated by Texas Civil Statutes, Article 6252-9b, by any person required to file a report.

These rules will provide the public with the necessary guidelines, requirements, notice of penalties and fines, and exceptions in regard to the late filing of any report mandated by Texas Civil Statutes, Article 6252-9b, by any person required to file a report.

No public comments were received regarding adoption of the new rules.

The new rules are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the filing of reports mandated by Texas Civil Statutes, Article 6252-9b.

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 April 28, 1993.

TRD-9322385 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 21, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 463-5800

Chapter 40. Registration and Regulation of Lobbyists

• 1 TAC §40.29

The Texas Ethics Commission adopts the repeal of §40.29, concerning civil late penalty, the penalty for late filing of a lobby registration report, without changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1333).

The repealed section is being replaced with new §§40.119, 40.121, 40.123, 40.127, 40.131, 40.133, 40.135, and 40.137, which will provide a more comprehensive procedure for dealing with the filing of late reports by those persons required to file reports pursuant to Chapter 305 of the Government Code.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate, adopt, amend, and repeal rules concerning the administration of Chapter 305, Texas Government Code.

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

Issued in Austin, Texas, on April 28, 1993.

TRD-9322383

Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 21, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 463-5800

◆ ◆ ◆
• 1 TAC §§40.119, 40.121, 40.123,
40.127, 40.131, 40.133, 40.135,
40.137

The Texas Ethics Commission adopts new §§40.119, 40.121, 40.123, 40.127, 40.131, 40.133, 40.135, and 40.137, without changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1333).

These rules are in response to a need to set out more comprehensive and systematic guidelines, procedures, requirements, fines and penalties, and exceptions, in the assessment, calculation, and imposition of a civil penalty by the commission due to the late filing of any report mandated by the Government Code, Chapter 305, by any person required to file a report.

These rules will provide the public with the necessary guidelines, requirements, notice of penalties and fines, and exceptions in regard to the late filing of any report mandated by the Government Code, Chapter 305, by any person required to file a report.

No public comments were received regarding adoption of the new rules.

The new rules are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the filing of reports mandated by the Government Code, Chapter 305.

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 April 28, 1993.

TRD-9322386

Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 21, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 463-5800

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part III. Texas Alcoholic
Beverage Commission**
**Chapter 55. Bingo Regulation
and Tax**

• 16 TAC §55.550

The Texas Alcoholic Beverage Commission adopts an amendment to §55.550, concerning bingo reports, without changes to the pro-

posed text as published in the March 23, 1993, issue of the *Texas Register* (18 TexReg 1845). The amendment amends subsection (f) to extend the change in the reporting period for and the payment of the bingo gross receipts tax and the bingo prize fee from monthly to semi-monthly, from June 1, 1993 through August 31, 1993. The amendment does this by changing the expiration date of the October 16, 1992, amendment which changed the reporting period.

The amendment continues the needed relief to licensed authorized organizations to allow them to continue conducting bingo thus preventing the loss of revenue to the state which would result if they ceased conducting bingo and preventing the increased burden on state and local government which would result if these organizations no longer were receiving bingo proceeds to use in their charitable activities. The amendment will continue until legislation changing bingo taxes can take effect.

A representative of a licensed authorized organization spoke at the commission meeting recommending adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, §16(a) and §23(e), which provide the commission with the authority to adopt rules relating to the enforcement and administration of the Bingo Enabling Act.

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

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

TRD-9322349

Gayle Gordon
General Counsel
Texas Alcoholic Beverage
Commission

Effective date: May 21, 1993

Proposal publication date: March 23, 1993

For further information, please call: (512) 206-3204

◆ ◆ ◆
**TITLE 22. EXAMINING
BOARDS**

**Part VI. State Board of
Registration for
Professional Engineers**

**Chapter 131. Practice and
Procedure**

Education

• 22 TAC §131.92

The State Board of Registration for Professional Engineers adopts an amendment to §131.92, concerning education, without changes to the proposed text as published in the February 5, 1993, issue of the *Texas Register* (18 TexReg 734).

The section was amended to clarify which applicants must have their foreign degrees evaluated by a commercial evaluation service selected by the board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 April 28, 1993.

TRD-9322229

Charles E. Nemir, P.E.
Executive Director
State Board of Registration
for Professional
Engineers

Effective date: May 19, 1993

Proposal publication date: February 5, 1993

For further information, please call: (512) 440-7723

◆ ◆ ◆
**Part XXXII. State
Committee of Examiners
for Speech Language
Pathology and
Audiology**

**Chapter 741. Speech-Language
Pathologists and Audiologists**

The State Committee of Examiners for Speech-Language Pathology and Audiology (committee) adopts amendments to §§741.2, 741.41, 741.61, 741.81, 741.103, 741.123, 741.162, 741.163, 741.193, 741.194, 741.197, and 741.198; and adopts new §§741.27 and 741.301. Sections 741.27, 741.61, 741.81, 741.103, 741.193, 741.194, 741.197, and 741.301 are adopted with changes to the proposed text published in the December 8, 1992, issue of the *Texas Register* (17 TexReg 8494). A correction of error for proposed §741.198 was published in the January 19, 1993, issue of the *Texas Register* (18 TexReg 379). Sections 741.2, 741.41, 741.123, 741.162, 741.163, and 741.198 are adopted without changes and will not be re-published.

The amendments delete unnecessary language; clarify language concerning clinical practicum, application and examination procedures; reorganize and expand language concerning Code of Ethics, license inactive status and continuing education; and clarify and update language concerning complaint procedures, procedures for denying, suspending or revoking a license, formal hearing procedures, and license requirements for individuals with criminal backgrounds. The new sections establish a method to petition for adoption of a rule and establish academic requirements for examination and dual license.

The following comments were received concerning the proposed rules.

Concerning §741.301(6)(B), a commenter stated that no option exists for individuals who do not meet the time frames. The committee agreed and has added language that

would allow an individual to request an extension. The language in this section relates to individuals who are pursuing dual licensure as both a speech-language pathologist and an audiologist. Sections 741.61(6)(B) and 741.81(6)(B) cover requirements for individuals who are seeking a license in only one professional area; the administrative procedures in these sections should be consistent. The language was clarified and was also included in §741.103 as new (b) (relating to Required Application Materials) as well.

Minor editorial changes were made to §741.194(f) and §741.27(c)(2)(B) for clarification.

No groups or organizations submitted comments. The individual who commented was neither for or against the sections in their entirety; however, questions and concerns were raised and suggestions were offered.

Subchapter A. Introduction

• 22 TAC §741.2

The amendments are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

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

Aide-A licensed associate in speech-language pathology or audiology.

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 April 28, 1993.

TRD-9322262

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
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For further information, please call: (512) 834-7758

Subchapter B. The Committee

• 22 TAC §741.27

The new section is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.27. Petition for adoption of a rule.

(a) Purpose. The purpose of this section is to delineate the committee's pro-

cedures for the submission, consideration, and disposition of a petition to the committee to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the committee to adopt a rule.

(2) The petition shall be in writing; shall state the petitioner's name, address, and telephone number; and shall contain the following:

(A) a brief explanation of and justification for the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The petition shall be mailed or delivered to the executive secretary, State Committee of Examiners for Speech-Language Pathology and Audiology, 1100 West 49th Street, Austin, Texas 78756-3183.

(c) Consideration and disposition of the petition.

(1) Except as otherwise provided in paragraph (4) of this subsection, the executive secretary shall submit a completed petition to the committee for its consideration.

(2) Within 60 days after receipt of the completed petition by the executive secretary, the committee shall either:

(A) deny the petition;

(B) initiate rule-making procedures in accordance with the Administrative Procedure and Texas Register Act (APTRA), Texas Civil Statutes, Article 6252-13a, §5; or

(C) deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(3) If the committee denies the petition, the executive secretary shall give the petitioner written notice of the committee's denial, including the reason(s) for the denial.

(4) If the committee initiates rule-making procedures in accordance with the APTRA, §5, the version of the rule

which the committee proposes may differ from the version proposed by the petitioner.

(d) Subsequent petitions to adopt the same or similar rules. All initial petitions for the adoption of a rule shall be presented to and decided by the committee in accordance with the provisions of subsections (b) and (c) of this section. The committee may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within six months after the date of the initial petition.

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

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Subchapter C. The Practice of Speech-Language Pathology and Audiology

• 22 TAC §741.41

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

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

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Subchapter D. Academic Requirements for Examination and Licensure for Speech-Language Pathologists

• 22 TAC §741.61

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-

Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.61. Purpose. The purpose of this section is to delineate the academic requirements for examination and licensure of speech-language pathologists.

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

(5) An applicant must have completed a minimum of 300 clock-hours of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as clinical practicum.

(B)-(D) (No change.)

(6) An applicant must have obtained the equivalent of nine months of full-time, 40 hours weekly, supervised professional experience in which bona fide clinical work has been accomplished in speech-language pathology.

(A) (No change.)

(B) This internship must begin within two years after the academic and clinical experience requirements have been met and must be completed within a maximum period of 36 consecutive months once initiated. Applicants who do not meet these time frames must request, in writing, and receive committee approval for an extension.

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

(7)-(8) (No change.)

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

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Subchapter E. Academic Requirements for Examination and Licensure for Audiologists

• 22 TAC §741.81

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the

State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.81. Purpose. The purpose of this section is to delineate the academic requirements for examination and licensure of audiologists.

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

(5) An applicant must have completed a minimum of 300 clock-hours of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as clinical practicum.

(B)-(D) (No change.)

(6) An applicant must have obtained the equivalent of nine months of full-time, 40 hours weekly, supervised professional experience in which bona fide clinical work has been accomplished in audiology.

(A) (No change.)

(B) This internship must begin within two years after the academic and clinical experience requirements have been met and must be completed within a maximum period of 36 consecutive months once initiated. Applicants who do not meet these time frames must request, in writing, and receive committee approval for an extension.

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

(7)-(8) (No Change.)

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

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Subchapter F. Application Procedures

• 22 TAC §741.103

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-

Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.103. Required Application Materials.

(a) All applicants applying for a speech-language pathology or audiology license must submit the following:

(1) an application form obtained from the committee office which shall contain:

(A) specific information regarding personal data, employment and nature of professional practice, other state licenses and certifications held, felony and misdemeanor convictions, educational background, practicum experience, supervised experience and references;

(B) a statement that the applicant has read the Act and this chapter of the committee rules and agrees to abide by them;

(C) a statement that the applicant, if issued a license, shall return the license to the committee upon the revocation or suspension of the license;

(D) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable; and

(E) the dated and notarized signature of the applicant;

(2) a supervised post-graduate experience form which must contain the following information:

(A) the name of the applicant;

(B) the supervisor's name, address, degree, and licensure status;

(C) the name and address of the agency or organization where the experience was gained;

(D) the inclusive dates of the supervised experience and the total number of hours of supervised post-graduate practice;

(E) the number of hours of weekly face-to-face supervision provided for the applicant and the types of supervision used (direct, observation room, video tape, audio tape, review of records, etc.);

(F) the applicant's employment status during supervised experience; and

(G) the supervisor's signature;

(3) an original or certified copy of transcript(s) of all relevant course work;

(4) a record of all clinical practicum clock hours documented by the academic program; and

(5) vitae, resumes, and other documentation of the applicant's credentials, but not in lieu of any other required documentation.

(b) All applicants who do not meet internship time frames as required by §741.61 (6)(B) (relating to Purpose), §741.81(6)(B) (relating to Purpose), and §741.301(6)(B) (relating to Purpose), must have received previous committee approval for the applicant's internship.

(c) All applicants applying for an associate license must submit the following:

(1) an application form obtained from the committee office which contains:

(A) specific information regarding personal data, employment and nature of professional practice, other state licenses and certifications held, felony and misdemeanor convictions, educational background and references;

(B) a statement that the applicant has read the Act and this chapter of the committee rules and agrees to abide by them;

(C) a statement that the applicant, if issued a license, shall return the license to the committee upon the revocation or suspension of the license;

(D) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable; and

(E) the dated and notarized signature of the applicant;

(2) a supervisory responsibility statement form obtained from the committee office which contains:

(A) the name, address, employer, area of licensure and license number of the supervisor and the name, area of licensure and employer of the associate; and

(B) the dated and notarized signature of the supervisor;

(3) an original or certified copy of transcript(s) of relevant course work. The transcript(s) must show that at least a baccalaureate degree was earned; and

(4) vitae, resumes, and other documentation of the applicant's credentials, but not in lieu of any other required documentation.

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

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Subchapter G. Licensure Examinations

• 22 TAC §741. 123

The amendment is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

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Subchapter I. Licensure Renewal

• 22 TAC §741.162, §741.163

The amendments are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

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

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Subchapter K. Denial, Suspension, or Revocation of Licensure

• 22 TAC §§741.193, 741.194, 741.197, 741.198

The amendments are adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.193. Complaint Procedures.

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

(c) The executive secretary may notify the alleged violator of the complaint and request a written response within 45 days.

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

§741.194. Procedures for Denying, Suspending, or Revoking a License.

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

(d) If denial, revocation, or suspension of a license is proposed, the committee shall give written notice that the licensee or applicant must request, in writing, a formal hearing within 10 days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended. The notice shall include a copy of written charges, if applicable. Receipt of the notice is presumed to occur on the tenth day after the notice is mailed to the last address known to the committee unless another date is reflected on a United States Postal Service return receipt.

(e) (No change.)

(f) If the applicant or licensee requests a formal hearing:

(1) the subcommittee may request that a formal hearing be set by the Texas Department of Health, Office of General Counsel. The chair shall appoint a hearing examiner to conduct the formal hearing. The hearing examiner shall recommend final action to the committee based on the evidence presented at the formal hearing.

The committee is not required to adopt the recommendations of the hearing examiner and may deny, suspend, or revoke a license, or impose probationary conditions on a license as the committee deems appropriate and lawful; or

(2) (No change.)

(g) (No change.)

(h) Not less than one year from the date of revocation of a license, application may be made to the committee for reinstatement. The committee may accept or reject an application for reinstatement and may require an examination for the reinstatement.

(i) If the committee suspends a license, the suspension shall remain in effect until the committee determines that the reason for the suspension no longer exists or for the period of time stated in the order.

(j) If a suspension overlaps a license renewal date, the individual whose license is suspended may comply with the renewal procedures in this chapter; however, the committee may not renew the license until the committee determines that the reason for the suspension no longer exists or the period of suspension is completed.

(k) If the committee denies an initial license or renewal request, a person may reapply for a license by complying with the then-existing requirements and procedures for application. The committee may refuse to issue a license if the reason for the denial continues to exist.

(l) Upon revocation, suspension, or nonrenewal, a licensee shall return his or her certificate, license verification, and identification cards to the committee.

§741.197. Licensing of Individuals with Criminal Backgrounds to be Speech-Language Pathologists, Audiologists, Licensed Associates in Audiology, and Licensed Associates in Speech-Language Pathology.

(a) This section is designed to establish guidelines and criteria on the eligibility of individuals with criminal backgrounds to obtain licenses as speech-language pathologists, audiologists, licensed associates in audiology, and licensed associates in speech-language pathology.

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

(3) In considering whether a criminal conviction directly relates to the profession of a speech-language pathologist, audiologist, licensed associate in audiology, and licensed associate in speech-language pathology, the committee shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for requiring a li-

censee to be a speech-language pathologist, audiologist, licensed associate in audiology, or licensed associate in speech-language pathology;

(C) (No change.)

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensed speech-language pathologist, audiologist, licensed associate in audiology, and licensed associate in speech-language pathology. In making this determination, the committee shall consider the following evidence:

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

(vi) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person; and

(vii) (No change.)

(b) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, his/her license shall be subject to revocation.

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an inability or a tendency for the person to be unable to perform or to be unfit for licensure:

(1) the misdemeanor of violating the Act;

(2) a conviction relating to deceptive business practices;

(3) a misdemeanor or felony offense involving:

(A) murder;

(B) assault;

(C) burglary;

(D) robbery;

(E) theft;

(F) sexual assault;

(G) injury to a child;

(H) injury to an elderly person;

(I) child abuse or neglect;

(J) tampering with a governmental record;

(K) forgery;

(L) perjury;

(M) failure to report abuse;

(N) bribery; or

(O) harassment.

(4) a conviction relating to delivery, possession, manufacturing, or use of a controlled substance, dangerous drug, or narcotic; or

(5) other misdemeanors or felonies, including convictions under the Texas Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency for the person to be unable to perform as a licensee or unfit for licensure if action by the committee will promote the intent of the Act, this chapter, and Texas Civil Statutes, Article 6252-13c.

(d) Procedures for revoking, suspending, or denying a license to individuals with criminal backgrounds.

(1) (No change.)

(2) If the committee denies, suspends, or revokes a license under this subsection after hearing, the executive secretary will give the individual written notice in accordance with Texas Civil Statutes, Article 6252-13d.

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

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Subchapter M. Academic Requirements for Examination and Dual Licensure for Speech-Language Pathologists and Audiologists

• 22 TAC §741.301

The new section is adopted under Texas Civil Statutes, Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act.

§741.301. Purpose. The purpose of this section is to delineate the academic requirements for examination and dual licensure of speech-language pathologists and audiologists.

(1) An applicant must possess at least a master's degree with a major in speech-language pathology or audiology from an accredited or approved college or university.

(2) An applicant must submit transcripts showing successful completion of at least 30 semester hours in courses acceptable toward a graduate degree by the college or university in which they were taken. At least 21 graduate hours must be within the professional area of speech-language pathology and at least 21 graduate hours in audiology.

(3) The undergraduate and graduate preparation required in audiology and speech-language pathology should be in the broad, but not necessarily exclusive, categories of study, as follows:

(A) information pertaining to the normal development and use of speech, language, and hearing, with emphasis on the normal aspects of human communications;

(B) information pertaining to evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) information pertaining to related areas that augment the work of clinical practitioners of speech-language pathology and audiology (i.e. theories of learning and behavior; information pertaining to related professions that also deal with individuals who have communication disorders; and information from these professions about the sensory, physical, emotional, social and/or intellectual status of a child or an adult). No more than three semester hours in any of the following areas may be accepted:

(i) in statistics, beyond the introductory-level course;

(ii) academic study of the administrative organization of speech-language pathology and audiology programs;

(iii) courses that provide an overview of research; or

(iv) academic credit for a thesis or dissertation.

(4) Original transcripts shall be required to process an application for licensure or internship approval. Certified copies of transcripts shall be considered originals. Transcripts shall be reviewed as follows:

(A) Degrees and course work must have been completed at a college or university within the United States of America which holds accreditation or candidacy status from a recognized regional accrediting agency, such as the Southern Association of Colleges and Universities.

(B) Degrees and course work received at foreign universities shall be acceptable only if such course work could be counted as transfer credit by accredited universities, as reported by the American Association of Collegiate Registrars and Admissions Officers.

(C) Academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other official means.

(D) The committee shall not accept an undergraduate level course taken by an applicant to meet academic requirements for licensure at the graduate level unless the applicant's transcript clearly shows that the course was awarded graduate credit by the college or university from which the graduate degree was granted.

(E) Academic credit obtained from practice teaching or practice work in other professions will not be counted toward the minimum requirements.

(F) The committee shall only accept course work completed with a passing grade or for credit. In the case of course work taken outside a program of studies from which a degree was granted, no grade below C shall be counted toward meeting academic requirements for examination for licensure.

(G) The committee shall consider a quarter hour of academic credit as 2/3 of a semester hour.

(5) An applicant must have completed a minimum of 200 clock-hours in speech-language pathology under the supervision of a licensed speech-language pathologist and 200 clock-hours in audiology under the supervision of a licensed audiologist of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as clinical practicum.

(B) Clinical practicum may be considered to be the supervised, direct experience during academic training which includes evaluation and management of individuals with speech, language, and/or hearing problems.

(C) This experience must have been obtained within a training institution or in one of its cooperative programs.

(D) While pursuing this course of study, the applicant shall be designated as a trainee in speech-language pathology or audiology, depending on the area of work being done.

(6) An applicant must have obtained the equivalent of 18 months of full-time, 40 hours weekly, supervised professional experience in which bona fide clinical work has been accomplished. Nine months shall be in speech-language pathology and nine months in audiology.

(A) While pursuing this professional employment experience, the applicant shall be designated as an intern in speech-language pathology or audiology, depending on the area of work being done.

(B) This internship must begin within two years after the academic and clinical experience requirements have been met and must be completed within a maximum period of 48 consecutive months once initiated. Applicants who do not meet these time frames must request, in writing, and receive committee approval for an extension.

(C) This work must be done under the supervision of an individual who holds a master's degree and a valid Texas license in the professional area in which the clinical experience is being done.

(D) Licensees who supervise interns are responsible for the services to the client that may be performed by the intern. The supervising professional must ensure that all services provided are in compliance with this chapter.

(E) Until licensed the intern must continue to be supervised if the intern is working.

(F) Prior to the beginning of an intern's required supervised professional experience, the intern form must be filed with the executive secretary in the office of the committee.

(i) This form is to be completed and signed by the licensed supervising professional and must be updated every six months.

(ii) Original transcripts of the intern's college or university course work with verification of graduate degree(s) awarded are required at the time of submission of the intern form.

(iii) The committee shall not consider an individual an intern until the intern form is approved. The office must be notified of any change in the supervisory arrangement and a new form must be filed.

(iv) Upon acceptance of the intern form the executive secretary shall provide a letter of registration to be placed in the intern's personnel file.

(7) A supervisor of an intern must show proof of having earned at least a master's degree with a major in the area being supervised from an accredited college or university by submitting an original or photocopy of the transcript.

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

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TITLE 28. INSURANCE
Part I. Texas Department
of Insurance
Chapter 1. General
Administration

Subchapter A. Rules of Prac-
tice and Procedure

• **28 TAC §§1.82-1.86**

The State Board of Insurance of the Texas Department of Insurance adopts new §§1.82-1.86 concerning rules of practice and procedure with changes to the proposed text pub-

lished in the February 9, 1993, issue of the *Texas Register* (18 TexReg 800).

The new sections concern discovery rules for contested cases as required for the orderly and efficient disposition of matters before the Commissioner and the State Board of Insurance of the Texas Department of Insurance. Adopted §§1.82-1.86 are designed to supplement existing discovery rules to ascertain or seek the truth, to avoid surprise, to promote settlements, to preserve evidence, and to increase the efficient administration of contested cases. Adopted §1.86(a) provides for commissions to take depositions and adopted §1.86(b), provides for other discovery orders, including protective orders. Adopted sections 1.86(a) and 1.86(b) shall not apply to matters on appeal before the Board. Adopted §§1.82-1.86 do not apply to Article 5.101 benchmark rate proceedings brought before the Board, even upon assignment of the proceeding to a Hearings Officer.

Adopted §§1.82-1.86 define the forms and scope of discovery in contested cases, which expand available discovery under Texas Civil Statutes, Article 6252-13a, and existing rules of practice and procedure. Adopted §1.82 defines permissible forms of discovery by parties in contested cases and the scope of discovery. Scope of discovery by parties is essentially the same as collectively provided by the Texas Rules of Civil Procedure, 28 TAC §1.33, and Article 6252-13a §14 and §14a. Adopted §1.83 outlines service and filing of discovery requests and responses. Adopted §1.84 outlines deadlines for responses to discovery requests, unless modified by agreement of the party seeking discovery. Adopted §1.85 outlines requirements concerning requests for admission. Also, adopted §1.86 provides for discovery orders, including protective orders, sanctions, and appellate review. However, adopted §1.86(a), which provides for commissions to take depositions, and adopted §1.86(b), which provides for other discovery orders, including protective orders, shall not apply to matters on appeal before the Board.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Insurance Code, Article 1.04(b), and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.04(b) provides the Board with authority to determine rules in accordance with the laws of this state. Texas Revised Civil Statutes, Article 6252-13a §§4 and 5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and prescribe the procedures for adoption of rules by a state administrative agency. The new sections affect practice and procedure in contested cases before the Commissioner and the State Board of Insurance at the Texas Department of Insurance.

§1.82. Forms and Scope of Discovery in Contested Cases.

(a) Permissible forms of discovery by parties are:

(1) oral depositions of a party or a nonparty;

(2) written interrogatories to a party;

(3) requests of a party for admission of facts or the genuineness or identity of documents or things;

(4) requests of a party for production of documents and things for examination and copying or photographing; and

(5) requests of a party for entry upon and examination of real or personal property, or both.

(b) The scope of discovery shall be the same as provided by the Texas Rules of Civil Procedure and shall be subject to the constraints provided therein for privileges, objections, protective orders and duty to supplement, as well as §1.33 of this title (relating to Depositions; Entry on Property; Use of Reports and Statements) and the proceedings provided in the Act, Texas Civil Statutes, Article 6252-13a, §14 and §14a. All discovery may commence upon the filing of an action or proceeding. No discovery may be initiated by a party seeking discovery after the initial hearing date, unless allowed by the Hearings Officer upon a showing of good cause.

(c) This section and §§1.83-1.86 of this title (relating to Service and Filing of Discovery Requests and Responses; Deadlines for Responses to Discovery; Requests for Admission; and Discovery Orders) shall not apply to Article 5.101 benchmark rate proceedings brought before the Board, even upon assignment of such proceeding to a Hearings Officer or a contested case docket. Further, §1.86(a), which provides for commissions to take depositions, and §1.86(b), which provides for other discovery orders, including protective orders shall not apply to matters on appeal before the Board.

§1.83. Service and Filing of Discovery Requests and Responses. Requests for discovery and responses thereto shall be served in the manner provided by §1.28(d) of this title (relating to Service in Contested Cases) and should not be filed with the Hearings Division or Office of Administrative Hearings. Requests for issuance of a Commission to take deposition shall be filed with the Hearings Officer with a proposed Commission to take deposition only if the parties disagree on the scheduling or scope of the deposition. Depositions shall be returned in the manner provided in the Act, Texas Civil Statutes, Article 6252-13a, §14. Except for good cause shown, all requests for discovery shall be timely made prior to the hearing.

§1.84. Deadlines for Responses to Discovery Requests. Responses to discovery requests shall be made within a reasonable time period of not less than 14 days after

receipt of service as directed by the party seeking discovery. The Hearings Officer may shorten or lengthen such time periods as the interest of justice requires. Nothing within this section shall prevent the party seeking discovery to extend response deadlines by agreement, but no such agreement shall be enforceable unless in writing and filed in the contested case that forms the basis for the discovery requests as provided in §1.31 of this title (relating to Agreements to be in Writing).

§1.85. Requests for Admission. Except as otherwise provided, requests for admission shall be governed by the applicable provisions of the Texas Rules of Civil Procedure. Each matter for which an admission is requested shall be separately stated. The matter shall be deemed to be admitted without necessity for an order unless, within the prescribed time for responding, the party to whom the request is directed serves upon the requesting party a written answer or objection addressed to the matter. The Requests for Admission document must clearly set forth this provision for deemed admissions, in bold print or by underlining, in a conspicuous location calculated to inform the opposing party of the consequences of a failure to respond within the prescribed time, as provided in §1.84 of this title (relating to Deadlines for Responses to Discovery Requests). The Hearings Officer or the Commissioner or Board may permit withdrawal or amendment of responses and deemed admissions upon a showing of good cause, if necessary in the interest of justice.

§1.86. Discovery Orders.

(a) Commission to take Deposition. The Hearings Officer is authorized to issue a Commission to take deposition, which shall authorize the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects that may be necessary and proper for the purposes of the proceeding.

(b) Other Discovery Orders. The Hearings Officer may issue protective orders and orders compelling discovery responses. Requests for orders compelling discovery shall contain a statement that, after due diligence, the desired information cannot be obtained through informal means, good faith efforts at negotiation have failed to produce the requested discovery and that good cause exists for requiring discovery. The Hearings Officer may conduct in camera inspections of materials when requested by a party or when necessary to determine facts required to issue appropriate discovery orders, including protective orders. The request for a discovery order may be denied if the request is untimely or unduly burdensome in light of the complexity

of the proceeding, if the requesting party has failed to exercise due diligence, if the discovery would result in undue cost to the parties or unnecessary delay in the proceeding, or for other good cause in the interest of justice.

(c) Sanctions. After notice and opportunity for hearing, an order imposing sanctions, as are just, may be issued by the Commissioner or the Hearings Officer for failure to comply with a discovery order, or subpoena issued pursuant to a Commission for deposition or production of books, records, papers, or other objects. The order imposing sanctions may:

(1) disallow any further discovery of any kind or of a particular kind by the disobedient party;

(2) require the party, the party's representative, or both to obey the discovery order;

(3) require the party, the party's representative, or both to pay reasonable expenses, including attorney fees, incurred by reason of the party's noncompliance;

(4) direct that the matters regarding which the discovery order was made shall be deemed established in accordance with the claim of the party obtaining the order;

(5) refuse to allow the disobedient party to support or oppose designated claims or defenses or prohibit the party from introducing designated matters into evidence;

(6) strike pleadings or parts thereof or abate further proceedings until the order is obeyed; or, if entered by the Commissioner;

(7) dismiss the action or proceeding or any part thereof or render a decision by default against the disobedient party.

(d) Appellate Review. Any discovery order or subpoena and any order imposing sanctions issued by the Hearings Officer is subject to review by an appeal to the Commissioner or the Board, according to the stage of the action or proceeding. The appeal shall be filed with the Commissioner or Board within five days of the action that is the subject of the appeal. The appeal may be carried with the underlying case provided the Commissioner does not act upon the appeal within 15 days after the appeal was filed.

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 April 30, 1993.

TRD-9322353

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

Effective date: May 21, 1993

Proposal publication date: February 9, 1993

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 334. Underground and Aboveground Storage Tanks

Subchapter J. Registration of Corrective Action Specialists and Project Managers for Product Storage Tank Remediation Projects

• 31 TAC §§334.451-334.463, 334.465-334.466

The Texas Water Commission (TWC) adopts new §§334.451-334.463 and 334.465-334.466, concerning registration requirements for corrective action specialists and project managers. Sections 334.451-334.463 and 334.465-334.466 are adopted with changes to the proposed text as published in the November 3, 1992 issue of the *Texas Register* (17 TexReg 7754). Section 334.464 has been withdrawn. This subchapter provides rules for registering Corrective Action Specialists and Corrective Action Project Managers, who will conduct, assist, or supervise corrective action projects pursuant to the Texas Water Code, Chapter 26, Subchapter I, and 31 TAC Chapter 334. The new subchapter provides guidance for responsible parties and establishes criteria for the registration of consultants and contractors hired to conduct corrective action pursuant to the statute and TWC rules.

The new sections were prompted by two concerns. First, at present there are no regulations in place to govern contractors and consultants engaged in corrective action services. Without any guidance provided by the agency, responsible parties sometimes find it difficult to secure the services of responsible, competent Corrective Action Specialists. The adoption of these rules will enable the commission to provide the mechanism that will allow owners and operators to evaluate the many potential specialists in the market, and hire with confidence registered contractors/consultants who meet minimum TWC standards and produce acceptable results, not only for the benefit of the owners/operators, but for all Texans and the environment.

Second, these rules will provide an essential connection to Chapter 334, Subchapter H, relating to the Interim Reimbursement Program. The new rules create a framework for evaluating the performance of Corrective Action Specialists, and will alert responsible parties to the fact that the TWC will use the Reimbursable Cost Guidelines in evaluating costs included in applications for reimbursement.

The intent of this subchapter is not to force any company presently providing corrective action services out of the market. Rather, these rules are intended to mandate and enforce a minimum level of competency, responsibility, and quality of performance. Companies that presently do not have persons on staff who meet the requirements of a Project Manager need only employ or subcontract with persons who possess the minimum educational and corrective action experience to be registered as Corrective Action Project Managers. These rules do not require that Corrective Action Project Managers be continually on-site as supervisors. However, the presence of the Project Manager on-site during critical junctures of corrective action is recommended as the Corrective Action Project Manager and Corrective Action Specialist are ultimately responsible for the corrective action measures taken at the LPST site.

The rules are written and will be enforced with the understanding that field decisions are made based upon professional judgment, sometimes in situations where the on-site professional could not have predicted the circumstances to which he is responding. The commission is not intent on second-guessing field decisions that are made utilizing sound professional judgment. However, the commission does expect improved performance with experience.

The commission received several comments in response to the proposed rules. Among the organizations submitting comments to the commission were the Texas Association of Storage Tank Professionals, the Texas State Board of Registration for Professional Engineers, the faculty of Southwest Texas State University, and numerous companies and individuals in the corrective action industry. These comments may be divided into three general categories: concerns over the education requirements for Corrective Action Project Managers; concerns over the "regulation" of engineers; and concerns over the commission's ability to revoke registrations when Corrective Action Specialists charge excessive costs.

The commission in this adopted rule has modified the proposed education requirements to require all persons seeking registration as Corrective Action Project Managers to take an examination. The executive director may waive the examination requirement for persons who hold current Texas registration as a Professional Engineer. The commission has also deleted all provisions in this subchapter that would allow revocation of a registration certificate when a Corrective Action Specialist charges excessive costs. However, the owner/operator and the Corrective Action Specialist must sign a form provided by the commission indicating that both parties understand that the commission will evaluate reimbursement applications based upon the rules of the commission and the Reimbursable Cost Guidelines.

With regard to the concerns of professional engineers, this subchapter is in no way an attempt to infringe upon the jurisdiction or authority of the Texas State Board of Registration for Professional Engineers (the

Board). The commission recognizes that the Board has the exclusive jurisdiction to license professional engineers in Texas. This subchapter is not intended, and will not be used practically, to evaluate anyone's engineering qualifications. The rules allow individuals with engineering degrees, plus two years of corrective action service experience, to qualify as Corrective Action Project Managers. Nevertheless, not all projects and activities conducted by project managers and contemplated under this subchapter must be performed by Professional Engineers. The commission recognizes that engineering aspects may only be performed by registered and licensed professional engineers.

Several commenters expressed confusion about the meaning of various terms used throughout the subchapter. The commission has developed a list of definitions for key words and phrases included in this subchapter. These definitions will be proposed for adoption in the near future.

Several commenters have expressed the view that these regulations will drive up corrective action costs by reducing the number of entities that are able to provide corrective action services. The commission disagrees with this opinion for several reasons. First, the regulations directly force no company out of the corrective action market, but only require companies to employ or subcontract with persons meeting the established corrective action project manager qualifications. Second, through regulation of qualifications, performance standards, and professional training the overall quality of the corrective actions should improve and therefore monies are better spent. Finally, the regulations provide a mechanism to penalize those Corrective Action Specialists and Corrective Action Project Managers who demonstrate a track record of substandard performance and are now not effectively utilizing corrective action dollars. The commission realizes that some companies may no longer choose to offer corrective action services, but the net effect will be general improvement in corrective action performance which will promote maximum benefit from corrective action dollars.

One commenter suggested that the Corrective Action Specialists and Corrective Action Project Managers not be allowed to have any association with the construction contractor in order to prevent any conflict of interest. The commission responds, that at this time it does not anticipate any problem with such associations; however, where such associations are demonstrated to result in poor performance, or improper or unauthorized corrective actions, such associations may be re-evaluated.

In addition to the substantive comments, the commission received several comments by persons suggesting grammatical changes to make the rules read more clearly. The following is a synopsis of the cosmetic and substantive changes made:

Grammatical changes were made to §§334.451, 334.452, 334.453, 334.454, 334.456, 334.458, 334.459, 334.460, 334.461, and 334.462 to make these sections read more clearly.

A commenter expressed concern that the proposed rules do not specifically exempt tank owners and operators and their employ-

ees who may coordinate corrective actions with the Corrective Action Specialist, Corrective Action Project Managers, and the commission, or review technical reports on behalf of the tank owner/operator. The commission responds that the tank owners/operators who coordinate with Corrective Action Specialists, Corrective Action Project Managers, and the commission, or review the technical reports do not need to be registered under this program. The commission has adopted a provision which provides that the tank owner/operator must be registered under this subchapter if they will conduct the corrective actions or assume the role of a Corrective Action Specialist or Corrective Action Project Manager.

One commenter stated that the 300 cubic yard provision in §334.452(d) is too restrictive, especially at sites where large tank batteries are located and recommended that the allowable volume be variable based upon the UST volume. The commission responds that the 300 cubic yard provision is intended as a mechanism to allow restricted corrective action excavation by a person not registered under this subchapter, but only when specifically approved in advance by the TWC. The purpose for this provision is that in some instances minimal excavation may determine if a release warrants the pursuit of corrective action. The 300 cubic yard rule does not pertain to the volume of backfill or soil that must be excavated to remove an underground storage tank system.

Section 334.455 was amended to require the corrective action specialist to submit a Notice of Corrective Action to the executive director. It shall include the disclaimer which is described in subsection (f) of this section.

One commenter suggested that the effective date for the notice requirements contained in §334.455(a)(1) be consistent with the effective registration deadlines for Corrective Action Specialists and Corrective Action Project Managers. The commission agrees with the recommendation and has modified the rule so that the deadline for providing notice is August 6, 1993 for work which commences on or after that date.

Several commenters stated there was no need to require that the tank owner/operator be provided the Notice to Owner or Operator prior to the time a bid is accepted. Additionally, commenters stated that the requirement in §334.455(e) to submit the signed notice to the commission within 15 days of the date a bid is accepted is unnecessary and burdensome. The commission responds that this provision is necessary because it will provide notice to the owner or operator as to what the registration requirements are and that reimbursement is subject to TWC Reimbursable Cost review, as well as to provide timely notice to the commission that a properly registered Corrective Action Specialist has been contracted to perform the corrective action.

One commenter suggested the Notice to Owner or Operator include the Reimbursable (Reasonable) Cost Guidelines so that the owner or operator would know what the commission will reimburse. The commission has modified the notice language in the rule to include a statement that the commission will

evaluate reimbursement applications in accordance with the Reimbursable Cost Guidelines and Chapter 334, Subchapter H, and any costs deemed not reimbursable shall not be reimbursed by the commission.

One commenter stated that requiring the notice on marketing materials, particularly in the case of business cards, is impractical. The commission agrees and has deleted the provision requiring the notice on all marketing materials from the adopted rule.

One commenter expressed concern that maintaining the list of Corrective Action Project Managers is a burdensome task due to frequent changes in employment and subcontract arrangements and recommended not requiring a list of project managers to be maintained. The commission agreed with the commenter that the maintenance of a Corrective Action Project Manager list would be burdensome and has deleted this provision.

In its adopted rule, in response to the numerous comments received, the commission has deleted what was proposed under §334.457, and in place of the proposed language, the commission has established the following educational criteria for registration as a project manager: either a degree which is technical in focus in a physical science, natural science, biological science, environmental science, engineering, applied geography, or other degree directly related to the environmental field, two years of experience in corrective action service, and the successful completion of an examination approved by the executive director; or six years of experience in corrective action service, and the successful completion of an examination approved by the executive director. The executive director may waive the examination requirement for persons who hold current Texas registration as a Professional Engineer.

Several commenters raised concerns whether tank installations, repairs, and removals would be considered corrective action services. The commission responds that tank installations, repairs, and removals are a separate activity from corrective action, in that expertise in tank construction projects does not imply expertise in corrective action. Those entities and persons who only install, repair, and remove underground storage tanks are not required to be registered under this subchapter. Likewise, those entities or persons who wish only to perform corrective action services are not required to comply with the provisions of Subchapter I of this chapter (relating to Underground Storage Tank Contractor Registration and Installer Licensing). The commission does not accept Subchapter I licensing or registration in lieu of specific registration under this subchapter.

One commenter suggested that law degrees be added to the list of acceptable degrees because much of corrective action involves the direct application of the laws and regulations. The commission responds that a law degree imparts no expertise in assessment or remediation.

One commenter suggested that the rules should be modified to require two years of continuous experience. The commission re-

sponds that if the applicant can demonstrate two years of experience, whether or not continuous, then requirements are met.

A commenter stated that there is no justification for the disallowance of OSHA Health and Safety courses in meeting the 16 hours of continued education. The commission responds that the goal of the proposed education requirements is to keep Corrective Action Project Managers abreast of continually evolving corrective action procedures, methods, and technologies. While the OSHA courses are significant to environmental programs, they do not focus directly on corrective action and therefore do not count toward the 16 hours of continued education required by this rule.

One commenter expressed concern that the proposed rule effectively eliminates private business with qualified personnel from offering the continuing educational courses. The commission responds that it did not intend to preclude offerings by qualified private businesses. The commission only desires that the training be legitimate and meaningful. Therefore, the adopted rule allows private businesses with qualified staff to offer courses, after both the company and the offered courses have been determined by the commission to meet the requirements of the rule.

One commenter expressed concern that the required corrective action experience must be related to LPST sites. The commission responds that while LPST corrective action experience is desirable the commission recognizes that equivalent experience can be obtained in other environmental corrective action programs. The commission also recognizes the valuable subsurface hydrocarbon exploration and recovery experience obtained in the oil and gas industry. Therefore, the commission has modified §334.456 and §334.457, to specify that applicable corrective action experience is not necessarily limited to sites which fall under the jurisdiction of this chapter or Subtitle I of RCRA. Corrective action experience may include operations conducted pursuant to the Texas Water Code, Chapter 26, and cleanups pursuant to RCRA, CERCLA, and/or OSPRA, and/or any cleanup under the jurisdiction of the Texas Railroad Commission, the General Land Office, or the United States Environmental Protection Agency.

The proposed provisions which authorized the executive director to revoke or suspend certificates of registration of persons who charged excessive costs have not been included in the adopted rule. Under the adopted rule, the executive director will not revoke registration certificates for charging excessive costs under this subchapter.

Section 334.464 (relating to Excessive Charges) was deleted in its entirety.

The new sections are adopted under the authority of the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§334.451. Applicability of Subchapter J.

(a) In General.

(1) The types of corrective action services described in this section must be offered to be performed by a company or person duly registered under this subchapter as a corrective action specialist;

(2) The types of corrective action services described in this section must be performed by or coordinated by a company or person duly registered under this subchapter as a Corrective Action Specialist; and,

(3) The types of corrective action services described in this section must be performed under the supervision of a person duly registered under this subchapter as a corrective action project manager.

(b) Types of Tanks Covered. The provisions of this subchapter are applicable to corrective action activities associated with all leaking underground and above-ground storage tanks regulated under this chapter.

(c) Types of Services Covered: Corrective Action Services. Except as provided in §334.452 of this title (relating to Exemptions from Subchapter J), corrective action services to assess, remediate, and monitor contamination and close LPST sites are subject to the requirements of this subchapter. The corrective action services covered by this subchapter include but are not limited to:

(1) measures to halt the spread of a release in progress or to prevent future or threatened spread of releases of regulated substances;

(2) installation of monitoring wells, soil borings or any necessary sampling, and any other actions reasonably necessary to determine the extent of contamination caused by a release;

(3) preparation of reports assessing the extent of contamination, monitoring the contamination, preparation of remedial action plans;

(4) site cleanup, including the removal, on-site or in-situ treatment, and treatment or disposal of surface and subsurface contamination;

(5) post-remediation monitoring and site closure; or

(6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases as determined by the executive director.

(d) Time period covered. The requirements of this subchapter apply to all corrective action services commenced or offered to be performed on or after the effec-

tive date of these rules, unless a provision in this subchapter states otherwise.

§334.452. Exemptions from Subchapter J.

(a) The requirements of this subchapter do not apply to corrective action services which the party claiming the exemption can show were performed or offered to be performed at LPST sites which are:

(1) completely exempt from regulation under §334.3(a) of this title (relating to Statutory Exemptions) or §334.123 of this title (relating to Statutory Exemptions for ASTs); or

(2) completely excluded from regulation under §334.4(a) of this title (relating to Commission Exclusions) or §334.124 of this title (relating to Commission Exclusions for ASTs);

(b) The requirements of this subchapter do not apply to Corrective Action Specialists when the party claiming the exemption can show that corrective action services were completed on or prior to August 6, 1993. Any corrective action service commenced by a Corrective Action Specialist on or after August 6, 1993 is subject to the requirements of this subchapter. Any corrective action service commenced by a Corrective Action Specialist prior to August 6, 1993, which is still being performed on or after August 6, 1993, is subject to the requirements of this subchapter.

(c) The requirements of this subchapter do not apply to Corrective Action Project Managers when the party claiming the exemption can show that corrective action services were completed on or before February 4, 1994. Any corrective action service commenced by a Corrective Action Project Manager on or after February 4, 1994, is subject to the requirements of this subchapter. Any corrective action service commenced by a Corrective Action Project Manager prior to February 4, 1994, which is still being performed on or after February 4, 1994, is subject to the requirements of this subchapter.

(d) The requirements of this subchapter do not apply to:

(1) installation, repair, and removal of underground storage tanks when conducted and supervised by persons or entities registered or licensed in accordance with Subchapter I of this chapter; and

(2) the following limited activities, but only when such activities are performed as part of an underground storage tank permanent removal-from-service project conducted under the direct supervision of an on-site supervisor licensed to remove underground storage tanks under Subchapter I of this chapter, and further

subject to all appropriate requirements and standards in this subchapter, including enforcement authority:

(A) subject to prior written TWC approval, excavation of contaminated soil when necessary for corrective action at the LPST site of an amount not to exceed 300 cubic yards of compacted materials (390 cubic yards of uncompacted materials) beyond the backfill unless specific prior written authorization from the TWC is granted for additional excavation yardage;

(B) sampling of the excavated materials described in subparagraph (A) of this subsection, and the floor and walls of the area excavated as necessary to determine levels of contamination as required by Subchapter C of this chapter (relating to Technical Standards) or Subchapter D of this chapter (relating to Corrective Action and Release Reporting);

(C) passive aeration and necessary routine tilling and sampling of the excavated materials described in subparagraph (A) of this subsection in accordance with applicable Texas Air Control Board regulations; and,

(D) lawful disposal of the excavated materials described in subparagraph (A) of this paragraph.

(e) The requirements of this subchapter do not apply to:

(1) the provision of alternate water supplies;

(2) analysis of samples by a laboratory;

(f) The requirements of this subchapter do not apply to emergency abatement actions described in §334.454 of this title (relating to Exception for Emergency Abatement Actions) if done in compliance with §334.454.

(g) The requirements of this subchapter do not apply to facilities which are authorized to store or treat petroleum-substance waste from more than one LPST site under the provisions of Subchapter K of this chapter (relating to Petroleum Substance Waste).

(h) the requirements of this subchapter do not apply to owners or operators, their direct employees, parent companies, or subsidiaries who on behalf of the owner or operator coordinate with, manage, or supervise Corrective Action Specialists or Corrective Action Project Managers, or coordinate with the commission, or review the corrective action reports. The tank owners or operators, their direct employees, parent companies, or subsidiaries who conduct

corrective action services are subject to all provisions of this subchapter.

§334.453. General Requirements and Prohibitions.

(a) Requirements. Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(1) all corrective action services covered by this subchapter must be offered to be performed by, performed by, or coordinated by a natural person or entity registered as a Corrective Action Specialist; and

(2) all corrective action services covered by this subchapter must be supervised by a natural person registered as a Corrective Action Project Manager.

(3) all Corrective Action Specialists and Corrective Action Project Managers shall perform corrective action services in accordance with accepted industry practices and standards and in accordance with all applicable local, state, and federal regulations;

(4) all reports submitted to the commission pertaining to corrective action covered by this subchapter must possess the signature of an authorized business representative of the Corrective Action Specialist and the Corrective Action Project Manager, and the corrective action registration numbers for the Corrective Action Specialist and Corrective Action Project Manager;

(5) any person or entity performing corrective action services as a Corrective Action Specialist at an LPST site must prominently display their corrective action registration number and the executive director's LPST number for the site on all LPST bids, proposals, offers, and drawings.

(b) Prohibitions.

(1) Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(A) no person shall offer to perform any corrective action service covered by this subchapter unless the person offering to perform the service:

(i) is duly registered under this subchapter as a Corrective Action Specialist; or

(ii) is offering to perform the service under the coordination of a duly registered Corrective Action Specialist;

(B) no person shall commence or perform any corrective action service covered by this subchapter unless the person commencing or performing the service is duly registered under this subchapter as a Corrective Action Specialist;

(C) no person shall perform, direct, allow, or cause any corrective action service covered by this subchapter to be performed unless the corrective action service is being performed by or coordinated by a duly registered Corrective Action Specialist;

(D) no person offering to perform corrective action service may enter into a contract for any corrective action service unless he provides the owner or operator or other person who directs, causes, or authorizes the service with Notice of Corrective Action in the manner required by §334.455 of this title (relating to Notice to Owner or Operator).

(E) no person or entity who submits the following types of information to the executive director shall submit information which they know or reasonably should have known to be false or deceptive:

(i) an application for registration or renewal submitted to the executive director under this subchapter; or

(ii) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(iii) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(iv) an affidavit to the executive director regarding Notice of Corrective Action under §334.455 of the title (relating to Notice to Owner or Operator).

(2) Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(A) no person shall commence or perform any corrective action service covered by this subchapter unless the person commencing or performing the service is duly registered under this subchapter as a Corrective Action Project Manager;

(B) no person shall supervise the performance of any corrective action service covered by this subchapter unless the person supervising is duly registered under this subchapter as a Corrective Action Project Manager;

(C) no person shall perform, direct, allow, or cause any corrective action service covered by this subchapter to be performed unless the corrective action service is being supervised by a natural person

duly registered under this subchapter as a Corrective Action Project Manager;

(D) no person or entity offering to perform or performing corrective action services as a Corrective Action Specialist shall represent that they are registered under this subchapter or represent that any corrective action services they perform are subject to reimbursement by the commission unless the person or entity making such representation possesses a valid certificate of registration issued under this subchapter;

(E) no person or entity who is a registered UST contractor or a licensed installer or on-site supervisor pursuant to Subchapter I of this chapter shall represent that they are authorized to perform any corrective action service covered by this subchapter except as provided under §334.452(d) of this title (relating to (Exemptions from Subchapter J)) unless that person or entity is registered as a Corrective Action Specialist pursuant to this subchapter.

(c) Any violation of this section or any other requirements of this subchapter shall be subject to enforcement including administrative, civil, and/or criminal penalties.

(d) Corrective Action Specialists and/or Corrective Action Project Managers may be held responsible and subject to enforcement including administrative, civil, and/or criminal penalties for any violation of this section or any other requirements of this subchapter by a person performing corrective action services under his supervision or coordination.

(e) Any penalty assessed or order issued under this section is cumulative of any other remedies available to the commission.

§334.454. Exception for Emergency Abatement Actions.

(a) An owner or operator or other person may undertake such corrective action as may be necessary to abate any immediate threat to human health and safety or the environment caused by a release or threatened release without a registered Corrective Action Specialist or a Corrective Action Project Manager, and a person who is not registered under this subchapter may provide or perform such services provided that the action is in compliance with this section.

(b) In order for this section to apply, the owner or operator or other person must:

(1) be able to demonstrate that ~~the site then was necessary to protect against imminent danger~~ to human health and safety by mitigating fire, explosion, and vapor hazards, by

removing free product from structures, basements, sumps, etc., or performing other actions as deemed necessary by the executive director;

(2) notify the executive director of the emergency occurrence within 24 hours of commencing emergency abatement action;

(3) notify the local Fire Marshal (or State Fire Marshal if no local authority is available) within 24 hours of commencing emergency abatement action; and

(4) obtain the services of a registered corrective action specialist within 10 days of commencing emergency action.

§334.455. Notice to Owner or Operator.

(a) A Notice of Corrective Action must be provided by the Corrective Action Specialist, in accordance with this section for any corrective action services, which are commenced on or after August 6, 1993.

(b) The notice requirements of this section apply regardless of whether or not the person offering the services is working directly for an owner or operator. The Notice of Corrective Action must be given to the owner or operator prior to the time when the offer to perform corrective action services is accepted.

(c) The notice must contain the following:

(1) whether the person or entity is registered pursuant to this subchapter;

(2) the person or entity's registration number;

(3) proof of commercial liability insurance required in §334.456(2)(D)(i) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist); and

(4) the disclaimer required in subsection (f) of this section.

(5) a statement signed by the owner or operator and by a representative of the Corrective Action Specialist which indicates both parties are aware of the registration requirements for Corrective Action Specialists and Corrective Action Project Managers set forth in this subchapter, and that reimbursement will be in accordance with the provisions of 31 TAC Subchapter H (relating to the Interim Reimbursement Program) and in accordance with the published TWC Reimbursable Cost Guidelines.

(d) The Notice of Corrective Action must be on a form provided by the executive director. The person contracting with the owner or operator shall provide the owner or operator with a copy of the signed Notice of Corrective Action.

(e) Within 15 days of the date on which the offer to perform corrective action services is accepted, the Corrective Action Specialist shall submit to the executive di-

rector a copy of such written notice signed by the authorized representative of the Corrective Action Specialist and by the owner or operator or their duly authorized agent.

(f) Any bid, proposal, or offer that indicates a company or person is a Corrective Action Specialist must reproduce in its entirety the following disclaimer. The following disclaimer must be a part of any notice required by this section.

(1) The registration of a Corrective Action Specialist by the Texas Water Commission does not constitute endorsement, licensing, or promotion of any Corrective Action Specialist. Registration does not imply that the Texas Water Commission guarantees the quality of the work performed or that the cost of the work may be reimbursed.

(2) Reimbursement for approved work is subject to the eligibility requirements set forth in Subchapter H of this chapter and the Texas Water Commission's Reimbursable Cost Guidelines. Charges exceeding the amount determined as reimbursable for that particular work item shall not be reimbursed by the Commission.

§334.456. Application for Certificate of Registration for Corrective Action Specialist. As determined by the executive director, an application for registration as a Corrective Action Specialist shall meet the following requirements.

(1) The application shall be made on a form provided or approved by the executive director.

(2) The application shall include at a minimum:

(A) the applicant's business name, business mailing address and telephone number, permanent physical address;

(B) the business representative's name and title;

(C) the address, telephone number, and business representative for any branch office that will be operating under the issued certificate of registration;

(D) documentation of financial assurance, including:

(i) evidence of comprehensive general liability insurance designating The Texas Water Commission, Petroleum Storage Tank Division as the certificate holder in an amount of not less than one million dollars and of a type approved by the executive director; and

(ii) one of the following:

(I) a financial statement prepared in conformity with account-

ing principles as defined by the American Institute of Public Accountants, indicating an applicant's current (not more than 12 months old) net worth of not less than \$25,000 that is signed by the applicant's business representative; or,

(II) other evidence of financial assurance which is determined by the executive director to be sufficient for the purposes of this section.

(E) documentation of quality of performance including one of the following:

(i) sworn statements, on forms approved by the executive director, from at least three references, not related by blood or marriage, for whom the applicant performed corrective action services, within the immediately preceding 24 months. Applicable corrective action experience shall not be limited to experience gained at LPST sites, but shall also include corrective actions conducted pursuant to the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Oil Spill Prevention and Response Act (OSPR); the Texas Water Code Chapter 26; or any corrective action conducted under the auspices of the Texas Water Commission, the General Land Office, the Texas Railroad Commission, or the United States Environmental Protection Agency. These statements shall also attest to the applicant's job reliability and the client's satisfaction of performance. Such statements shall also include a description of the type of corrective action services work including engineering, geology, or hydrogeology which was performed by the applicant and the physical address where the activity occurred; or

(ii) a written explanation indicating good cause as determined by the executive director for not providing the sworn statements required in clause (i) of this subparagraph. For the purposes of this subsection, an applicant's experience under the supervision of a registered Corrective Action Project Manager may be sufficient documentation of quality of performance if the executive director determines that the applicant had substantial involvement in the decision-making process during the performance of the work. The written explanation shall include a detailed description of three case histories of corrective action services performed by the applicant during the previous 24 months; or

(iii) other documentation of quality of performance which is determined by the executive director to be sufficient, pursuant to this section.

(3) The applicant shall submit a notarized, completed application that contains a sworn statement from the applicant

attesting to the accuracy of the information provided to the executive director.

§334.457. Application for Certificate of Registration for Corrective Action Project Manager. An application for registration as a Corrective Action Project Manager shall meet the following requirements.

(1) Applications for a certificate of registration shall be made on forms provided or approved by the executive director.

(2) Application for certificate of registration shall include at a minimum:

(A) business mailing address and telephone number, and permanent physical address;

(B) documentation of quality of performance including one of the following:

(i) Sworn statements, on forms approved by the executive director, from at least three references, not related by blood or marriage, for whom the applicant has performed corrective action services, within the immediately preceding 24 months. Applicable corrective action experience shall not be limited to experience gained at LPST sites, but shall also include relevant professional experience derived while working in the oil and gas industry, and corrective actions conducted pursuant to the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Oil Spill Prevention and Response Act (OSPR); the Texas Water Code Chapter 26; or any corrective action conducted under the auspices of the Texas Water Commission, the General Land Office, the Texas Railroad Commission, or the United States Environmental Protection Agency. These statements shall also attest to the applicant's job reliability and the client's satisfaction of performance. Such statements shall also include a description of the type of corrective action services including engineering, geology, or hydrogeology which was performed by the applicant and the physical address where the activity occurred; or

(ii) a written explanation indicating good cause as determined by the executive director for not providing the sworn statements required in clause (i) of this subparagraph. For the purposes of this subsection, an applicant's experience under the supervision of a registered Corrective Action Project Manager may be sufficient documentation of quality of performance if the executive director determines that the applicant had substantial involvement in the decision-making process during the performance of the work. The written explanation

shall include a detailed description of three case histories of corrective action services performed by the applicant during the previous 24 months; or

(iii) other documentation of quality of performance which is determined by the executive director to be sufficient, pursuant to this section.

(3) At the time of applying for registration as a Corrective Action Project Manager, the applicant shall qualify under either option in subparagraph (A) or (B) of this subsection:

(A) two years of experience in corrective action services, as described in paragraph (2)(B)(i) of this section, and evidence required by the executive director which documents that the applicant has passed a registration examination administered by the National Registry of Environmental Professionals (P.O. Box 2111, Glenview, Illinois 60025 (708) 724-6631) or other registration evaluated and accepted by the executive director, and:

(i) a bachelor's degree which is technical in focus from an accredited college or university in a physical science, natural science, biological science, environmental science, engineering, applied geography, or in a subject directly relevant to the environmental field (For each degree relied upon, the applicant shall provide with the registration application an original official transcript from the college or university where the degree was taken.); or

(ii) a current Texas registration as a Professional Engineer. Upon approval by the executive director, the registration examination may be waived for persons who hold current Texas registration as a Professional Engineer;

(B) four years of experience in corrective action services, as described in paragraph (2)(B) (i) of this section, and evidence required by the executive director which documents the applicant has passed a registration examination administered by the National Registry of Environmental Professionals (P.O. Box 2111, Glenview, Illinois 60025 (708) 724-6631) or other registration examination evaluated and accepted by the executive director.

(4) The applicant shall submit a notarized, completed application that contains a sworn statement from the applicant attesting to the accuracy of the information provided to the executive director.

§334.458. Review and Issuance of Certificates of Registration.

(a) An application for a certificate of registration for a Corrective Action Specialist is administratively complete when the executive director has received all the

information required by §334.456 of this title (relating to Application for Certificate of Registration for Corrective Action Specialist). An application for a certificate of registration for a Corrective Action Project Manager is administratively complete when the executive director has received all the information required by §334.457 of this title (relating to Application for Certificate of Registration for Corrective Action Project Manager).

(b) Upon receipt of an application, the executive director shall review the application for administrative completeness. If he determines that the application is not administratively complete, he shall inform the applicant in writing within 45 days of any deficiency and inform the applicant what additional information is required for processing. The applicant shall have 30 days from the date noted on the executive director's written comments to submit the requested additional information. If the executive director does not receive all of the information required within the 30 days prescribed, he shall cease his review and return the application to the applicant without prejudice. An applicant whose application has been returned under this subsection may reapply for a certificate of registration at any time.

(c) The executive director shall issue the applicant a certificate of registration within 45 days if:

(1) his application is administratively complete; and

(2) the applicant meets the education and/or experience criteria required by §334.456 of this title (relating to Application for Certificate of Registration for Corrective Action Specialist) or §334.457 of this title (relating to Application for Certificate of Registration for Corrective Action Project Manager), as applicable.

(d) A certificate of registration issued under this subchapter is not transferable, and must be renewed annually as prescribed in §334.460 of this title (relating to Renewal of Certificate of Registration for Corrective Action Specialist and Registration for Corrective Action Project Manager).

§334.459. Continuing Education Requirements for Corrective Action Project Managers.

(a) A person must complete a minimum of 16 hours of continuing education instruction in order to renew the registration each time it is due for renewal. In order to count towards the required 16 hours, each hour of instruction used must have been completed within the 12 months immediately preceding the date on which he submits an administratively complete

application for renewal. A single continuing education course may not be used for more than one renewal. "Hours of instruction" as used in this section refers to actual time spent in instruction, rather than credits assigned to a course.

(b) In order to be counted toward the continuing education requirement, each hour of instruction must be in:

(1) environmental contamination assessment or remediation at an LPST site or other types of relevant sites;

(2) handling, treatment, or recycling of contaminated media;

(3) sampling techniques, accepted protocol, and quality assurance/quality control;

(4) groundwater hydrogeology;

(5) risk assessment applicable to corrective action for environmental contamination; or

(6) any other subject which has application in the field of assessment and remediation of LPST site contamination.

(c) The training and education courses prescribed in subsection (b) of this section shall be evaluated and accepted by the executive director and provided by educational institutions, governmental institutions, recognized professional organizations, or private businesses, including, but not limited to:

(1) National Ground Water Association;

(2) United States Environmental Protection Agency; or

(3) other recognized professional organizations, or private businesses designated by the executive director as eligible for use toward the continuing education requirements of this section.

(d) The training and educational courses may include instructional courses, seminars, workshops, and conferences.

(e) Courses taken to fulfill Occupational Safety and Health Agency requirements will not count towards the 16 hours.

(f) Corrective Action Project Managers shall submit to the executive director a certificate of completion for the training and education courses required by this section each year with the application for renewal of registration. The certificate of completion shall be dated and signed by the designated provider.

§334.460. Renewal of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager.

(a) Each certificate of registration issued under this subchapter shall expire

one year from the original date of issuance or one year from the last date of renewal.

(b) The executive director shall notify each registered Corrective Action Specialist and Corrective Action Project Manager in writing of the impending registration expiration at least 60 days prior to the expiration of the certificate of registration.

(c) The executive director shall provide application forms for renewal of Corrective Action Specialist and Corrective Action Project Manager registration.

(d) An application for renewal of registration for a Corrective Action Specialist is administratively complete when the executive director has received all the information required by §334.456 of this title (relating to Application for Certificate of Registration for Corrective Action Specialist). An application for renewal of registration for a Corrective Action Project Manager is administratively complete when the executive director has received all the information required by §334.457 of this title (relating to Application for Certificate of Registration for Corrective Action Project Manager), and any information regarding continuing education for the applicant Corrective Action Project Manager as required under §334.459 of this title (relating to Continuing Education for Project Managers). If the applicant has already submitted all necessary information to the executive director in a previous administratively complete application, the information need not be duplicated by the applicant in order for the renewal application to be administratively complete provided that any information regarding financial assurance, continuing education, or any other information for previous applications is current to the date of the filing of the current renewal application in order for the application to be administratively complete. A properly completed application for renewal shall be submitted to the executive director 30 days prior to the expiration date. The renewal application must be accompanied by all information needed for the application to be administratively complete, including the required information regarding financial assurance, or any other information necessary for the executive director to complete the renewal process.

(e) The executive director shall review, return, file or deny an application for renewal in the same manner as an original application for registration.

(f) If an administratively complete application for renewal is submitted by the renewal applicant 30 days prior to the expiration date of the current registration, the current registration shall remain valid until the executive director issues the renewed certificate. If an administratively complete

application for renewal is not filed at least 30 days prior to the expiration date of the current registration and the executive director has not processed the renewal application, the current registration shall expire on its original expiration date, but the registration may be renewed any time within one year of the expiration date. Corrective action services performed after expiration, but before renewal, shall be considered to have been performed without a proper registration under this subchapter.

(g) If a Corrective Action Specialist does not apply for renewal of his registration within one year from the date his previous registration expires, he must submit all information required by §334.456 of this title (relating to Registration of Corrective Action Specialist). If a Corrective Action Project Manager does not apply for renewal of his registration within one year from the date his previous registration expires, he must submit all information required by §334.457 of this title (relating to Registration of Corrective Action Project Manager).

(h) Upon proper completion of the certificate renewal process, the executive director shall issue a certificate of registration indicating the new expiration date.

§334.461. Denial of Certificate of Registration. The executive director may deny a certificate of registration or request for renewal of certificate upon the following reasons, including, but not limited to:

(1) when an applicant registering or renewing registration as a Corrective Action Specialist or Corrective Action Project Manager fails to timely and completely submit the information required by this subchapter for the registration or renewal he is seeking, the application may be denied without prejudice;

(2) when the executive director determines that an applicant has submitted information which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter;

(B) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or,

(D) an affidavit to the executive director regarding Notice of Corrective Action under §334.455 of the title (relating to Notice to Owner or Operator).

(3) when an applicant has performed, offered to perform, or supervised corrective action without possessing a valid certificate of registration pursuant to this subchapter;

(4) when the applicant has performed, or has allowed to be performed, corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective action in a manner prohibited by applicable state, local, or federal laws;

(5) when the applicant has not performed corrective action services in accordance with acceptable industry practices and standards; or,

(6) for any other cause which in the opinion of the executive director constitutes reasonable grounds for denial.

§334.462. Other Requirements.

(a) All registered Corrective Action Specialists shall notify the executive director in writing within 30 days of any change which occurs during the validated year. Such changes shall include but are not limited to:

(1) change of business name, address, telephone number;

(2) change of physical address;

(3) change in status of insurance;

(4) change of business representative;

(5) permanent cessation of corrective action business or corrective action activities;

(6) a filing for reorganization or protection under federal bankruptcy laws; and

(7) change in the number of branch offices conducting corrective action services in Texas, or change of branch office name, address, or telephone number.

(b) A registered Corrective Action Specialist is required to maintain such financial responsibility required by §334.456(2)(D) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist) throughout the period that such person performs activities which require registration as a Corrective Action Specialist under this subchapter.

(c) A Corrective Action Project Manager is required to complete 16 hours of continuing education as provided by §334.459 of this title (relating to Continuing

Education for Corrective Action Project Managers).

(d) Compliance with the provisions of this subchapter by any person shall not relieve such person from the responsibility of compliance with all applicable regulations legally promulgated by the United States Environmental Protection Agency, United States Occupational Safety and Health Administration, United States Department of Transportation, Texas Air Control Board, Texas Department of Health, State Board of Insurance, General Land Office, Texas Commission on Fire Protection, the State Fire Marshal, Railroad Commission of Texas, Texas Department of Agriculture, State Comptroller, Texas Department of Public Safety, Texas Water Commission, and other federal, state, and local governmental agencies or entities having appropriate jurisdiction.

§334.463. Grounds for Revocation or Suspension of Certificate of Registration.

(a) The commission may revoke or suspend the certificate of registration of a Corrective Action Specialist for reasons including, but not limited to:

(1) when a Corrective Action Specialist submits information to the executive director which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter; or

(B) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(D) an affidavit to the executive director regarding Notice of Corrective Action under §334.455 of the title (relating to Notice to Owner or Operator).

(E) any other report or document filed with the Commission or any other governmental agency having applicable jurisdiction.

(2) when a Corrective Action Specialist provides corrective action services covered by this subchapter without having the services supervised by a Corrective Action Project Manager duly registered under this subchapter;

(3) when a Corrective Action Specialist or a person performing corrective action services under his supervision or coordination has performed corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective action in a manner prohibited by applicable state, local, or federal laws; or

(4) when a the Corrective Action Specialist has failed to maintain commercial liability insurance required in §334.456(2)(D)(i) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist);

(5) when a Corrective Action Specialist or a person performing corrective action services under his supervision or coordination violates any requirement or prohibition of this subchapter;

(6) for any other cause which in the opinion of the executive director or commission constitutes reasonable grounds for suspension or revocation.

(b) The commission may revoke or suspend the certificate of registration of a Corrective Action Project Manager for reasons including, but not limited to:

(1) when a Corrective Action Project Manager submits information to the executive director which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter; or

(B) an application for reimbursement submitted to the executive director under Subchapter H of this Chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(D) an affidavit to the executive director regarding Notice of Corrective Action under §334.455 of the title (relating to Notice to Owner or Operator).

(E) any other report or document filed with the commission or any other governmental agency having applicable jurisdiction;

(2) when a Corrective Action Project Manager or a person performing corrective action services under his supervision has performed corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective ac-

tion in a manner prohibited by applicable state, local, or federal laws; or

(3) when a Corrective Action Project Manager or a person performing corrective action services under his supervision or coordination violates any requirement or prohibition of this subchapter;

(4) for any other cause which in the opinion of the commission constitutes reasonable grounds for suspension or revocation.

§334.465. Procedures for Revocation or Suspension of a Certificate of Registration.

(a) A proceeding to revoke or suspend a certification of registration for a Corrective Action Specialist or a Corrective Action Project Manager must be commenced by:

(1) the executive director through the filing of a petition; or

(2) the commission on its own motion.

(b) If the executive director determines good cause exists to revoke or suspend a certificate of registration of a Corrective Action Specialist or a Corrective Action Project Manager, the executive director shall file a petition with the chief clerk and provide notice to the Corrective Action Specialist or Corrective Action Project Manager. To the extent possible, the procedure required to assess administrative penalties under Chapter 337 of this title (relating to Enforcement) shall be followed to revoke or suspend a certification of registration under this subchapter.

(c) In response to a petition, or on its own motion to revoke or suspend a certificate of registration, the commission may:

(1) suspend a certification of registration issued under this subchapter for any period it deems reasonable and necessary under the circumstances, but typically 90 days for a first suspension, six months for a second suspension, and permanent revocation for a third suspension;

(2) place conditions on reinstatement of registration; and

(3) issue any other orders permitted by law.

(d) Revocation or suspension of a certificate of registration is cumulative of any other remedies available to the commission by law.

§334.466. Reinstatement of a Certificate of Registration.

(a) A certificate of registration which has not expired during the period that the holder of the certificate is under suspen-

sion shall be reinstated upon termination of the suspension period. The executive director shall notify the certificate holder of the registration's reinstatement at least ten days prior the expiration of the suspension period.

(b) If the period of suspension exceeds the expiration date of the certificate of registration, the holder of the certificate must reapply for a new registration pursuant to the requirements of §334.456 of this title (relating to Application for Certificate of Registration as Corrective Action Specialist) or pursuant to the requirements of §334.457 of this title (relating to Application for Certificate of Registration as Corrective Action Project Manager).

(c) The holder of a certificate that has been revoked by the commission must file a new application for registration under this subchapter. A Corrective Action Project Manager whose certificate of registration is revoked will be subject to the same continuing education requirements as a new registrant under §334.457 of this title (relating to Application for Certificate of Registration as Corrective Action Project Manager) at the time a new application is filed.

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 April 30, 1993.

TRD-9322367 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: May 21, 1993

Proposal publication date: November 3, 1992

For further information, please call: (512) 463-8069

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 25. Medical Assistance in State Institutions

Trust Fund Money

• 40 TAC §§25.1-25.3

The Texas Department of Human Services (DHS) adopts the repeal of §§25.1-25.3, §§25.21-25.22, §§25.31-25.36, §§25.51-25.65, §§25.81-25.87, and §§25.101-25.102, without changes to the proposed text as published in the March 26, 1993, issue of the *Texas Register* (18 TexReg 1919). This action repeals all of Chapter 25.

The justification for the repeals is to delete unnecessary and obsolete rules from the Texas Administrative Code.

The repeals will function by deleting obsolete

rules.

The department received no comments concerning the repeals.

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

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 April 29, 1993.

TRD-9322286 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

General Policies

• 40 TAC §§25.21, §25.22

The repeals are adopted 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.

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 April 29, 1993.

TRD-9322287 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

Eligibility

• 40 TAC §§25.31-25.36

The repeals are adopted 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 assis-

tance funds.

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

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

TRD-9322288 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

Services Provided

• 40 TAC §§25.51-25.65

The repeals are adopted 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.

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 April 29, 1993.

TRD-9322289 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

Medical Assistance and Money Payments for Patients

• 40 TAC §§25.81-25.87

The repeals are adopted 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.

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 April 29, 1993.

TRD-9322285 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

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Support Documents

- 40 TAC §25.101, §25.102

The repeals are adopted 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.

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 April 29, 1993.

TRD-9322284 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: June 1, 1993

Proposal publication date: March 26, 1993

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

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TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 17. Division of Motor Vehicle Titles and Registration

Registration and Title System

- 43 TAC §17.54

The Texas Department of Transportation adopts an amendment to §17.54, without changes to the proposed text as published in the February 5, 1993, issue of the *Texas Register* (18 TexReg 739).

The department has determined that under applicable laws which statutorily designate the county tax assessor-collectors as agents of the department for processing registration and title documents, the department would look first to those statutory agents with regard to matters concerning any issues relating to the registration and title functions prescribed by law that are performed in the county tax assessor-collector's offices.

The amendment deletes the requirement that a county designate a liaison with the depart-

ment specifically for the matters concerning the use and operation of the automated equipment that will be provided to the county tax assessor-collectors when the department implements the new vehicle registration and title system (RTS).

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 6666, 6687-1, and 6675a-1, et seq, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and for the orderly administration of statutory provisions relating to vehicle registration and certificates of titles.

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 April 30, 1993.

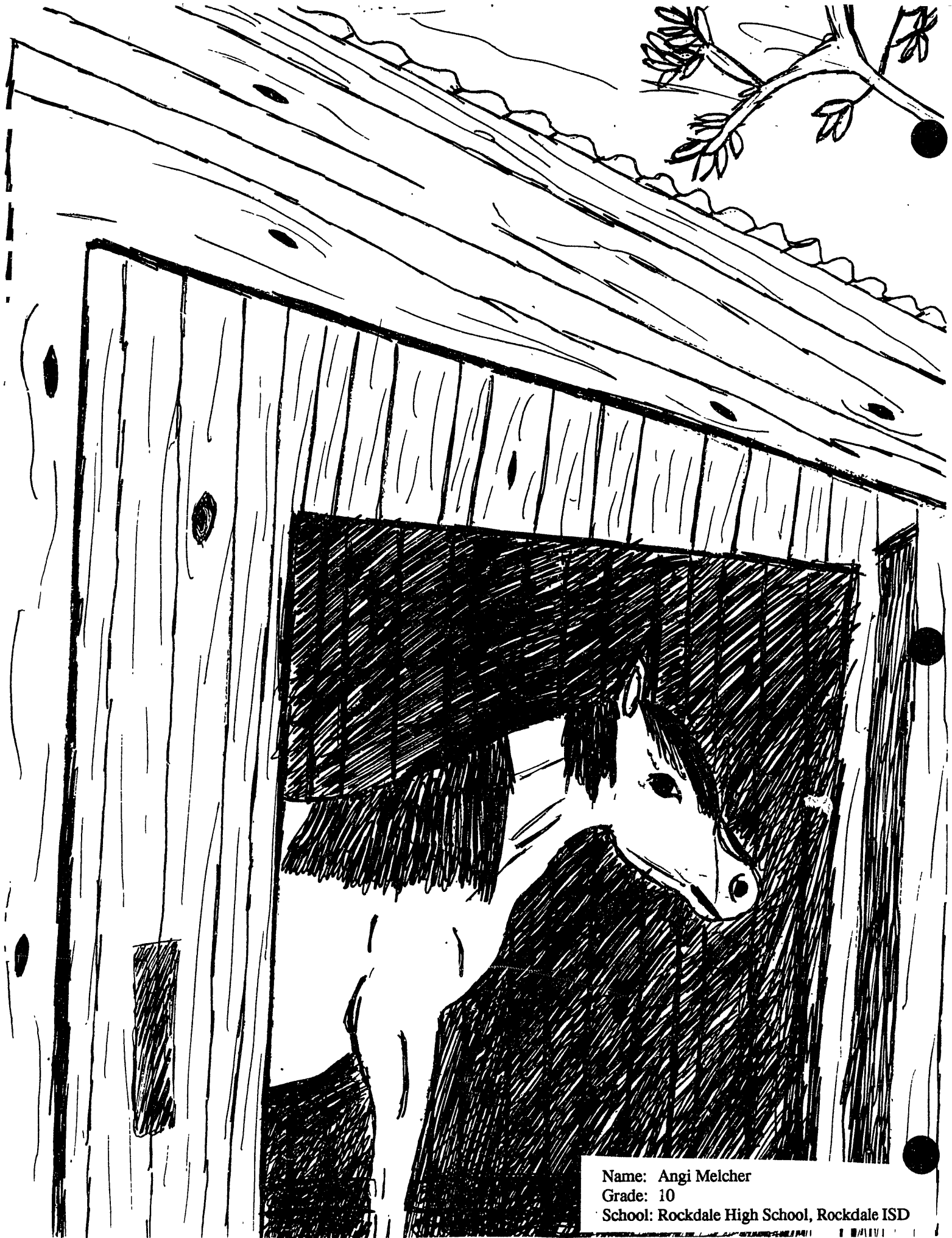
TRD-9322345 Diane L Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: May 21, 1993

Proposal publication date: February 5, 1993

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

◆ ◆ ◆



Name: Angi Melcher

Grade: 10

School: Rockdale High School, Rockdale ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

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

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

Texas State Board of Public Accountancy

Friday, May 14, 1993, 9 a.m. The Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda summary, the board will meet in executive session to discuss pending litigation; consider proposed rules or amendments to §501.2 (Definitions), §511.122 (Acceptable Experience), §511.161 (Qualifications for Issuance of a Certificate); consider adoption of rule §501.11 (Independence), §501.15 (Accreditation), §501.46 (Form of Practice), §513.31 (General Rule) and §519.27(h) (Administrative Cost Recovery); testimony will be accepted from anyone wishing to comment on §519.27(h); discuss rule §501.44 (Soliciting); hear committee reports from the Technical Standards Review Committee, Behavioral Enforcement Committee, Examination Committee, Licensing Committee, Quality Review Committee and Major Cases Committee; and consider proposed board orders, consent orders and proposals for decision.

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

Filed: April 29, 1993, 2:16 p.m.

TRD-9322298

Texas Department of Agriculture

Friday, May 14, 1993, 1:00 p.m. The Texas Department of Agriculture will meet at the Swisher County Courthouse Annex Meeting Room, Tulia. According to the complete agenda, the department will conduct a public hearing to receive public com-

ment regarding proposed special exemptions of the Texas Herbicide Law for Swisher County.

Contact: Lynn Howard, P.O. Box 12847, Austin, Texas 78711, (512) 475-1677.

Filed: April 30, 1993, 1:58 p.m.

TRD-9322354

Thursday, May 20, 1993, 10:00 a.m. The Texas Rice Producers Board of the Texas Department of Agriculture will meet at the Harris County Extension Center, #2 Abercrombie Drive, Houston. According to the complete agenda, the board will call the meeting to order; discuss approval of the last meeting; assess current revenue/expenses and take action on budget adjustment; and review and discuss 1993-1994 budget approve budget plan and take necessary action.

Contact: Curtis Leonhardt, 6669 Rookin, Houston, Texas 77074, (713) 270-6699.

Filed: April 30, 1993, 1:58 p.m.

TRD-9322355

Thursday, June 3, 1993, 9:00 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 924A, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by Sunshine Produce, Inc. as petitioned by Progreso Produce Company.

Contact: Barbara Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: May 3, 1993, 2:06 p.m.

TRD-9322413

Thursday, June 3, 1993, 10:30 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 924A, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by Santa Barbara Produce, Inc. as petitioned by Progreso Produce.

Contact: Barbara Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: May 3, 1993, 2:06 p.m.

TRD-9322414

Tuesday, June 15, 1993, 10:00 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the administrative hearing will review alleged violation of Texas Agriculture Code, §76.116(a)(1) and 4 Texas Administrative Code, §7.22, by Ed Shores, TDA Docket Number 08-93-AEP.

Contact: Joyce C. Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: April 30, 1993, 1:59 p.m.

TRD-9322356

Tuesday, June 15, 1993, 1:00 p.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the administrative hearing will review alleged violation of Texas Agriculture Code, §76.116(a)(1) and 4 Texas Ad-

ministrative Code, §7.22, by Ed Shores, TDA Docket Number 09-93-AEP.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: April 30, 1993, 1:59 p.m.

TRD-9322357

Texas Air Control Board

Monday, May 10, 1993, 3:00 p.m. The Regulation Development Committee of the Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on: adopting revisions to Texas Air Control Board Rule 31, TAC §111.111(a)(4)(B) SIP (Daily Visual Observation of Flares) in response to petition for rulemaking submitted by Texas Chemical Council; to adopt revisions to Regulation VII, concerning control air pollution from nitrogen compounds and the State Implementation Plan (SIP), concerning reasonably available control technology (RACT) for nitrogen oxide (NOx) emissions in the Houston/Galveston and Beaumont/Port Arthur ozone nonattainment areas; and for public hearings on proposed revisions to Regulation VII and the SIP concerning plantwide emission caps, general permits, relationships between existing NOx Permit limitations and RACT, and replicable procedures for phased implementation of NOx RACT.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: April 30, 1993, 3:39 p.m.

TRD-9322374

Tuesday, May 11, 1993, 9:00 a.m. The Monitoring and Research Committee of the Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on approval of contracts and contracting procedures to carry out the Coastal Oxidant Assessment for Southeast Texas (COAST) project to support development of control strategies for ozone in the upper Texas gulf coast.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: April 30, 1993, 3:40 p.m.

TRD-9322375

Tuesday, May 11, 1993, 9:30 a.m. The Permits Oversight Committee of the Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on permit issues: best available control technology report regard-

ing small business cotton gins; and implementation of the strategic plan to streamline permit requirements and procedures.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: April 30, 1993, 3:44 p.m.

TRD-9322377

Tuesday, May 11, 1993, 10:00 a.m. The Budget and Finance Committee of the Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on approval of contracts and contracting procedures to carry out the Coastal Oxidant Assessment for Southeast Texas (COAST) project to support development of control strategies for ozone in the upper Texas Gulf Coast; and on the purchase of equipment; and on merging the purchasing functions of the Texas Air Control Board and the Texas Water Commission.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: April 30, 1993, 3:44 p.m.

TRD-9322376

Tuesday, May 11, 1993, 11:00 a.m. The Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the agenda summary, the board will call the meeting to order; consider and act on approval of the minutes; hear public testimony; consider and act on: nitrogen oxide emissions (NOx); adopt revisions to TACB Rule 31 and SIP in response for rulemaking by Texas Chemical Council; request for proposal and contracts for motor vehicle I/M program; request to review dismissal of contested case hearing Number 278; enforcement report; agreed enforcement orders; permit issues; redesignation of TACB Regional boundaries to conform to uniform state service pegions; approval of contracts and contracting procedures to COAST Oxidant Assessment for Southeast Texas Project; purchase of equipment; developments in Texas Legislature; report on North Central Texas Council of Governments Transportation Planning Activities; merging the purchasing functions of the TACB and TWC; committee meeting reports; discuss new business; and adjourn.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: April 30, 1993, 3:49 p.m.

TRD-9322381

Tuesday, May 11, 1993, 11:00 a.m. The Texas Air Control Board will meet at 12118 North IH-35, Room 201S, Austin. According to the revised agenda summary, the

board will consider and act on nitrogen oxide (NOx): addition issuance of board order establishing general permit pursuant to TACB Rule 103.72 request received from NOx RACT Industry Workgroup.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: May 3, 1993, 3:20 p.m.

TRD-9322424

Texas Bond Review Board

Tuesday, May 11, 1993, 10:00 a.m. The Staff of the Texas Bond Review Board will meet at the Texas Law Center, Room 104, 1414 Colorado Street, Austin. According to the agenda summary, the staff will call the meeting to order; discuss approval of minutes; discuss proposed issues; discuss other business; and adjourn.

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

Filed: May 3, 1993, 3:41 p.m.

TRD-9322428

Daughters of the Republic of Texas, Inc.

Thursday, May 13, 1993, 8:30 a.m. The Board of Management of the Daughters of the Republic of Texas, Inc. will meet at the Holiday Inn-Beaumont Plaza, 3950 I-10 South at Walden Road, Beaumont. According to the agenda summary, the board will determine quorum-public session; give invocation; pledge to flags; give reports and make recommendations for action by committees operating state owned properties; recess to executive session; reconvene in open meeting, to discuss motions arising from executive session; and adjourn.

Contact: Betty F. Burr, 613 Bostwick, Nacogdoches, Texas 75961, (409) 564-7478.

Filed: May 4, 1993, 8:20 a.m.

TRD-9322441

Friday, May 14, 1993, 8 a.m. The One Hundred and Second Annual Convention of the Daughters of the Republic of Texas, Inc. will meet at the Holiday Inn-Beaumont Plaza, 3950 I-10 South at Walden Road, Beaumont. According to the agenda summary, the board will call the meeting to order; determine quorum; announcement of closed session; give invocation; pledges to flags; partial report of credentials committee; report of program committee and convention rules; appointment of resolutions committee; reports of general officers-state properties; reports and recommendations of

committee regarding state properties; reports and recommendations from board regarding state properties; ratification of actions of BOM for past year-state properties; recess to executive session; and vote on unfinished public business.

Contact: Betty F. Burr, 613 Bostwick, Nacogdoches, Texas 75961, (409) 564-7478.

Filed: May 4, 1993, 8:20 a.m.

TRD-9322440

Texas State Board of Dental Examiners

Friday, May 7, 1993, 8 a.m. (Revised agenda). The Texas State Board of Dental Examiners will meet at the Henry B. Gonzales Convention Center, Room 107, San Antonio. According to the agenda summary, the board will have appearances before the board-Dr. Samuel F. Ray, reactivate retired license.

Contact: C. Thomas Camp, 333 Guadalupe Street, Tower 3, Suite 3800, Austin, Texas 78701, (512) 463-6400.

Filed: April 29, 1993, 12:52 p.m.

TRD-9322281

Interagency Council on Early Childhood Intervention

Wednesday, May 12, 1993, 9 a.m. The Interagency Council on Early Childhood Intervention will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the council will receive public comments; discuss approval of the minutes of April 14, 1993, meeting; discuss and possibly act on reports of the advisory committee and director's forum; interagency coordination and liaison assignments; request for proposal for the Early Childhood Intervention (ECI) marketing plan; staff recommendation on revising the ECI policy related to allowing building use and depreciation; posting amendments to ECI rules, 25 TAC §621.25; program income/funding methodology plan for fiscal year (FY) 1994; recommendations to award funding for emergency requests and to announce available funding in FY 1994 for services discontinued by the Tri-County Mental Health Mental Retardation Center; scheduling of council meetings for remainder of FY 1993; high priority infant transitional services award adjustment; and the transition plan for the Region One Education Service Center.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673. 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: May 3, 1993, 4:02 p.m.

TRD-9322433

Texas Education Agency

Thursday, May 6, 1993, 1:30 p.m. The State Board of Education Committee on School Finance of the Texas Education Agency held an emergency meeting at the William B. Travis Building, Room 1-104, 1701 North Congress Avenue, Austin. According to the complete agenda, the committee gave school finance update-this item was originally posted for discussion but is now being posted for action. The emergency status was necessary as the agency found it to be of urgent public necessity for this item to be posted for action rather than discussion to provide the committee an opportunity to discuss and recommend further action on the issue of school finance as a result of the May 1 vote prior to action by the full board on Friday, May 7.

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

Filed: May 4, 1993, 8:19 a.m.

TRD-9322439

Friday, May 7, 1993, 12:30 p.m. The State Board of Education (SBOE) of the Texas Education Agency will meet at the William B. Travis Building, Room 1-104, 1701 North Congress Avenue, Austin. According to the emergency revised complete agenda, the board will give school finance update-this is a new item posted for action by the SBOE. The emergency status is necessary as the agency finds it to be of urgent public necessity for this action item to be added to the agenda of the SBOE to provide the board an opportunity to discuss and recommend further action on the issue of school finance as a result of the May 1 vote.

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

Filed: May 4, 1993, 9:09 a.m.

TRD-9322443

Thursday, May 20, 1993, 10:00 a.m. The Driver Training School Advisory Commission of the Texas Education Agency will meet at the Reagan Building, Room 101, 105 West 15th Street, Austin. According to the agenda summary, the commission will discuss proposed rule change on insurance for vehicles; proposed rule change pertaining to data on student enrollments and attendance; proposed rule change on uniform certificates of completion; proposed rule change on duplicate certificates of completion; proposed rule change on the right to purchase certificates of completion; request to change the rule on advertising

extensions; and discuss director's report on legislation.

Contact: Dee Bednar, 1701 Congress Avenue, Austin, Texas 78701, (512) 463-9484.

Filed: May 3, 1993, 2:36 p.m.

TRD-9322423

Employees Retirement System of Texas

Wednesday, May 12, 1993, 10 a.m. The Trustee Election Committee; ERS Board of Trustees of the Employees Retirement System of Texas will meet at the Brown-Healy Building, Public Hearing Room, 4900 North Lamar Boulevard, Austin. According to the complete agenda, the committee and board will discuss certification of trustee election results; future meeting date (if needed); and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: May 4, 1993, 8:46 a.m.

TRD-9322442

Texas Employment Commission

Tuesday, May 11, 1993, 9:00 a.m. The Texas Employment Commission will meet at the TEC Building, Room 644, 101 East 15th Street, Austin. According to the complete agenda, the commission will discuss approval of prior meeting notes; consider and possibly approve bid for interior and exterior renovation at the Wichita Falls agency-owned building; consider and possibly approve bid for parking lot repairs at the Conroe agency-owned building and expenditure of \$1,766 out of the Unemployment Compensation Special Administration Fund for the repairs; consider proposed or pending legislation and possible action with respect thereto; internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 19; and set date of next meeting.

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

Filed: May 3, 1993, 4:07 p.m.

TRD-9322434

Finance Commission of Texas

Thursday, May 13, 1993, 8:30 a.m. The Audit Committee of the Finance Commis-

sion of Texas will meet at 2601 North Lamar Boulevard, Austin. According to the complete agenda, the committee will review and discuss approval of minutes of previous meeting; and discuss Department of Banking Internal Audit report on review of bank examination procedures and department response.

Contact: Randall James, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: April 30, 1993, 8:57 a.m.

TRD-9322326

Thursday, May 13, 1993, 9:15 a.m. The Consolidation Subcommittee of the Finance Commission of Texas will meet at the Finance Commission Building, 2601 North Lamar Boulevard, Austin. According to the complete agenda, the subcommittee will review and discuss approval of minutes of previous meeting; and review, discuss, and act on materials gathered on feasibility of consolidation of the three agencies under the Finance Commission.

Contact: Randall James, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: April 30, 1993, 8:56 a.m.

TRD-9322325

Thursday, May 13, 1993, 9:30 a.m. The Finance Commission of Texas will meet at the Finance Commission Building, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the commission will review and discuss approval of minutes of previous meeting; discuss Finance Commission matters; hear report from the Office of the Consumer Credit Commissioner; Savings and Loan Department; Banking Department; meet in executive session to discuss supervisory, litigation, and personnel matters; and closed hearing to consider appeals of two orders to cease and desist issued by the Banking Commissioner.

Contact: Randall James, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: April 30, 1993, 8:56 a.m.

TRD-9322323

Guaranty Fund Advisory Council

Monday, May 10, 1993, 1:30 p.m. (Rescheduled from April 21, 1993). The Guaranty Fund Advisory Council will meet at the State Finance Building, 2601 North Lamar Boulevard, Austin. According to the complete revised agenda, the council will review and approve minutes of previous meeting; consider and vote to recommend adoption of Rules 25.18, 25.19 and 25.20;

consider and vote whether to pay the actuarial bill; discuss and review the status of the Guaranty Fund; consider and vote whether to authorize an actuarial study; and discuss the status of prepaid funeral contract legislation.

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

Filed: April 30, 1993, 8:56 a.m.

TRD-9322324

Texas Department of Health

Tuesday, May 11, 1993, 11 a.m. The Advisory Council of the Opticians' Registry of the Texas Department of Health will meet in Room S-400, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the council will discuss approval of the January 21, 1992, meeting; discuss and possibly act on election of officers; program manager's report; amendments to rules concerning continuing education options; topics for future agenda items; and future meeting dates.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6661. 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: May 3, 1993, 4:02 p.m.

TRD-9322431

Wednesday, May 12, 1993, 10:30 a.m. The Advisory Committee on Mental Retardation Facilities of the Texas Department of Health will meet in Room S-400, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on updates on licensure revisions; intermediate care facilities for the mentally retarded an related conditions positions/training and initial surveys; and informed consent legislation.

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

Filed: May 3, 1993, 4:02 p.m.

TRD-9322429

Wednesday, May 19, 1993, 9 a.m. The Children's Speech, Hearing, and Language Screening Advisory Committee of the Texas Department of Health will meet in Room G-107, Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss approval of the minutes of the January 20, 1993, meeting; discuss and possibly

act on subcommittee report concerning speech and language; and hearing; review of opinion statement; federal guidelines and eligibility criteria-Program for Amplification for Children of Texas (PACT); Texas Department of Health staff reports; and hear public comments.

Contact: Doug Ozias, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7420. 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: May 3, 1993, 4:02 p.m.

TRD-9322432

Texas Department of Insurance

Thursday, May 27, 1993, 9:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete agenda, the board will consider and possibly act on adoption of revised workers compensation classification relativities for the voluntary market pursuant to Article 5.60, which will be heard inconjunction with Docket Number 1983.

Contact: Angelia Johnson, 333 Guadalupe Street, Austin, Texas 78701, (512) 463-6527.

Filed: April 30, 1993, 3:06 p.m.

TRD-9322371

Wednesday, May 12, 1993, 9:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the agenda summary, the board will discuss personnel; litigation; commissioner's orders; solvency; staff reports; legislative update; consider to adopt new 28 TAC 1.413 concerning maintenance tax assessment/surcharge; consider filings by Colonial Casualty Insurance company, General Accident Insurance Company of America, Amica Mutual Insurance Company, American Motorists Insurance Company etal, the Aetna Casualty and Surety Company etal, Maryland Casualty Insurance Company etal, Travelers Lloyds Insurance Company, the Hartford Steam Boiler Inspection and Insurance Company of Texas, Cumis Insurance Society, Inc., Ranger Lloyds etal, Church Mutual Insurance Company, Zurich Insurance Company, Nationwide Mutual Insurance Company etal, the St. Paul Insurance Company etal, the Travelers Indemnity Company etal; consider withdrawal of 28 TAC 9.1 concerning manual rules, rates and forms for title insurance; whether to grant a meeting or hearing petition on personal auto

and residential property insurance; 1993 call for Title insurance company and agent statistical reports.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: April 30, 1993, 3:06 p.m.

TRD-9322372

Texas State Board of Medical Examiners

Friday-Saturday, April 30-May 1, 1993, 1 p.m. and 8:30 a.m. respectively. The Texas State Board of Medical Examiners held an emergency meeting at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the board will discuss proposed legislation and its impact on the board; discuss and take action on proposed rule changes; and consider approval of additional agreed board orders. Please note the starting time for the meeting has been moved to 1 p.m. Please also note that the case on Dr. Arrondo has been cancelled. Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484. The emergency meeting was necessary due to information that came to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: April 29, 1993, 1:03 p.m.

TRD-9322282

Texas Board of Pardons and Paroles

Monday-Friday, May 10-14, 1993, 1:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel(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: April 30, 1993, 9 a.m.

TRD-9322328

Tuesday, May 11, 1993, 9:00 a.m. The Texas Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will meet to discuss and act on the following items: update of the in-prison therapeutic community program; consider use of F16; SCR 26; special needs parole; intermediate sanctions facilities/pre-parole transfer/halfway house/Lockhart work program report; special programs; substance abuse felony punishment facilities; special review of eligible inmates; current and future training sessions; pending litigation; and meet in executive session.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 3, 1993, 10:33 a.m.

TRD-9322400

Tuesday-Wednesday, May 11-12, 1993, 1:30 p.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, a 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: April 30, 1993, 9 a.m.

TRD-9322327

Wednesday-Thursday, May 12-13, 9 a.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1212 North Velasco, Suite 201, Angleton. According to the agenda summary, a panel(s) (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: April 30, 1993, 9 a.m.

TRD-9322329

Thursday-Friday, May 13-14, 1993, 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, a 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: April 30, 1993, 9:25 a.m.

TRD-9322331

Thursday-Friday, May 13-14, 1993, 12:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at Route 5, Box 258-A, Gatesville. According to the agenda summary, a panel(s) (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: April 30, 1993, 9 a.m.

TRD-9322330

Board of Plumbing Examiners

Monday, May 10, 1993, 9:00 a.m. The Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the agenda summary, the board will take roll call; recognize visitors; discuss minutes of the March meeting; Building Officials Association of Texas-Danny Moss, President; Hardship Cases-Jose Luis Zamora, Gary R. Honeycutt; Chris Maczka, Assistant Attorney General-proposed rules which have been published, issuance of citations; hear board committee reports; administrator's report; financial report; examination report; and field department report.

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145.

Filed: April 30, 1993, 2:48 p.m.

TRD-9322364

Texas Board of Private Investigators and Private Security Agencies

Tuesday, May 11, 1993, 9:30 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet at the Driskill Hotel, Crystal Ballroom, 604 Brazos Street, Austin. According to the complete agenda, the board will discuss approval of minutes of December 16, 1992 board meeting; review staff recommendation and board on new licenses, suspension orders, reinstatement orders, revocations, denials, reprimands, requests for waivers, other proposals for decision; requests for rehearings and related issues; report on Ad Hoc Committees; discuss and possible board action on proposed board rule change; and hear public comment.

Contact: Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, (512) 463-5545.

Filed: May 3, 1993, 3:20 p.m.

TRD-9322425

Texas Public Finance Authority

Thursday, May 13, 1993, 1:30 p.m. The Board of the Texas Public Finance Authority will meet at the Reagan Building, 105 West 15th Street, Room 101, Austin. According to the agenda summary, the board will call the meeting to order; discuss action taken at the Bond Review Board meeting of April 23, 1993, and approving the issuance of Texas Public Finance Authority General Obligation Bonds, Series B, in the amount of \$323,750,000 to finance projects for the Texas Department of Criminal Justice and the Texas Youth Commission; select winning bidder and consider a resolution authorizing the issuance of bonds to finance projects for the Texas Department of Criminal Justice and the Texas Youth Commission, the execution and delivery of documents in connection therewith, and the taking of action to effect the sale and delivery of the bonds and resolving relating matters; discuss approval of March 4, 1993, board meeting minutes; consider a board resolution authorizing an escrow swap to achieve maximum possible savings; consider a request for financing for \$19,062, 477.50 from the Texas Youth Commission; consider request from the Texas Department of Criminal Justice to move money from one project to another; consider selection of underwriter, bond counsel and co-bond counsel on variable rate demand bond program; introduction of new director of operations, Carolyn Kingston, and hear report by Deputy Director and General Counsel, Sandra Hauser; report from executive director re-

garding legislation; discuss other business; set time and date for next board meeting; and adjourn.

Contact: Michelle Frazier, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

Filed: May 4, 1993, 9:44 a.m.

TRD-9322445

Public Utility Commission of Texas

Monday, June 8, 1993, 9:00 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 11745, application of Houston Lighting and Power Company to revise general tariff to make the supplemental agreement for cool storage billing demand-CSB experimental a permanent rate.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 23, 1993, 3:17 p.m.

TRD-9322092

Monday, May 10, 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 post hearing conference in Docket Number 11000-application of Houston Lighting and Power Company to amend CCN for the Dupont project generating unit.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 29, 1993, 3:39 p.m.

TRD-9322306

Tuesday, May 11, 1993, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11793-application by Gulf States Utilities Company to sell facilities to Sam Rayburn Municipal Power Agency.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 29, 1993, 3:38 p.m.

TRD-9322304

Thursday, May 13, 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 11978-complaint of William M. Collins against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 29, 1993, 3:39 p.m.

TRD-9322305

Railroad Commission of Texas

Monday, May 10, 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: April 30, 1993, 10:19 a.m.

TRD-9322335

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) 463-7187.

Filed: April 30, 1993, 10:21 a.m.

TRD-9322342

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: April 30, 1993, 10:19 a.m.

TRD-9322337

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: April 30, 1993, 10:18 a.m.

TRD-9322334

The commission will meet in consideration of category determinations under §§102(c)(1)(B), 102(c)(1)(c), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: April 30, 1993, 10:20 a.m.

TRD-9322341

The commission will consider and act on the office of information services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: April 30, 1993, 10:19 a.m.

TRD-9322338

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: April 30, 1993, 10:19 a.m.

TRD-9322339

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments. 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: April 30, 1993, 10:20 a.m.

TRD-9322340

The commission will consider and act on the division director's report on budget, personnel and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: April 30, 1993, 10:19 a.m.

TRD-9322336

The commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin Hodgkiss, P.O. Box 12967, Austin, Texas 78701, (512) 463-6901.

Filed: April 30, 1993, 10:22 a.m.

TRD-9322343

Texas Real Estate Commission

Saturday, May 8, 1993, 1 p.m. The Examination and Education Subcommittee of the Texas Real Estate Inspector Committee of the Texas Real Estate Commission will meet at 1101 Camino La Costa, TREC Headquarters, Room 235, Second Floor, Austin. According to the complete agenda, the subcommittee will call the meeting to order; possibly meet in executive session to discuss examination materials pursuant to Attorney General Opinion H-484; discuss and possible recommendations concerning examinations, education requirements, or monitoring of courses; and adjourn. For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to meeting.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711, (512) 465-3900.

Filed: April 29, 1993, 2:12 p.m.

TRD-9322292

Monday, May 10, 1993, 9:30 a.m. The Texas Real Estate Commission will meet at TREC Headquarters Office, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the agenda summary, the commission will discuss and possibly act on: proposed amendment to 22 TAC §535.164 and repeal of §535.165; informal distribution of draft contract forms for comment; education providers and courses; meet in executive session to discuss pending litigation; payments from recovery funds; motions for rehearing; and entry of orders. For ADA assistance, call Nancy Guevremont (512) 465-3923 at least two days prior to meeting.

Contact: Camilla Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: April 30, 1993, 8:13 a.m.

TRD-9322315

Statewide Health Coordinating Council

Wednesday, May 12, 1993, 1:30 p.m. The Statewide Health Coordinating Council will meet in the May Owen Conference Room, Tenth Floor, Texas Medical Association, 401 West 15th Street, Austin. According to the complete agenda, the council will discuss approval of the minutes of April 7, 1993; meeting; discuss and possibly act on bureau chief's report; legislative committee report and act on pending bills; report on minority health symposium; preventative health block grant update; coordination among health-related councils and other groups; and correspondence discussion.

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: May 3, 1993, 4:02 p.m.

TRD-9322430

Teacher Retirement System of Texas

Monday, May 10, 1993, 9:00 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River, Fifth Floor, Board Room, Austin. According to the complete agenda, the board will discuss update on implementation of recommendations resulting from real estate review by Coopers and Lybrand; consider disposition strategy for owned real estate; amendments of 1992-1993 TRS pension trust fund budget for professional services; update on forensic analysis of real estate portfolio being conducted by Coopers and Lybrand; and hearing and consideration of post-termination appeal of Gene Reischman. The board may enter into closed session as provided by the Texas Open Meetings Act, §2(e) and §2(g).

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: April 30, 1993, 2:39 p.m.

TRD-9322363

Texas Department of Transportation

Saturday, May 8, 1993, 9:00 a.m. The Texas Transportation Commission of the Texas Department of Transportation will meet in an emergency meeting at the Marriott Inn, 900 North Shoreline Drive, Hospitality Suite, Corpus Christi. According to the complete agenda, the commission will meet in executive session pursuant to

Article 6252-17, §2(g) to interview applicants for appointment to the position of executive director. The emergency status was necessary because of immediate action to enable the commission and the department to continue the discharge of duties concerning safety and welfare of the traveling public as a matter of urgent public necessity.

Contact: Josie Pellegrino, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

Filed: May 3, 1993, 10:42 a.m.

TRD-9322402

University Interscholastic League

Wednesday, May 5, 1993, 9:00 a.m. The State Executive Committee of the University Interscholastic League held an emergency meeting at the Red Lion Hotel, IH-35 North at Highway 290, Austin. According to the agenda summary, the committee will review and discuss alleged violation of: Section 1260(h)(7), exceeding practice restrictions in golf by Winnsboro High School; Section 1260(h)(7), exceeding practice restrictions in golf by San Antonio Jefferson High School; Athletic Code, individual competing in too many swim relays, Conroe, McCullough High School; and appeal of Automatic penalty for violation of Athletic Code by Coach Curtis Eurich, Ganado High School. The emergency status was necessary as alleged violation could have resulted in disqualification, allowing other students to participate in state meet.

Contact: C. Ray Daniel, P.O. Box 8028, UT Station, Austin, Texas 78713, (512) 471-5883.

Filed: May 3, 1993, 4:29 p.m.

TRD-9322436

The University of Texas at Austin

Monday, May 3, 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, Jackson Room, 21st and San Jacinto Streets, University of Texas, Austin. According to the agenda summary, the council called the meeting to order; discussed approval of the minutes of the previous meeting; old business; new business; announcements/information reports; met in executive session; and adjourned.

Contact: Jody Conrath, UT Austin, 33800 BEL 718, Austin, Texas 78712, (512) 471-7693.

Filed: April 29, 1993, 3:49 p.m.

TRD-9322309

Texas Water Commission

Wednesday, May 12, 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: hazardous waste class 3 mod; municipal solid waste; water quality permits; amendments to water quality permits; renewal to water quality permits; water right permits; district matters; water rate matters; 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: April 29, 1993, 4:06 p.m.

TRD-9322310

Wednesday, May 12, 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: hazardous waste enforcement; water quality enforcement; rules; meet in executive session; in addition, the commission will consider items previously posted for open 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: April 29, 1993, 4:07 p.m.

TRD-9322311

Thursday, May 13, 1993, 9:30 a.m. The Texas Water Well Drillers Council of 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 council will consider the approval of the minutes of its February 4, 1993 meeting; consider whether to set the following complaints for a formal hearing or appropriate legal action: Tommy Arnold, Mike Winstead, Rex Bible, Mike Coles, Dean Davenport, Claude Davis, James Douquet, J. B. Gillen, Santiago and Thomas Moy and Sons Gonzales, Edward Jarzombek, Jr., Delbert Killinger,

Mark Lewis, Gere Pritchett, Ed Ruoff, John Richardson, David Burleson, Brent Tjaden, Murry Walker, and Sandy Albu; council will consider the certification of applicants for registration; consider the application for driller-trainee registration; consider reinstatement of Ed Thomas' license; and consider staff reports.

Contact: Kathy Keils, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 30, 1993, 2:50 p.m.

TRD-9322366

Friday, May 14, 1993, 9:30 a.m. The Texas Water Well Drillers Council of 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 council will consider WWD-93-97, James Fleck, License Number 1586W; WWD-93-13, John Garcia, License Number 2232W; WWD-93-14, Marion Heisler, License Number 2449W; WWD-93-15, Donald Donnley, License Number 3064W; WWD-93-16, Brent Tjaden, License Number 2936W; WWD-93-17, Royce Radicke, License Number 3074W; WWD-93-18, Ronnie Davis, License Number 1979W; WWD-93-19, David Coleman, License Number 1601W; WWD-93-29, Donn Galloway, License Number 3067W; WWD-93-21, Billy J. Pearson, License Number 625W; WWD-93-22, William Curtis Reel, License Number 989W; and WWD-93-23, Francisco Huerta, License Number 1433W.

Contact: Kathy Keils, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 30, 1993, 2:51 p.m.

TRD-9322368

Tuesday, May 25, 1993, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 119, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on request for reimbursement from petroleum storage tank remediation fund by Southguard Corporation.

Contact: Jason Bateman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 2:14 p.m.

TRD-9322296

Tuesday, June 8, 1993, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1149B, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on request for reimbursement from petroleum storage tank remediation fund by J. R. Brownstein.

Contact: Carol Wood, P.O. Box 13087,

Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 2:14 p.m.

TRD-9322297

Wednesday, June 9, 1993, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on request for reimbursement from petroleum storage tank remediation fund by Coastal Transport Company, Inc.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 2:13 p.m.

TRD-9322293

Thursday, June 10, 1993, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on request for reimbursement from petroleum storage tank remediation fund by Texas Star Oil Company.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 2:14 p.m.

TRD-9322295

Tuesday, June 15, 1993, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on request for reimbursement from petroleum storage tank remediation fund by Tommy Jacobs.

Contact: Elizabeth Bourbon, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 2:13 p.m.

TRD-9322294

Tuesday, June 15, 1993, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Orange County Courthouse, Commissioners' Courtroom, 801 West Division #203, Orange. According to the agenda summary, the commission will hold a public hearing on an application for renewal of Permit Number 11357-01 by Mr. and Mrs. Leroy Brown doing business as Oak Terrace Mobile Home Park for authorization to discharge treated domestic wastewater effluent.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 29, 1993, 4:07 p.m.

TRD-9322312

Thursday, June 17, 1993, 9:00 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the William B. Travis Building, Room 1-100, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a public hearing on an application renewal of Permit Number 1.11866-01 by Brushy Creek Municipal Utility District for authorization to discharge treated domestic wastewater effluent.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 3, 1993, 2:07 p.m.

TRD-9322416

Thursday, June 17, 1993, 9:00 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the William B. Travis Building, Room 1-100, Austin. According to the agenda summary, the commission will hold a public hearing on an application for renewal of Permit Number 11865-01 by Brushy Creek Municipal Utility District for authorization to discharge treated domestic wastewater effluent.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 3, 1993, 2:07 p.m.

TRD-9322418

Texas Workers' Compensation Insurance Fund

Friday-Saturday, May 7-8, 1993, 10 a.m. and 8:30 a.m. respectively. The Board of Directors of the Texas Workers' Compensation Insurance Fund will meet at the Lakeway Inn Conference Resort, Austin. According to the complete agenda, the board will have an informal training retreat/meeting. The retreat is an educational workshop and there is no formal agenda. No formal action will be taken at the meeting, but it is possible that discussions could occur which could be construed to be "de-liberations" within the meaning of the Open Meetings Act; therefore, the meeting will be treated as an "open meeting" and the public will be allowed to observe.

Contact: Jodie Bowen, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3851.

Filed: May 3, 1993, 3:41 p.m.

TRD-9322427

Regional Meetings

Meetings Filed April 29, 1993

The Central Counties Center for Mental Health and Mental Retardation Services (Rescheduled from April 20, 1993 to May 28, 1993) Board of Trustees met at the Killeen Mental Health and Mental Retardation Center, 100 East Avenue A, Killeen, May 5, 1993, at 6:30 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9322280.

The Lower Colorado River Authority Special Pricing Committee met at the LCRA's Buchanan Dam Administration Building on Highway 29, approximately 12 miles west of Burnet and 1.5 miles west of the Inks Dam Bridge, Burnet, May 5-6, 1993, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9322302.

The Lower Colorado River Authority Board of Directors met at the LCRA's Buchanan Dam Administration Building on Highway 29, approximately 12 miles west of Burnet and 1.5 miles west of the Inks Dam Bridge, Burnet, May 5-6, 1993, at 8 a.m. and 7:30 a.m., respectively. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9322300.

The Lower Colorado River Authority Special Pricing Committee will meet at 3701 Lake Austin Boulevard, Hancock Building, Austin, May 3-4, 1993, and each business day as needed between May 7, 1993, and May 18, 1993, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9322301.

The Tax Appraisal District of Bell County Board of Directors met at the Tax Appraisal District Building, 411 East Central Avenue, Belton, May 5, 1993, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9322299.

Meetings Filed April 30, 1993

The Angelina and Neches River Authority Board of Directors met at the Crown Colony Country Club, Azalea Room, Lufkin, May 4, 1993, at 10 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795, or Fax (409) 632-2564. TRD-9322314.

The Austin-Travis County MHMR Center Public Relations Committee met at 1430 Collier Street, Board Room, Austin, May 5, 1993, at 12:30 p.m. Information may be

obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9322388.

The Bell-Milam-Falls Water Supply Corporation Board of Directors met at the WSC Office, West FM 485, Cameron, May 6, 1993, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9322344.

The Creedmoor MAHA Water Supply Corporation Board of Directors met at 1699 Laws Road, Mustang Ridge, May 5, 1993, at 7:30 p.m. Information may be obtained from Charles P. Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991. TRD-9322322.

The Dallas Area Rapid Transit (DART) Administrative Committee met at 1401 Pacific Avenue, Dallas, May 4, 1993, 11:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9322378.

The Dallas Area Rapid Transit (DART) Rail Committee met at 1401 Pacific Avenue, (DART Headquarters), Dallas, May 4, 1993, 3:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9322379.

The Dallas Area Rapid Transit (DART) Public Affairs Committee met at 1401 Pacific Avenue, Dallas, May 4, 1993, 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9322380.

The Dallas Central Appraisal District Appraisal Review Board met at 2949 North Stemmons Freeway, Dallas, May 5, 1993, at 8:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9322361.

The East Texas Council of Governments Executive Committee met at the ETCOG Office, Kilgore, May 6, 1993, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9322313.

The Gonzales County Appraisal District Agricultural Advisory Board met at 928 St. Paul Street, Gonzales, May 4, 1993, at 7:30 p.m. Information may be obtained from Glenda Starckbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9322370.

The Johnson County Rural Water Supply Corporation Handbook Committee met at the JCRWSC Office, Highway 171 South, Cleburne, May 5, 1993, at 10:30 a.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne,

Texas 76031, (817) 645-6646. TRD-9322350.

The Middle Rio Grande Development Council Texas Review and Comment System Committee met at the Holiday Inn, Sage Room, 920 East Main, Street, Uvalde, May 6, 1993, 4:00 p.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9322387.

The Sulphur River Basin Authority Board of Directors will meet at the Mt. Pleasant Chamber of Commerce Building, 1604 North Jefferson, Mt. Pleasant, May 11, 1993, at 3:00 p.m. Information may be obtained from William O. Morriss, P.O. Box 240, Texarkana, Texas 75504, (903) 793-5511. TRD-9322360.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, May 10, 1993, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9322332.

The Upshur County Appraisal District Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, May 13, 1993, at 9:00 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9322333.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Board Room, Decatur, May 11, 1993, at 7:30 p.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081, Ext. 04. TRD-9322359.

Meetings Filed May 3, 1993

The Cash Water Supply Corporation will meet at the Administration Office, FM 1564 East, Greenville, May 11, 1993, at 7:00 p.m. Information may be obtained from Donna Mohon, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9322403.

The Dallas Area Rapid Transit (DART) Officers' and Chairs' will meet at 1401 Pacific Avenue, Dallas, May 7, 1993, at 12:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9322401.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, May 12, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9322410.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, May 19, 1993, at

9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9322409.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, May 12, 1993-July 20, 1993 at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9322411.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Board Room, Stephenville, May 11, 1993, at 7:00 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9322393.

The Garza County Appraisal District Appraisal Review Board will meet at the Appraisal District Office, 124 East Main, Post, May 14, 1993, at 2 p.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356. TRD-9322394.

The Gregg County Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, Monday, May 10, 1993, at 9:00 a.m. Information may be obtained from Bill Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9322398.

The Gulf Coast Quality Work Force Planning Committee TechForce 2000, Inc. will meet at the Harris Private Industry Council, I-10 East and Federal Road, Nations Bank Building, Houston, May 12, 1993, at 10:00 a.m. Information may be obtained from Karen E. Baird, 250 North Sam Houston Parkway East, Houston, Texas 77060, (713) 591-9306. TRD-9322395.

The Hale County Appraisal District Appraisal Review Board will meet at 302 West Eighth Street, Plainview, May 12, 1993, 10:00 a.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79072, (806) 293-4226. TRD-9322397.

The Hale County Appraisal District Board of Directors will meet at 302 West Eighth Street, Plainview, May 13, 1993, at 7:30 p.m. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226. TRD-9322396.

The Region IV Education Service Center Special Board of Directors will meet at the Region IV Education Service Center, Board Room 7145 West Tidwell, Houston, May 7, 1993, at 10:30 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534. TRD-9322419.

The Sabine Valley Center Finance Committee will meet at 107 Woodbine Place, Administration Building, Longview, May 10, 1993, at 6:00 p.m. Information may be obtained from Mack Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9322420.

The Sabine Valley Center Personnel Committee will meet at 107 Woodbine Place, Administration Building, Longview, May 10, 1993, at 6:00 p.m. Information may be obtained from Mack Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9322421.

The Sabine Valley Center Board of Trustees will meet at 107 Woodbine Place, Administration Building, Longview, May 10, 1993, at 7:00 p.m. Information may be obtained from Mack Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9322422.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Texas Commerce Tower, 2200 Ross Avenue, 28th Floor, Main Conference Room, Dallas, May 6, 1993, at 5:30 p.m. Informa-

tion may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9322426.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Texas Commerce Tower, 2200 Ross Avenue, 28th Floor, Main Conference Room, Dallas, May 6, 1993, at 6:00 p.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9322435.





Name: Rhyne Rundell

Grade: 12

School: Rockdale High School, Rockdale ISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas State Board of Public Accountancy

Notice of Public Hearing

The Texas State Board of Public Accountancy will conduct a public hearing to receive comments on a rule proposed for adoption by the Board (§519.27(h) Administrative Cost Recovery). The hearing is held in compliance with Section 6 of the Public Accountancy Act of 1991, Texas Civil Statutes, Article 41a-1 and the Administrative Procedure and Texas Register Act, §5(c), which requires a public hearing when 25 or more persons request a hearing. The public hearing will be held on May 14, 1993, at 9:00 a.m., at 1033 La Posada, Suite 340, Austin. Oral testimony will be limited to ten minutes; written documentation to be submitted to the Board prior to the hearing.

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

TRD-9322358 William Treacy
Executive Director
Texas State Board of Public Accountancy

Filed: April 30, 1993

Texas Air Control Board

Notice of Public Hearing-Fees

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017(a); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations, 51.102 of the U.S. Environmental Protection Agency regulations concerning State Implementation Plans, the TACB will conduct a public hearing to receive testimony concerning revisions to its rules.

The TACB proposes amendment to §101.24, concerning Inspection Fees; §101.27, concerning Emissions Fees; and §101.28, concerning Asbestos Fees. The proposed revisions add wording to indicate that fees must be paid to any successor of the TACB due to the merger of the TACB into a new environmental agency in September of 1993. In §101.27(c), the TACB proposes to raise the Emissions Fee rate for fiscal year 1994 from \$5 to \$25 per ton, and for fiscal year 1995, to \$26 per ton. The minimum Emissions Fee is being increased from \$25 to \$26 for fiscal year 1995, for consistency with the new fee rate. In addition, the TACB proposes to modify §101.27(b) to allow the option of reporting either actual emissions or allowable levels on the fee return form. The 73rd Texas Legislature may write the 1994-1995 Appropriations Bill using the term "owner/operator" as defined in 40 Code of Federal Regulations 61, Subpart M, instead of the term "contractor," to indicate who will be required to pay Asbestos

Fees. If that change occurs, the term "owner/operator" will replace the term "contractor" in §101.28 and the last sentence in §101.28(a), which defines "contractor," will be deleted.

A public hearing on this proposal will be held on June 1, 1993, at 10:00 a.m. in the Auditorium (Room 201S) of the TACB Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, TACB staff members will be available to discuss the proposal and answer questions at 9:30 a.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB, 12124 Park 35 Circle, Austin, Texas 78753 through June 11, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed rules. Copies of the proposal revisions are available at the TACB Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information, contact Diane Stallings (512) 908-1471.

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

Issued in Austin, Texas, on April 28, 1993.

TRD-9322319 Lane Hartsock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: April 30, 1993

Notice of Public Hearing-Procedural Rules

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA), §382.017(a); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); the TACB will conduct a public hearing to receive testimony concerning revisions to its rules.

The TACB proposes an amendment to §103.46, concerning Prehearing Conference. The proposed changes have been developed in response to an initiative by the Hearings Oversight Committee of the TACB to improve the hearings process. The proposed changes require that all parties to the hearing make pertinent information available to all other parties at a time and place to be determined by the hearing examiner. The current language only requires such disclosure of the permit applicant.

A public hearing on this proposal will be held on June 1, 1993, at 2:00 p.m. in the Auditorium (Room 201S) of the TACB Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, TACB staff members will be available to discuss the proposal and answer questions at 1:30 p.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753 through June 11, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposal are available at the Regulation Development Division of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753 and at all TACB regional offices. For further information, contact Lisa Martin (512) 908-1966.

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

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

TRD-9322320 Lane Hartsock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: April 30, 1993



Public Hearing Notice

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017(a); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the U.S. Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIP), the TACB will conduct public hearings to receive testimony concerning revisions to its rules.

The TACB proposes a new Chapter 122 to adopt the federal operating permit program as required in new Part 70 of Chapter I, Title 40 of the Code of Federal Regulations. The proposed chapter is organized into five subchapters: Subchapter A-Definitions; Subchapter B-Permit Requirements; Subchapter C-Permit Issuances, Revisions, and Renewals; Subchapter D-Affected State Review, EPA Review, and Citizen Petition; and Subchapter E-Acid Rain. The new Chapter 122 has been created to adopt the regulatory authority of the federal operating permit program required under 40 Code of Federal Regulations 70.4(b), concerning elements of the initial program submission. A notable element of the new chapter will be a state-only requirement to establish production and emissions rates for grandfathered units at sites that are affected by the federal operating permit program. Only one section of the new chapter will be submitted to EPA as a proposed

revision to the SIP. Section 122.122 will contain a provision that allows a stationary source to limit its potential to emit by certified registration of emissions. This provision will become part of the SIP.

Public hearings on this proposal are scheduled for the following times and places: June 2, 1993, 2:00 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; June 3, 1993, 2:00 p.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; and June 4, 1993, 10:00 a.m., TACB Central Office, Auditorium (Room 201S), 12118 North IH-35, Park 35 Technology Center, Building A, Austin.

The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, TACB staff members will be available to discuss the proposal and answer questions 30 minutes prior to each hearing.

Written comments not presented at the hearing may be submitted to the TACB, 12124 Park 35 Circle, Austin, Texas 78753 through June 11, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed rules. Copies of the proposal are available at the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin and at all TACB regional offices. For further information, contact Gary McArthur at (512) 908-1917.

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

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

TRD-9322321 Lane Hartsock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: April 30, 1993



Texas Department of Banking Notice of Hearing

The Hearing Officer of the Texas Department of Banking will conduct a hearing on June 8, 1993, 9:30 a.m. at 2601 North Lamar Boulevard, Austin, on the application of Guaranty Bank and Trust Company, Gatesville, to establish a branch in Hamilton, Hamilton County.

Anyone desiring to appear at the hearing must file a written notice of intent to appear, including a brief statement of position, with this office at least 10 days prior to the hearing. A copy of this notice, and all other pleadings, must be sent to each party to the hearing.

Additional information may be obtained from D'Ann Johnson, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1302.

Issued in Austin, Texas, on April 28, 1993.

TRD-9322291 Larry J. Craddock
Hearings Officer
Texas Department of Banking

Filed: April 29, 1993



**State Banking Board
Notice of Hearing**

The Hearing Officer of the State Banking Board will conduct a hearing at 9: 30 a.m. on Thursday, June 17, 1993, at 2601 North Lamar Boulevard, Austin, on the bank charter application for First State Bank Brazoria, Brazoria, Brazoria County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Issued in Austin, Texas, on April 28, 1993.

TRD-9322290 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: April 29, 1993

Notices of Hearing Cancellation

As no opposition has been noted in the application for the Texas City Bank, N.A., Texas City, to convert to a state charter under the name of Texas City Bank, the hearing previously scheduled for Friday, May 7, 1993, has been cancelled.

Issued in Austin, Texas, on April 27, 1993.

TRD-9322233 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 28, 1993

As no opposition has been noted in the application for the First National Bank of Pearland, Pearland, to convert to a state charter under the name of First Bank Pearland, the hearing previously scheduled for Friday, May 7, 1993, has been cancelled.

Issued in Austin, Texas, on April 27, 1993.

TRD-9322232 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 28, 1993

<u>ISSUER</u>	<u>USER</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
1) Gulf Coast IDA	Amoco Oil Company	Dock & Wharf Facilities	\$44,800,000
2) Panhandle Plains HEA, Inc.	Eligible Borrowers	Student Loans	\$50,000,000

Following is a comprehensive listing of applications which were either withdrawn or canceled pursuant to the Act from April 10, 1993, through April 23, 1993:

As no opposition has been noted in the application for domicile change by the Security State Bank, McCamey, the hearing previously scheduled for Thursday, May 6, 1993, has been cancelled.

Issued in Austin, Texas, on April 27, 1993.

TRD-9322231 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 28, 1993

**Texas Bond Review Bond
Bi-Weekly Report on the 1993
Allocation of the State Ceiling on
Certain Private Activity Bonds**

The information that follows is a report of the allocation activity for the period of April 10, 1993, through April 23, 1993. Since Congress did not act by March 1, 1993, to extend the provisions of the tax code which allow Mortgage Bonds and Small Issue Bonds to qualify for tax-exempt financing, the amount of state ceiling remaining for those purposes has been proportionately redistributed to the other categories, pursuant to Article 5190.9a, §2(e). Currently, there are three categories within the allocation program.

Total amount of state ceiling remaining unreserved for the \$239,513,792 subceiling for state-voted issues under the Act as of April 23, 1993-\$129, 513,792.

Total amount of state ceiling remaining unreserved for the \$68,428,035 subceiling for residential rental project issues under the Act as of April 23, 1993-\$32,213,035.

Total amount of state ceiling remaining unreserved for the \$574,858,173 subceiling for all other bonds requiring an allocation under the Act as of April 23, 1993-\$15,058,173.

Total amount of the \$882,800,000 state ceiling remaining unreserved as of April 23, 1993-\$176,785,000.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from April 10, 1993, through April 23, 1993-None.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from April 10, 1993, through April 23, 1993:

<u>ISSUER</u>	<u>USER</u>	<u>DESCRIPTION</u>	<u>AMOUNT RELEASED</u>
1) Harris Co. HFC	MAGI, Inc.	Residential Rental	\$10,160,000

Following is a comprehensive listing of applications which released a portion of their reservation pursuant to the Act from April 10, 1993, through April 23, 1993:

<u>ISSUER</u>	<u>USER</u>	<u>DESCRIPTION</u>	<u>AMOUNT RELEASED</u>
1) Gulf Coast IDA	Amoco Oil Company	Dock & Wharf Facilities	\$ 200,000

[graphic]

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

TRD-9322219

Jim Thomassen
Executive Director
Texas Bond Review Board

Filed: April 28, 1993

◆ ◆ ◆
**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Article 1.04 as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/03/93-05/09/93	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(3)	05/01/93-05/31/93	18.00%	18.00%

(1) Credit for personal, family or household use. (2) Credit for business, commercial, investment or other similar purpose. (3) For variable rate commercial transactions only.

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

TRD-9322269

Al Endeley
Consumer Credit Commissioner

Filed: April 29, 1993

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**Texas Commission for the Deaf and
Hearing Impaired
Request for Proposals**

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Commission for the Deaf and Hear-

ing Impaired (TCDHI) is requesting proposals for the provision of services to eligible individuals who are deaf or hearing impaired. Services to be delivered by contract may include interpreter services (IS), information and referral services (I/R), and/or services to older hearing impaired Texans (SOHIT). These services are for the 1994 Fiscal Year which begins September 1, 1993.

Contact Person. Further information regarding the provision of the previously-stated services and requests for application packets necessary to submit the proposals may be directed to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, (512) 444-3323.

Deadline for Submittal of Proposals. Deadline for the receipt of proposals in the offices of the Texas Commission for the Deaf and Hearing Impaired is July 9, 1993, at 5:00 p.m. Proposals received after the established deadline cannot be considered for selection. Proposals are to be addressed to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904.

Guidelines for Submitting Proposals. Each contractor will, as a minimum: be an agency, organization, or individual who is willing to provide service(s) to persons who are deaf or hearing impaired in a specified geographical region; provide a location and description of the intended headquarters to be used for the coordination and delivery of services; provide an anticipated number of persons that will utilize the services; be willing to cooperate with the Commission regarding its goals, standards, requirements, and recommendations; select the service(s) most needed, and submit a fiscally conservative budget for the provision of these services to the commission for review; possess the necessary skills, knowledge, and expertise for the planning, development, and implementation of needed services; designate a service provider for the activity; utilize, to the highest degree possible, local community, and other resources; furnish the Commission with reports, as required, in the format prescribed by the Commission; establish and maintain a method to secure and maintain the confidentiality of records and services relating to clients in accordance with any and all applicable state and federal rules, laws, and regulations; and provide acknowledgement of TCDHI funding on publications, letterhead, materials, etc. (artwork will be supplied).

Proposal Evaluation Criteria. Proposals will be evaluated by the Commission on the following basis: submission of the proposal on or before the established deadline; the proposal addresses all required areas; respondents program plan; operations of the program are within Commission authority; respondent's ability to provide a high-quality program aimed at meeting the individual needs of the client; letters of endorsement and/or cooperation; and ability to implement program upon receiving notification from the Commission on award of contract.

Contract Award and Allocation Procedures. Final selection will be made by the Commission, using the previously mentioned evaluation procedures. Award will not necessarily be made to the contractor or applicant offering the lowest cost. Close consideration will be given to the ability to provide quality direct services based on the Commission's evaluation criteria.

The Commission reserves the right to accept or reject any or all proposals submitted as well as to refuse any or all renewals with previous contractors.

The Commission is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the materials provided only as a means of identifying the various elements which the Commission considers basic to the delivery of direct services. The Commission will base its choice on demonstrated competence, qualifications, and evidence of superior conformance to established criteria. This request does not commit the Commission to pay any costs incurred prior to execution of a contract.

The Commission will announce the contracts awards for Fiscal Year 1994 in the Commission's last open meeting prior to September 1, 1993. The contracted services shall begin on September 1, 1993.

Contracts include the possibility for amendments to permit additional funds, if such funds become available, or re-allocation of funds during the contract period if determined necessary by the Commission.

Funding will be determined by using a Commission-approved formula in the distribution of monies among selected and approved contractors by region.

Conditions for Termination of Contract. Failure to comply with contract requirements may result in the termination of the contract:

Issued in Austin, Texas, on April 30, 1993.

TRD-9322392

Ralph H. White
Interim Executive Director
Texas Commission for the Deaf and
Hearing Impaired

Filed: May 3, 1993

Texas General Land Office Correction of Error

The General Land Office proposed an amendment to 31 TAC §1.3, concerning fees for reproductive costs and for grants of coastal easements to homeowners' associations. The rule appeared in the April 13, 1993, *Texas Register* (18 TexReg 2466).

On page 2467, §1.3(b)(9)(E)(iii) is all new text and should be in boldface type as follows.

"(iii) raw field videos (VCR tape provided by requesting party, minimum one minute):"

The text under §1.3(b)(9)(G)(i) is new text also, and should be boldface as follows.

"(i) 3 1/2" disketed (hard): \$3.00;

"(ii) 5 1/4" diskette (soft): \$1.00;"

Texas Higher Education Coordinating Board

Notice of Meeting

The YOU Advisory Board will meet on Tuesday, May 11, 1993, at the Chevy Chase Office Complex, Building 5, Room 5.139, 7745 Chevy Chase Drive in Austin. The meeting is scheduled to begin at 8 a.m. and ends at 5 p.m. The board will meet to advise state-level staff on program problems, deficiencies, and YOU program enhancements that enable SDA's to better meet JTPA program require-

ments quarterly. For further information please contact Mike Kober at (512) 483-6140.

Issued in Austin, Texas, on April 27, 1993.

TRD-9322246 Sharon Jahaman
Administrative Secretary
Texas Higher Education Coordinating Board

Filed: April 28, 1993

◆ ◆ ◆
**Texas Department of Housing and
Community Affairs**

**Request for Proposals for Emergency
Nutrition/Temporary Emergency Relief
Program (ENTERP)**

The Texas Department of Housing and Community Affairs (TDHCA), Community Services section, announces a request for proposals (RFP) for the Emergency Nutrition/Temporary Emergency Relief Program (ENTERP).

The Emergency Nutrition/Temporary Emergency Relief Program (ENTERP) was transferred from the Department of Human Services as a result of House Bill 7, 72nd

Legislature, First Called Session, effective September 1, 1992. The purpose of the ENTERP program is to assist counties by providing state funds for emergency assistance for needy persons. TDHCA is soliciting proposals from organizations in certain counties to administer the ENTERP funds. The contract period is for 12 months, September 1, 1992, to August 31, 1993.

The Texas Legislature has appropriated \$1,250,000 in General Revenue funds and \$1,250,000 in Oil Overcharge funds for the fiscal year 1993. General revenue funds are to be used to help low income individuals and/or families to pay rent, electric bills, food, clothes, etc.. Oil Overcharge funds are restricted to be utilized to provide short term energy related services, such as payment for electricity, natural gas, butane, propane, kerosene, and other heating petroleum products, cord wood, and coal; purchase and repair of essential heating and cooling appliances; and, blankets and coats for warmth.

The Texas Human Resources Code, Chapter 34 and Texas Civil Statutes, Article 4413(56), mandate that counties shall be given the first opportunity to apply for ENTERP. In July 1992, a Notification of Intent was mailed to all county judges. As of April 23, 1993, the following counties with the allocations indicated have not responded:

COUNTY	GENERAL REVENUE	OIL OVERCHARGE	TOTAL
Brazos	\$7,321	8,000	15,322
Burleson	\$1,000	\$1,000	\$2,000
Childress	\$1,000	\$1,000	\$2,000
Denton	\$10,853	\$12,166	\$23,019
Grimes	\$1,115	\$1,225	\$2,340
Jim Wells	\$3,354	\$3,696	\$7,050
Leon	\$1,000	\$1,000	\$2,000
Loving	\$1,000	\$1,000	\$2,000
McMullen	\$1,000	\$1,000	\$2,000
Robertson	\$1,148	\$1,258	\$2,406
Waller	\$1,231	\$1,253	\$2,584
Wharton	\$2,485	\$2,738	5,223

The following counties have refused the oil overcharge funds:

COUNTY	OIL OVERCHARGE
Crosby	\$1,000
Dickens	\$1,000
Floyd	\$1,000
Hale	\$2,526
Motley	\$1,000
Brown	\$2,527

	\$1,000
Callaham	\$1,000
Coleman	\$1,000
Comanche	\$1,340
Eastland	\$1,000
Runnels	\$1,000
Delta	\$1,000
Franklin	\$2,105
Hopkins	\$1,161
Rains	\$1,900
Titus	\$1,000
Andrews	\$1,000
Borden	\$1,000
Gaines	\$1,000
Glasscock	\$1,991
Howard	\$1,315
Scurry	

To qualify for these funds, the applicant must be a non-profit organization or a political subdivision that will provide a financial contribution to the program established in the applicant's county in an amount equal to the state contributions. The political subdivision or non-profit organization must submit evidence that it has notified the county judge of its intention to submit an application. The matching funds may include local government funds, private contributions, and federal funds. ENTERP funds may not be used by successful applicants for administrative costs and not more than 25% of the local match of the General Revenue funds may be used for local administrative costs. Oil Overcharge funds may not be used for administrative expenses.

Organizations interested in administering the ENTERP funds must notify TDHCA in writing and provide the Department with documentation that applicant has notified the county judge of its intention to administer ENTERP

funds by no later than 5 p.m., May 21, 1993. Letter and documentation must be mailed to: Texas Department of Housing and Community Affairs, Community Services Section, David C. Galvan, 811 Barton Springs Road, Suite 260 (78704), P.O. Box 13941, Austin, Texas 78711-3941.

TDHCA reserves the right to accept or reject any or all proposals submitted. TDHCA is under no obligation to execute a contract on the basis of the RFP and intends this material only as a means of identifying the various contractor alternatives. TDHCA intends to use responses as a basis for further negotiation of specific program details with potential contractors.

If you have any questions, please call Lilliana Ruiz, Program Administrator, at (512) 475-3901.

Issued in Austin, Texas, on April 28, 1993.

Filed: April 29, 1993

◆ ◆ ◆
Texas Department of Human Services
Correction of Error

The Texas Department of Human Services adopted an amendment to 40 TAC §19.1807, concerning rate setting methodology. The rule appeared in the April 9, 1993, *Texas Register* (18 TexReg 2416).

The effective date as published, May 15, 1993, is an error. The correct effective date is June 1, 1993.

◆ ◆ ◆
Notice of Consultant Contract
Amendment

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS) publishes this notice of consultant contract amendment. The notice of award was published in the August 25, 1992, issue of the *Texas Register* (17 TexReg 5812).

The Texas Department of Human Services awarded the consulting contract to Lewin-VHI (formerly Lewin-ICF), 9300 Lee Highway, Suite 400, Fairfax, Virginia 22031-1207. The total dollar amount of the contract was \$200,000, and the contract was effective from August 13, 1992 through August 31, 1993. The contract was awarded so that the Department can receive consulting in regard to restructuring Medicaid reimbursement for the nursing facility (NF) and intermediate care facility for the mentally retarded (ICF-MR) programs.

The contract has been increased by an additional \$50,000, for a revised total not to exceed \$250,000. In addition to the services originally specified in the contract, the contractor will provide professional advice to the department on technical design features and general policy implications of optional reimbursement methodologies for nursing facilities, ICFs-MR, and community-based care settings. The due date for any reports due as a result of the amendment will be no later than August 31, 1993.

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

TRD-9322283

Nancy Murphy
Agency Liaison
Texas Department of Human Services

Filed: April 29, 1993

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Texas Department of Insurance
Notice of Hearing

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 1983 met on April 29, 1993, at 1:30 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, to consider a proposal filed by the staff of the Workers' Compensation Division of the Texas Department of Insurance. The staff was proposing several recom-

mendations to the workers' compensation classification system as a result of a study performed by Dr. Mark Crawshaw, consulting actuary for the firm of Wakely and Associates, Atlanta Georgia. The recommendations were proposed in a petition (Reference Number W-0393-05), filed by the staff on March 3, 1993.

The Board decided to recess this hearing until May 27, 1993 at 9:00 a.m. to allow the public additional time to provide comments.

According to the staff's petition, the following recommendations are being presented to the State Board of Insurance for possible adoption.

1. The number of workers' compensation classifications should be substantially reduced by consolidating into single classifications the multiple classifications that describe similar businesses and for purposes of determining classification relativities and experience rating values, by grouping classifications with similar claims experience and hazard.
 2. The classification phraseology used in the Workers' Compensation Manual should be updated, modernized and simplified wherever appropriate. In addition, definitions should be expanded to include a listing of as many specific types of businesses included within a classification as possible.
 3. The classification system should not at this time be territorially based or allow for differences in wage levels by employers.
 4. The classifications for 8 of the 22 classifications that currently include clerical workers should be revised to exclude clerical workers from the basic classification wording.
 5. The classification definitions should be revised so that within a single class, drivers are treated uniformly, either as a standard exception or not.
 6. The three current classifications related to mining should be consolidated into a single "a" rated classification.
 7. The 11 current classifications related to explosive manufacturing should be consolidated into two "a" rated classifications.
 8. The 26 current classifications related to chemical manufacturing should be consolidated into nine "a" rated classifications.
 9. The four current classifications for domestic workers should be consolidated into a single "a" rated classification.
 10. The following five classifications should no longer be "a" rated: Code 1748-Abrasive Wheel Mfg.; Code 2030-Beet Sugar Mfg.; Code 3022-Pipe or Tube Mfg. NOC; Code 5705-Salvage Operation; Code 7425-Aircraft or Helicopter NOC Flying Crew.
 11. The disease designator "d" should be dropped from all classifications, except supplemental disease classifications which should be "a" rated. Consideration should be given to establishing additional supplemental disease classifications for statistical reporting purposes.
- A copy of the petition containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition,

please contact Angie Arizpe (512)322-4147, refer to (Reference Number W-0393-05).

Comments on the proposal must be submitted in writing prior to May 25, 1993, to Linda K. Von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC-113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Melissa Nunnelee, Associate Commissioner Life/Health & Workers' Compensation, P.O. Box 149104, MC-107-2A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas, on April 30, 1993.

TRD-9322351 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: April 30, 1993

◆ ◆ ◆
**Prairie View A&M University
Consultant Proposal Request**

Under the provisions of the Texas Civil Statutes, Article 6252-11c, Prairie View A&M University is requesting proposals for consulting services.

Description. Prairie View A&M University is accepting proposals for consulting services to conduct a detailed analysis of all Auxiliary Enterprise operations at Prairie View A&M University for the purpose of providing management with an independent assessment of current operations and capital need an recommendations for improving current operations while addressing capital needs.

Procedure For Selection of Consulting. Proposals are being sought under the provisions of Texas Civil Statutes, Article 6252-11c, and Prairie View A&M University reserves the right to reject any and all bids and waive any or all formalities. Prairie View A&M University will consider demonstrated competence, knowledge and qualifications to complete the work satisfactorily and in a timely manner, as well as the reasonableness of the proposed fee. Prairie View A&M University shall be the sole judge of the proposal which best meets its needs.

Contact Person. Detailed proposal packets will be available at a mandatory Pre-Proposal conference scheduled for May 21, 1993, at 2 p.m. in the conference room of the University Administration Building. Additional proposals data can be obtained by contacting Don Lindsay, Purchasing Agent, P. O. Box 248, Prairie View A&M University, Prairie View, Texas 77556. All requests must be in writing. Attendance at the Pre-Proposal conference is required.

Closing Date. All proposals should be clearly marked as follows: Sealed Proposal: Auxiliary Operations Study Open: June 21, 1993, at 3 p.m.

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

TRD-9322273 Don Lindsay
Consultant Proposal Request
Prairie View A&M University

Filed: April 29, 1993
◆ ◆ ◆

Public Utility Commission

Notice of Intent to File Pursuant to PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Crowley ISD, Crowley.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Crowley ISD pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11979.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Crowley ISD. The geographic service market for this specific service is the Fort Worth area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9322303 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: April 29, 1993
◆ ◆ ◆

Texas Water Commission Correction of Error

The Texas Water Commission submitted a request for proposal, published in the April 27, 1993, *Texas Register* (18 TexReg 2821).

The proposal writing guidance session will be held May 11, 1993, at 10:00 a. m. in room 1-101 of the William B. Travis Office Building, 1701 North Congress Avenue, Austin. Proposals will be accepted only if received at the Texas Water Commission's Austin Headquarters no later than 5:00 p.m. June 28, 1993.

◆ ◆ ◆
Request for Proposal

The Texas Water Commission (TWC) hereby solicits proposals from private consultants for consulting services, specifically, for a study of costs and benefits of consolidating laboratory functions of the Texas Water Commission (TACB) and the TWC. Proposals should be addressed to Ronald Hatlett, Contract Manager, Office of Administration, Texas Water Commission, 1700 North Congress Avenue, Austin, Texas, 78711-3087, (512) 463-3553.

Closing Date/Contact Person. Proposals will be received until 10:00 a.m. local prevailing time, May 14, 1993. A private consultant who intends to make an offer may obtain copies of the Request for Proposal, including proposal guidelines and the scope of work, by contacting Ronald Hatlett at the above address on or after 23 April 1993.

Procedure. The TWC intends to award the contract on or after June 1, 1993, based on evaluation and any necessary clarification (oral or otherwise) or negotiation of timely submitted offers according to demonstration by the private consultant of abilities to meet the following criteria: overall capability of investigating and evaluating all facets of the laboratory consolidation issue in accordance with the directives of Senate Bill 2; technical knowledge of laboratory equipment and operation; financial expertise to conduct cost-benefit analyses and to determine actual laboratory operating costs and expense; organizational knowledge of TACB and TWC operations and programs, especially as related to analytical laboratory use, including but not limited to an understanding of monitoring, enforcement, and special study program needs for laboratory facilities; administrative knowledge of the TACB and TWC operations as established by state and federal requirements, especially the requirements related to laboratory operations and functions within the overall framework of the TWC, TACB, and future TNRCC; the ability of the

offeror to complete the project on a timely basis to the satisfaction of the TWC; the proximity and convenience of the offeror's operations to the TACB and TWC laboratories and offices; and price and terms.

Disclosure of Services Previously Performed. The consulting service desired in this Request for Proposal relates to a service previously performed by Jones and Neuse, Inc., namely, preparation of a report entitled "Scope of Work Methodology for the Consolidation of Environmental Laboratories, Texas Natural Resources Conservation Commission." TWC intends to award the contract for consulting services for which proposals are herein sought to Jones and Neuse Inc. unless a better offer is submitted.

Issued in Austin, Texas, on April 30, 1993.

TRD-9322365

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: April 30, 1993

◆ ◆ ◆

TAC Titles Affected

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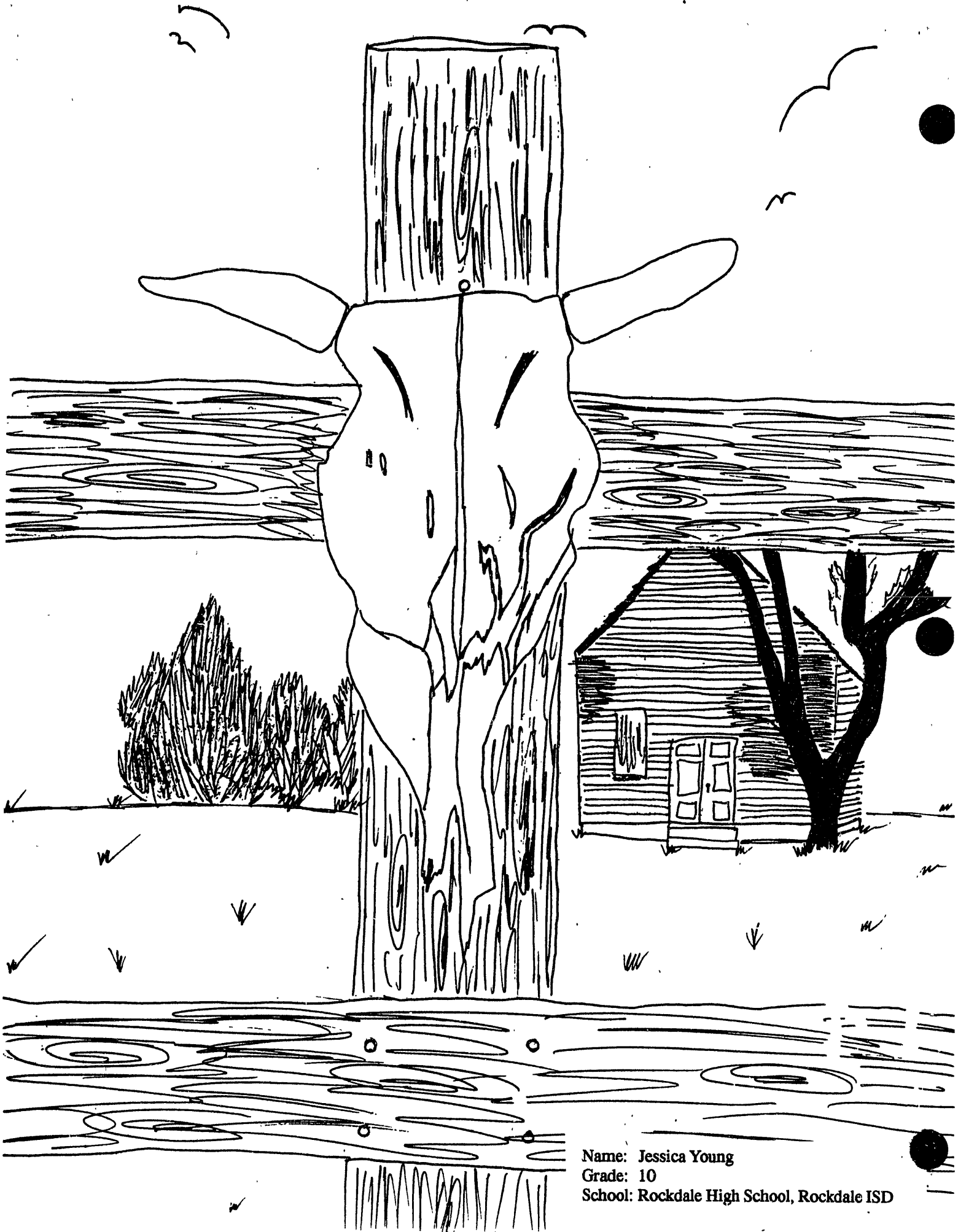
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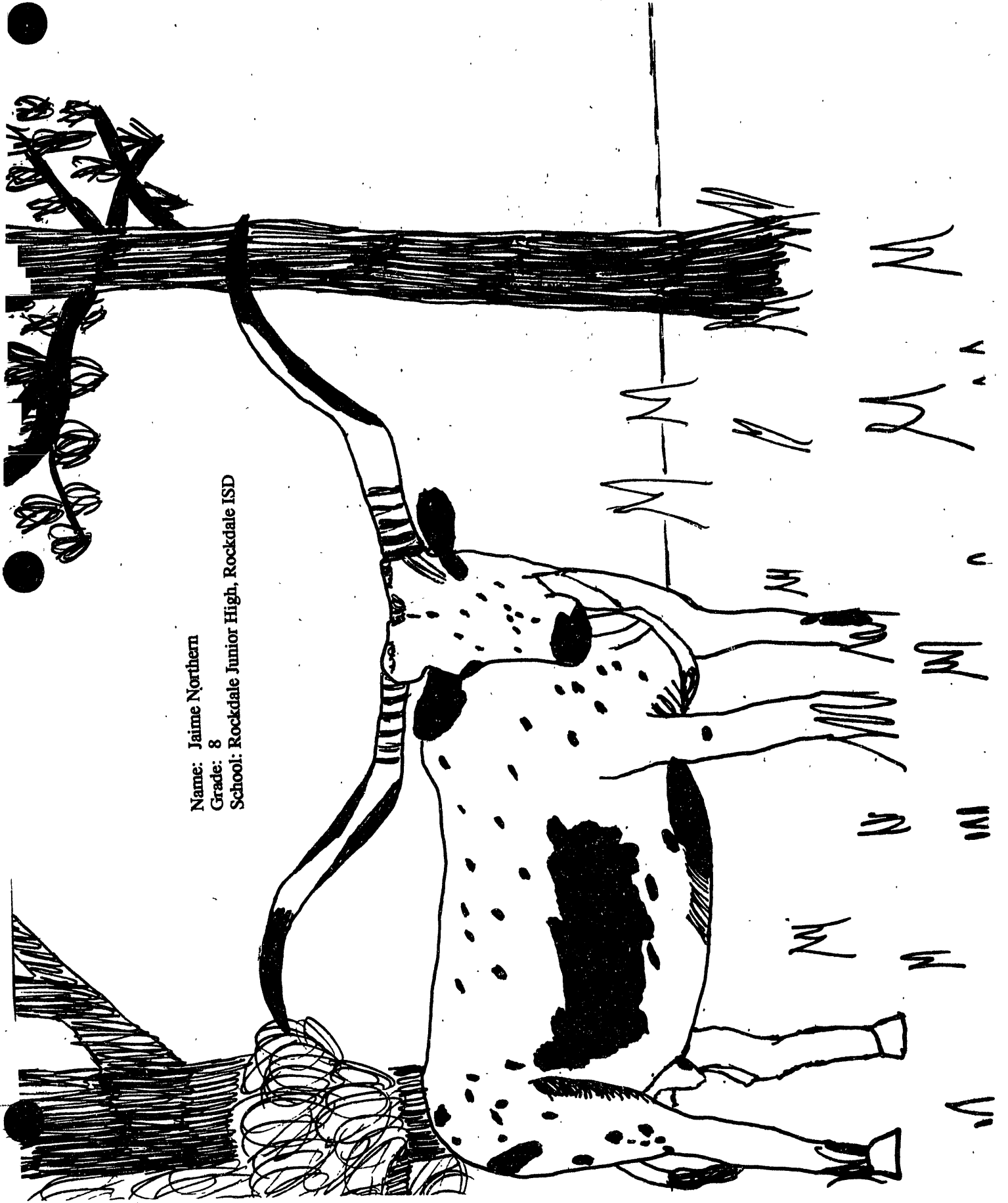
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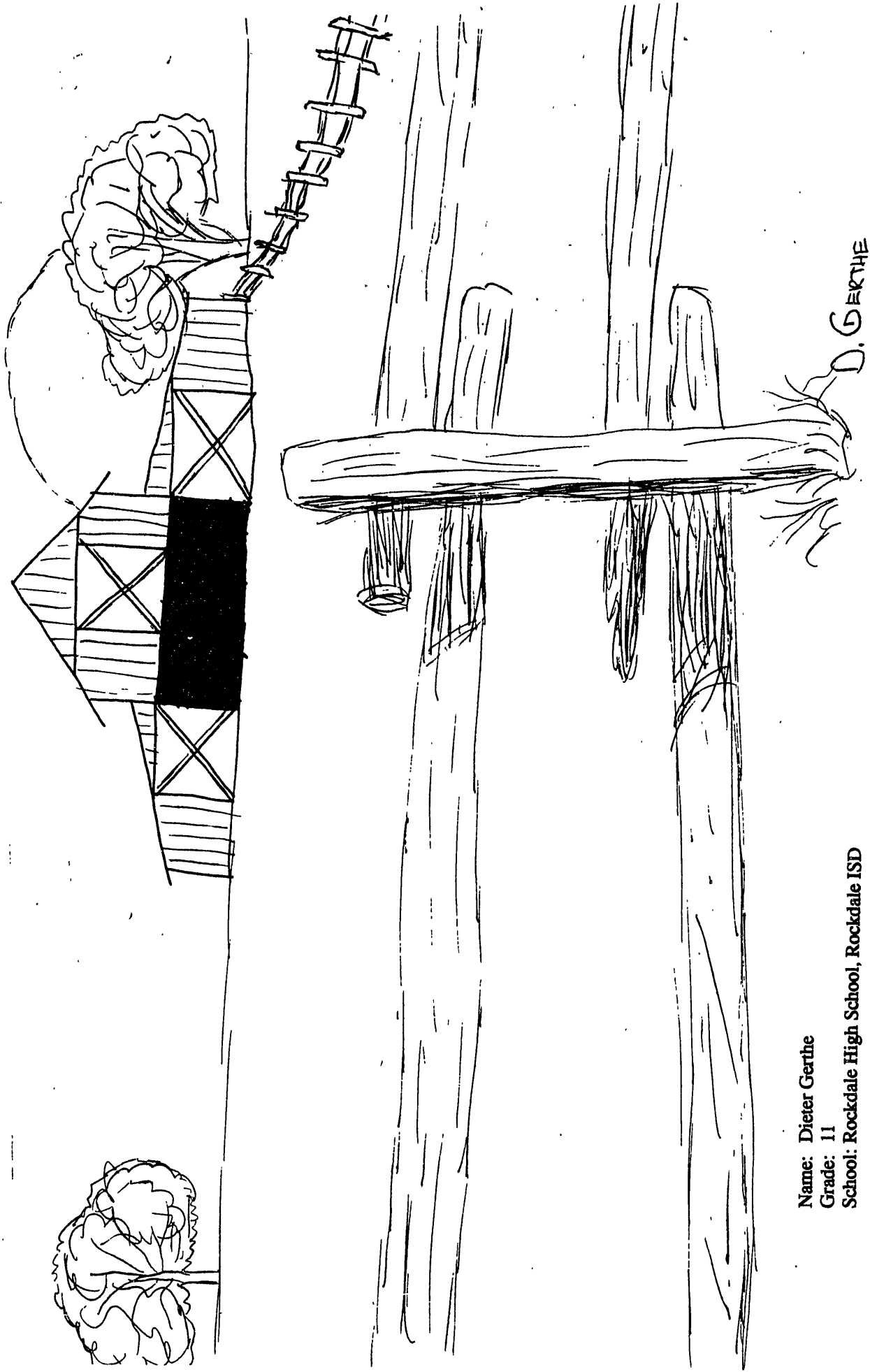
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Grade: 10
School: Rockdale High School, Rockdale ISD

Name: Jaime Northern
Grade: 8
School: Rockdale Junior High, Rockdale ISD





Name: Devaris Moore
Grade: 7
School: Rockdale Junior High, Rockdale ISD



Name: Dieter Gerthe

Grade: 11

School: Rockdale High School, Rockdale ISD

Name: Heather Briggs

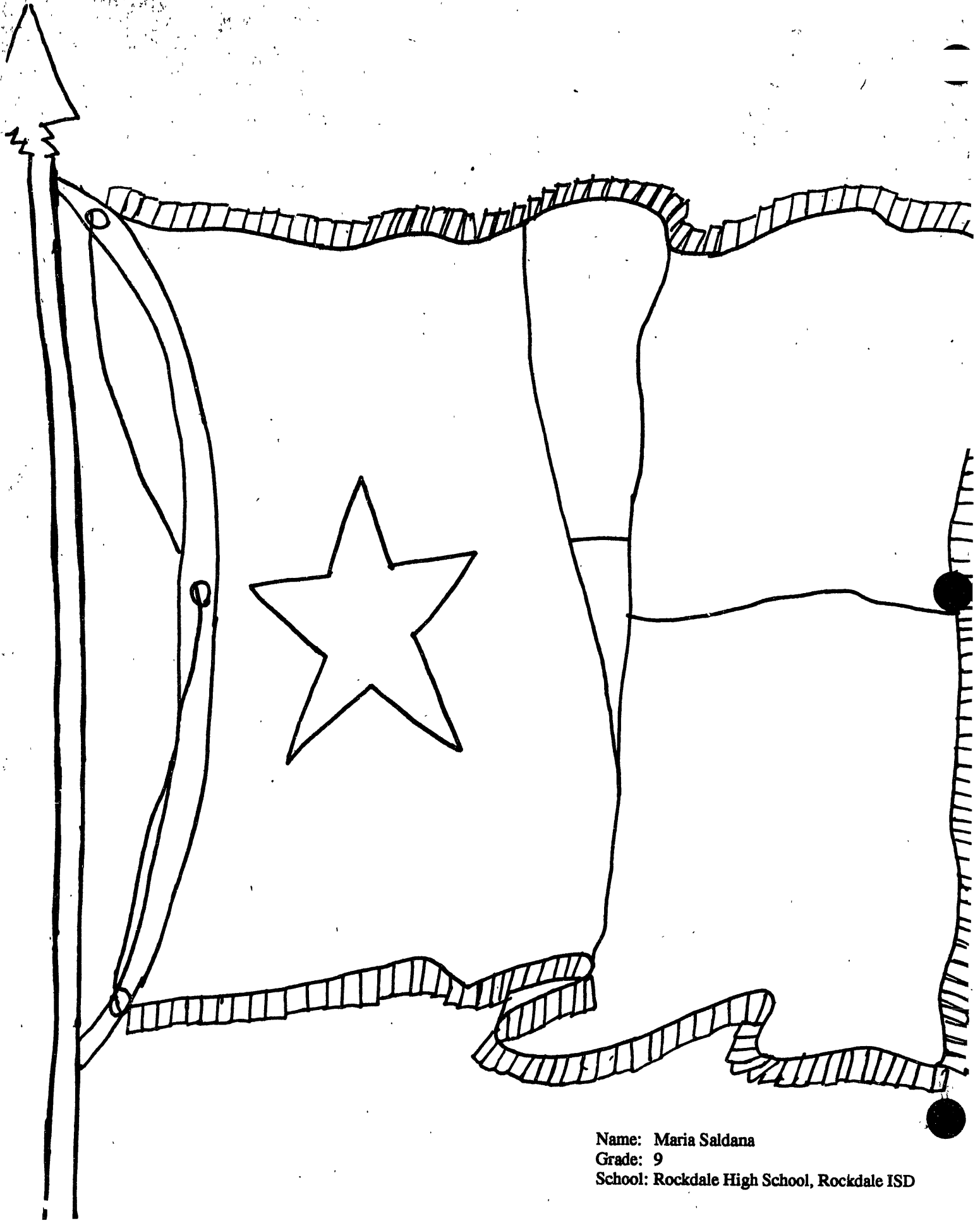
Grade: 11

School: Rockdale High School, Rockdale ISD





Name: Jefferson Youngblood
Grade: 9
School: Rockdale High School, Rockdale ISD

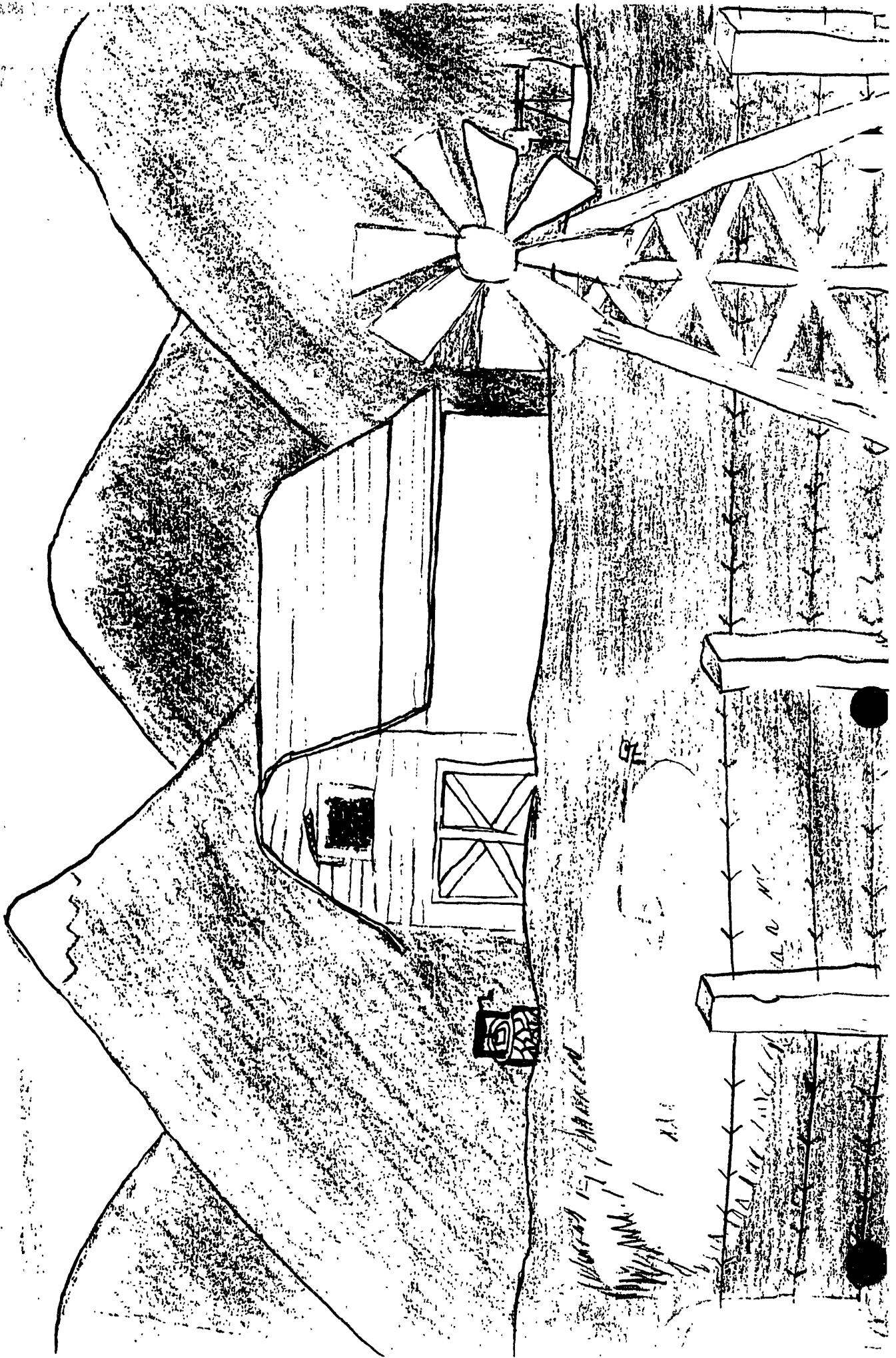


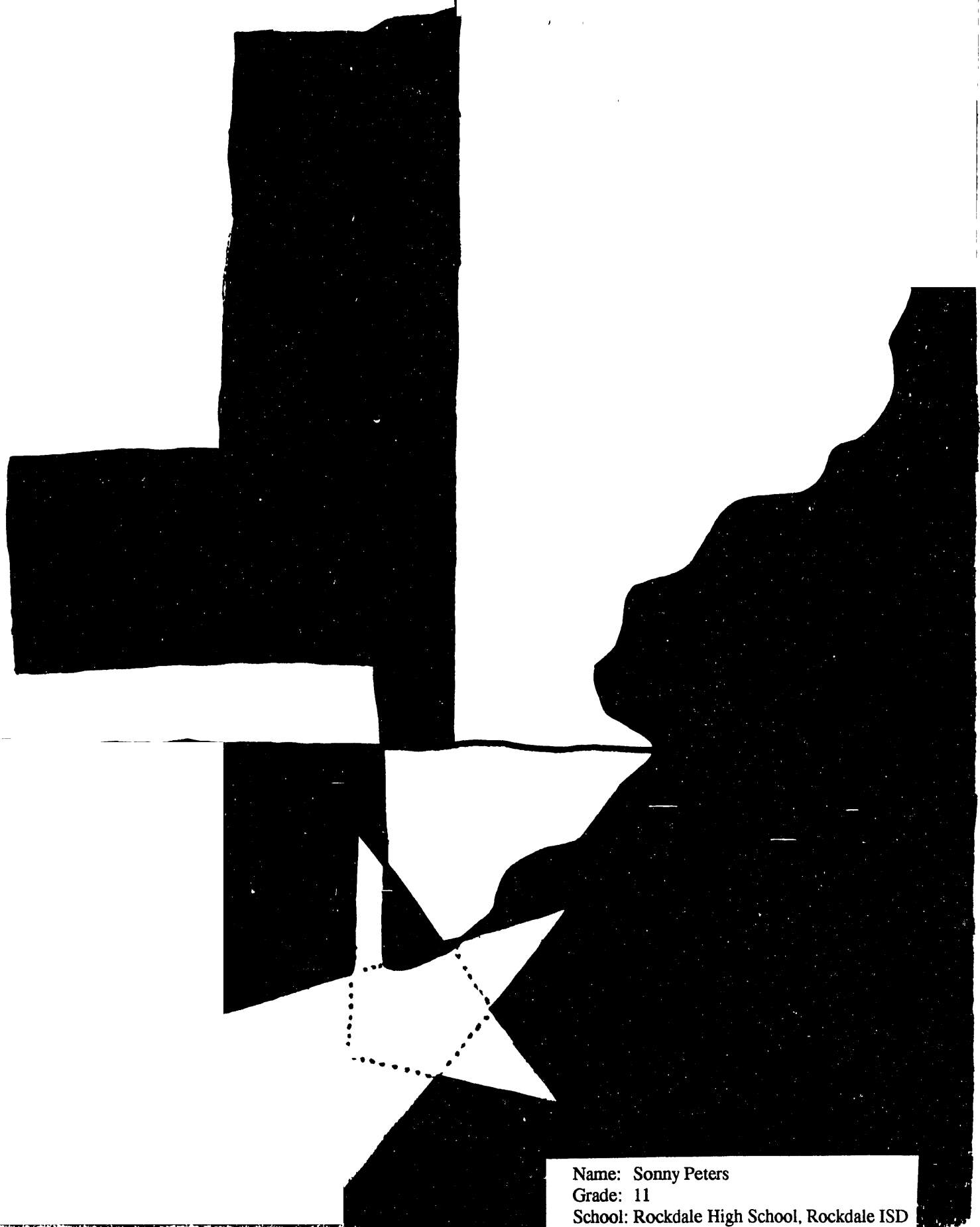
Name: Maria Saldana
Grade: 9
School: Rockdale High School, Rockdale ISD



Name: Diego Martinez
Grade: 9
School: Rockdale High School, Rockdale ISD

Name: Jeff Kraft
Grade: 10
School: Rockdale High School, Rockdale ISD

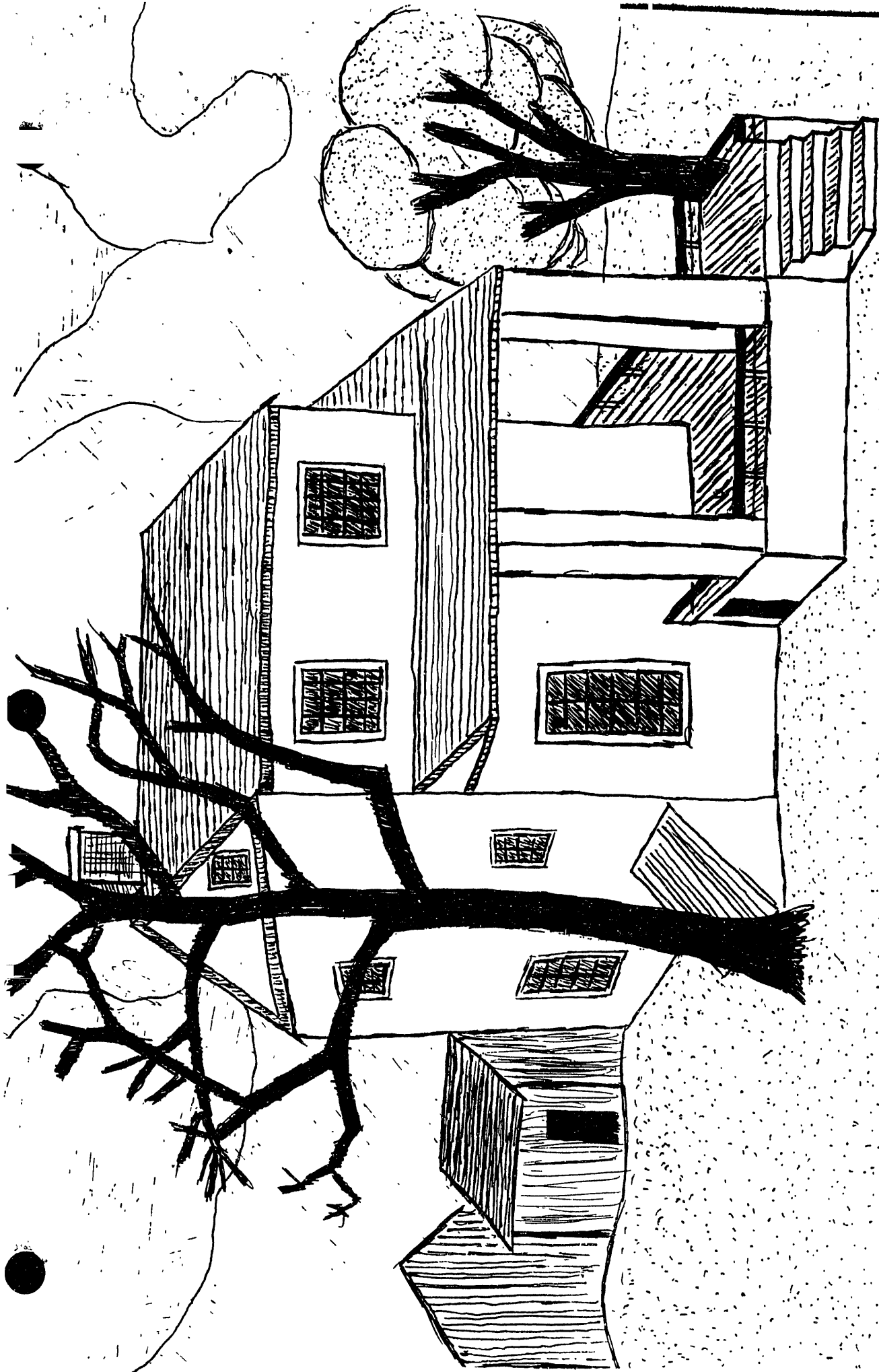




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Grade: 11
School: Rockdale High School, Rockdale ISD



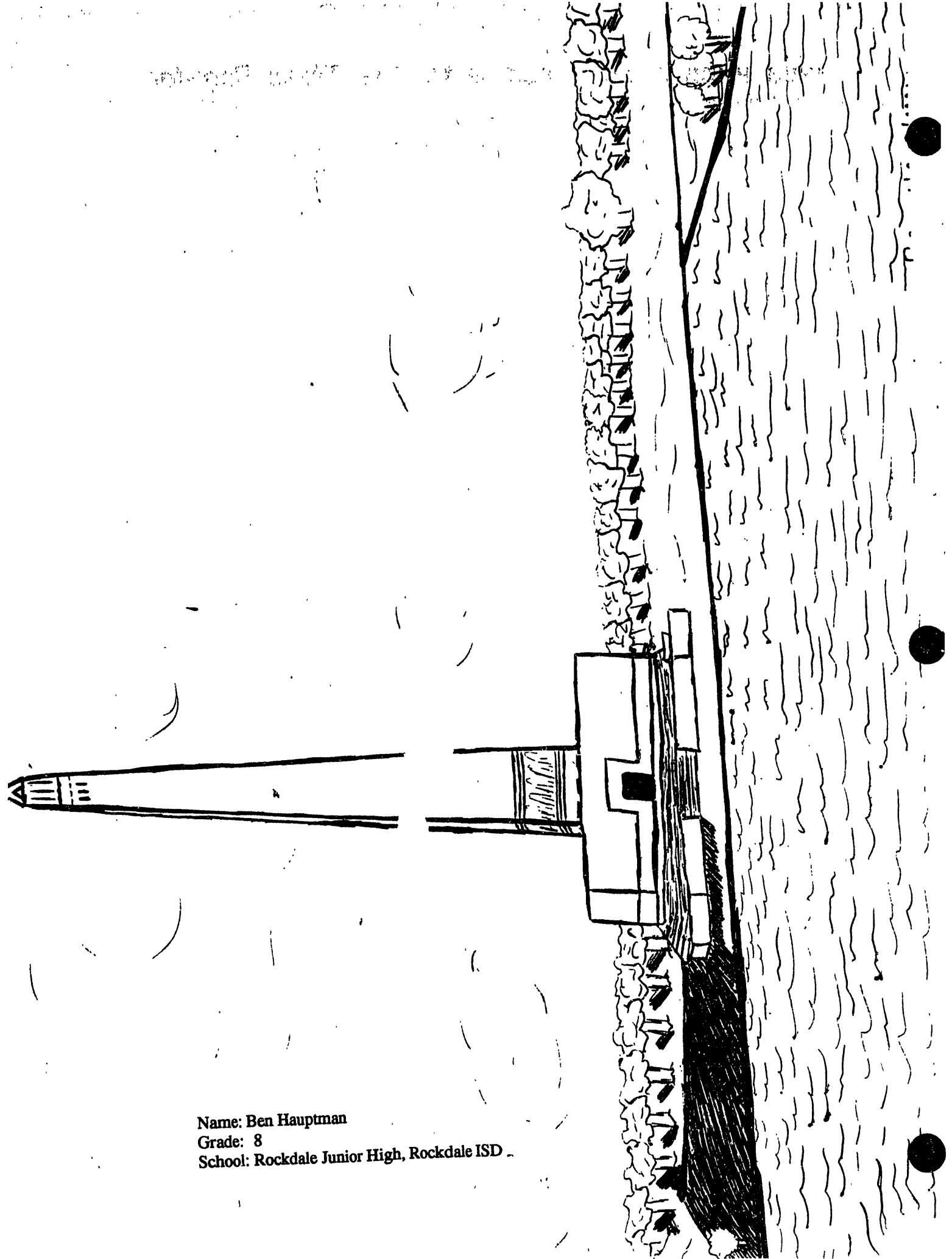
Name: S.R. Fuller
Grade: 9
School: Rockdale Junior High School, Rockdale ISD



Name: Keith Pfeiffer
Grade: 12

School: Rockdale High School, Rockdale ISD

Keith Pfeiffer



Name: Ben Hauptman
Grade: 8
School: Rockdale Junior High, Rockdale ISD

1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Friday, January 1	Monday, December 28	Tuesday, December 29
2 Tuesday, January 5	Wednesday, December 30	Thursday, December 31
3 Friday, January 8	Monday, January 4	Tuesday, January 5
4 Tuesday, January 12	Wednesday, January 6	Thursday, January 7
5 Friday, January 15	Monday, January 11	Tuesday, January 12
6 Tuesday, January 19	Wednesday, January 13	Thursday, January 14
Friday, January 22	1992 ANNUAL INDEX	
7 Tuesday, January 26	Wednesday, January 20	Thursday, January 21
8 Friday, January 29	Monday, January 25	Tuesday, January 26
9 Tuesday, February 2	Wednesday, January 27	Thursday, January 28
10 Friday, February 5	Monday, February 1	Tuesday, February 2
11 Tuesday, February 9	Wednesday, February 3	Thursday, February 4
12 Friday, February 12	Monday, February 8	Tuesday, February 9
13 Tuesday, February 16	Wednesday, February 10	Thursday, February 11
14 *Friday, February 19	Friday, February 12	Tuesday, February 16
15 Tuesday, February 23	Wednesday, February 17	Thursday, February 18
16 Friday, February 26	Monday, February 22	Tuesday, February 23
17 Tuesday, March 2	Wednesday, February 24	Thursday, February 25
18 Friday, March 5	Monday, March 1	Tuesday, March 2
19 Tuesday, March 9	Wednesday, March 3	Thursday, March 4
20 Friday, March 12	Monday, March 8	Tuesday, March 9
21 Tuesday, March 16	Wednesday, March 10	Thursday, March 11
22 Friday, March 19	Monday, March 15	Tuesday, March 16
23 Tuesday, March 23	Wednesday, March 17	Thursday, March 18
24 Friday, March 26	Monday, March 22	Tuesday, March 23
25 Tuesday, March 30	Wednesday, March 24	Thursday, March 25
26 Friday, April 2	Monday, March 29	Tuesday, March 30
27 Tuesday, April 6	Wednesday, March 31	Thursday, April 1
28 Friday, April 9	Monday, April 5	Tuesday, April 6
29 Tuesday, April 13	Wednesday, April 7	Thursday, April 8
Friday, April 16	FIRST QUARTERLY INDEX	
30 Tuesday, April 20	Wednesday, April 14	Thursday, April 15

31 Friday, April 23	Monday, April 19	Tuesday, April 20
32 Tuesday, April 27	Wednesday, April 21	Thursday, April 22
33 Friday, April 30	Monday, April 26	Tuesday, April 27
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19
65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 Friday, September 10	Friday, September 3	Tuesday, September 7

70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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