

Texas Register

Volume 18, Number 36, May 11, 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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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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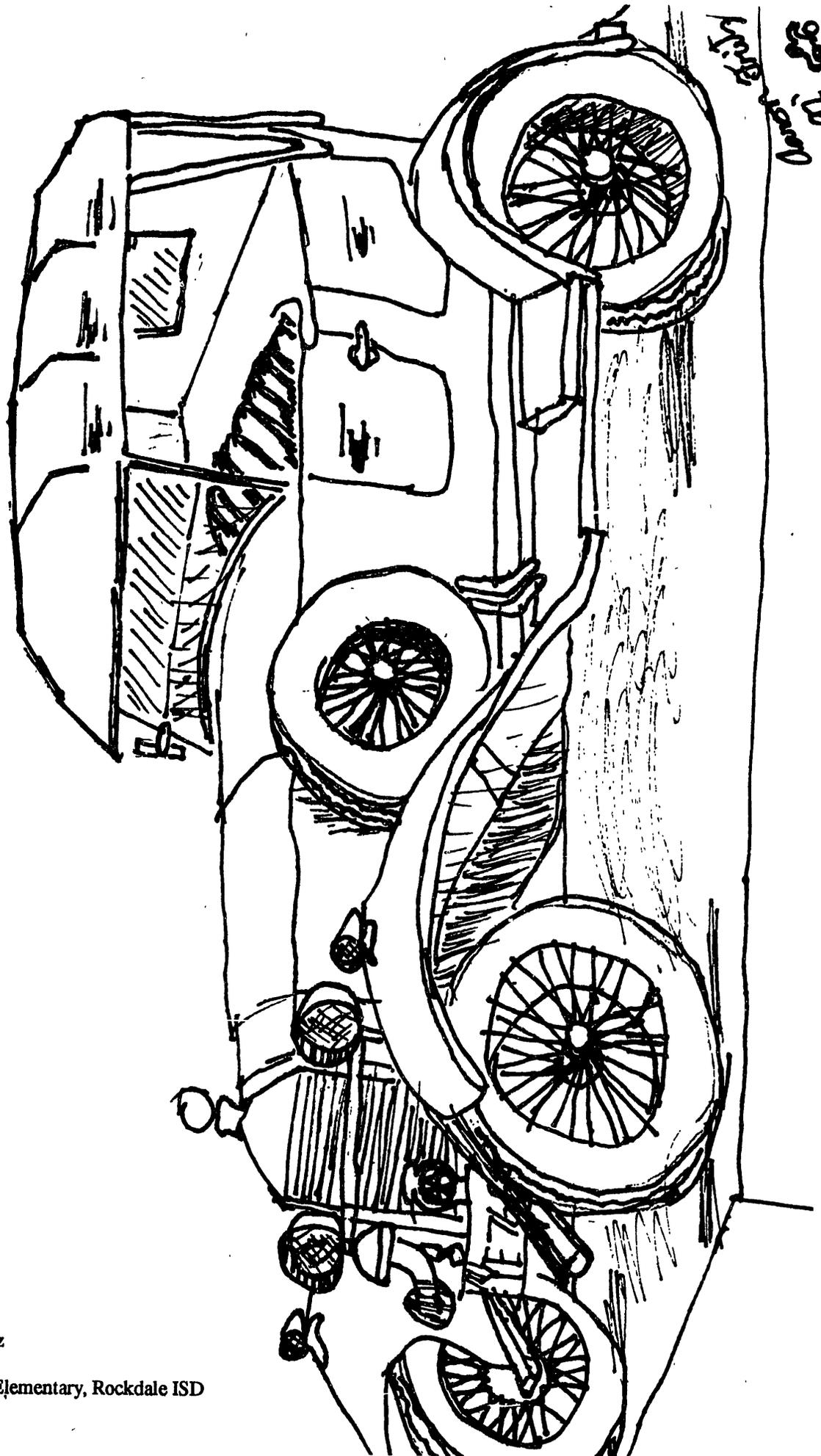
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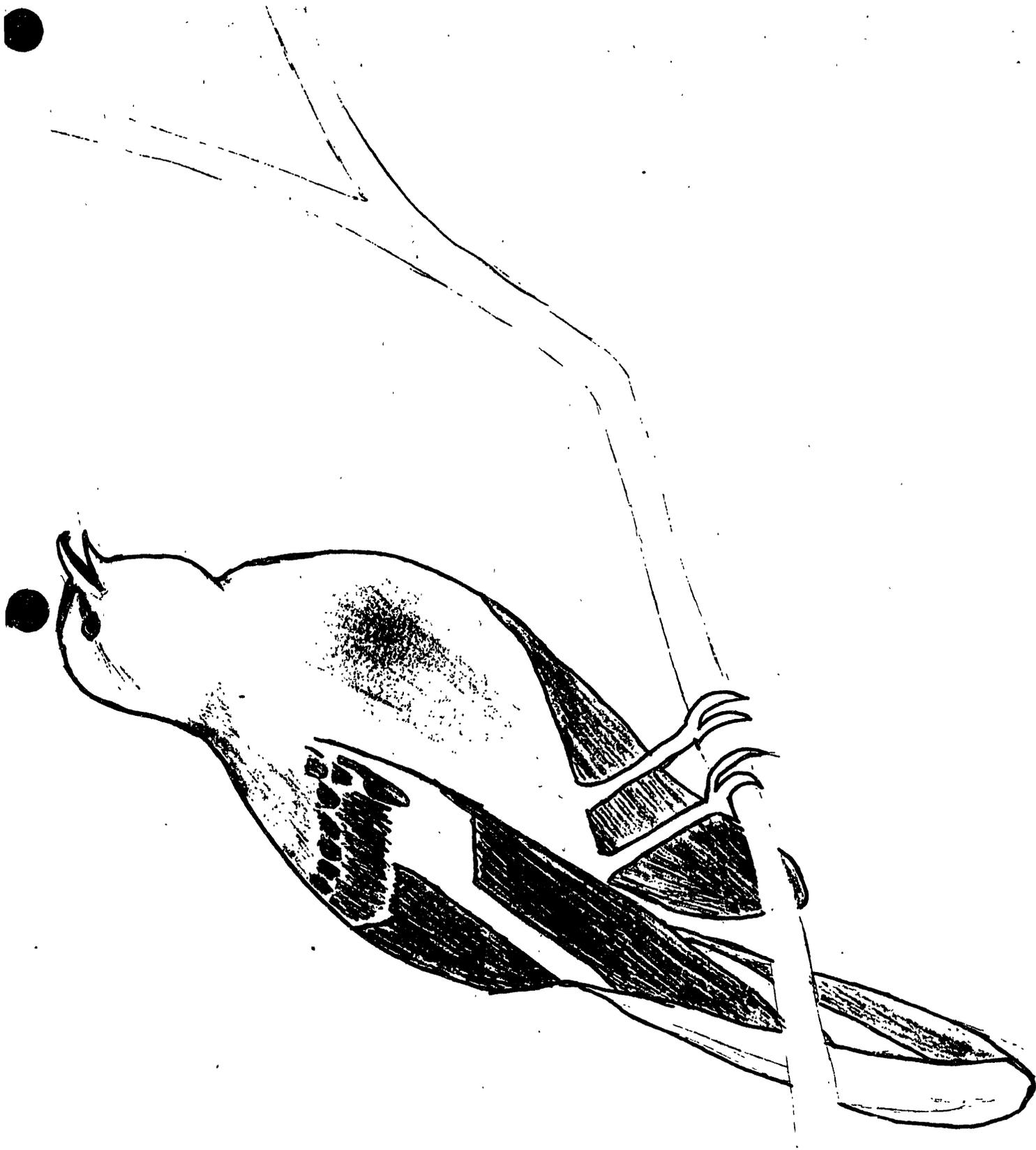
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11
Date: 10/26/06

Name: Aaron Fritz
Grade: 5
School: Rockdale Elementary, Rockdale ISD



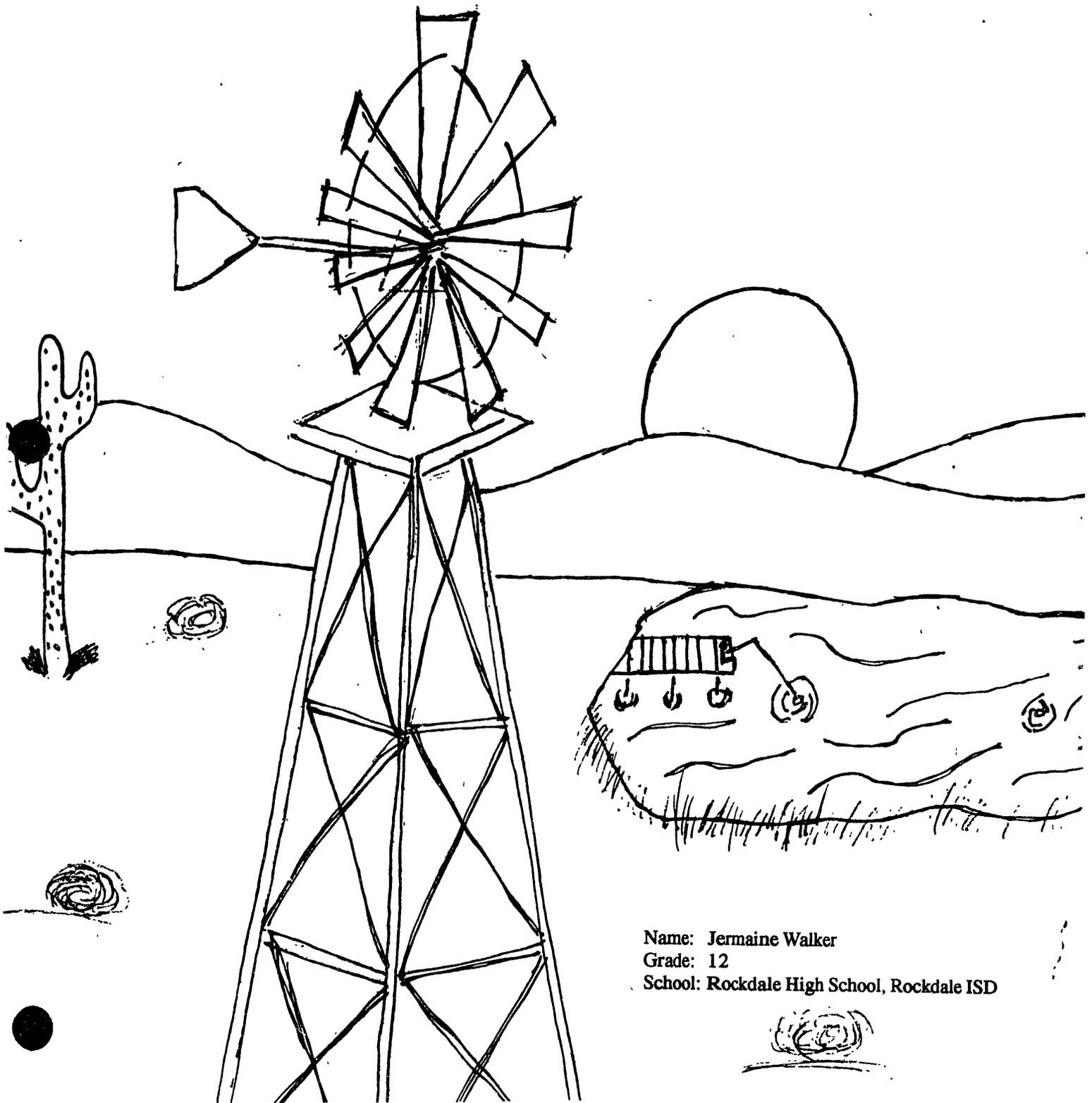
Name: A.J. Rios
Grade: 9
School: Rockdale High School, Rockdale ISD



Name: Matt Daniel
Grade: 11
School: Rockdale High School, Rockdale ISD



Texas

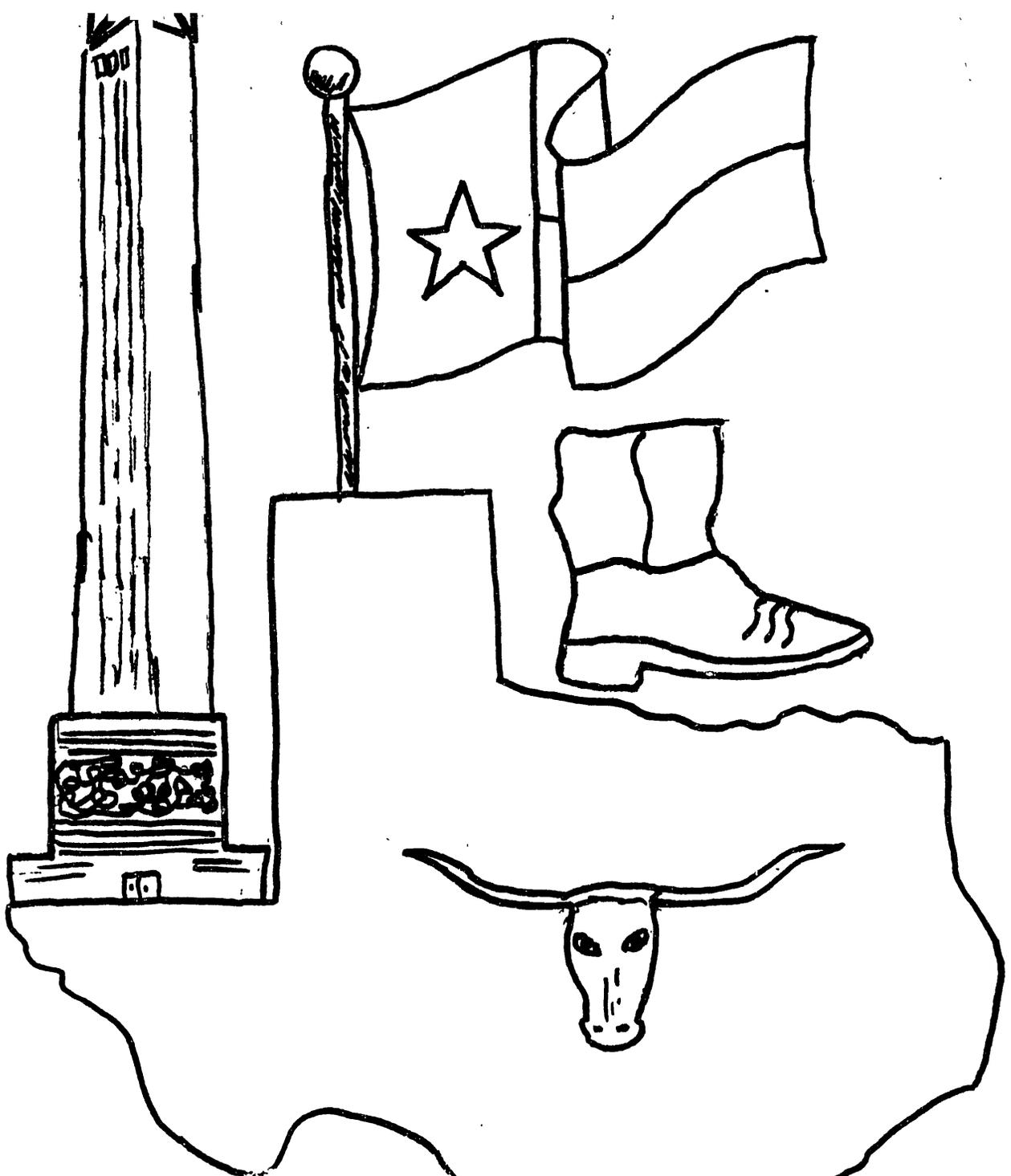


Name: Jermaine Walker

Grade: 12

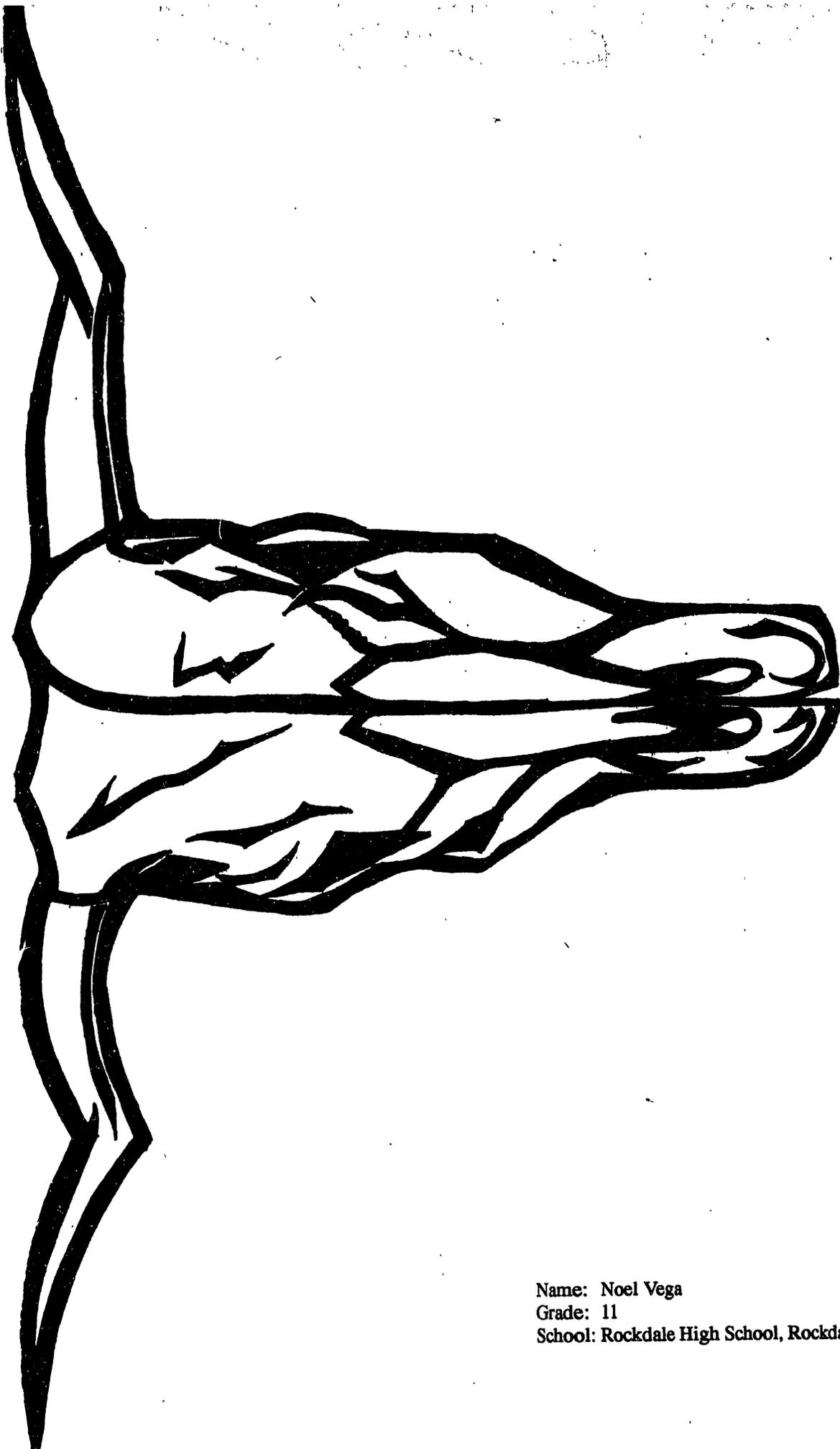
School: Rockdale High School, Rockdale ISD





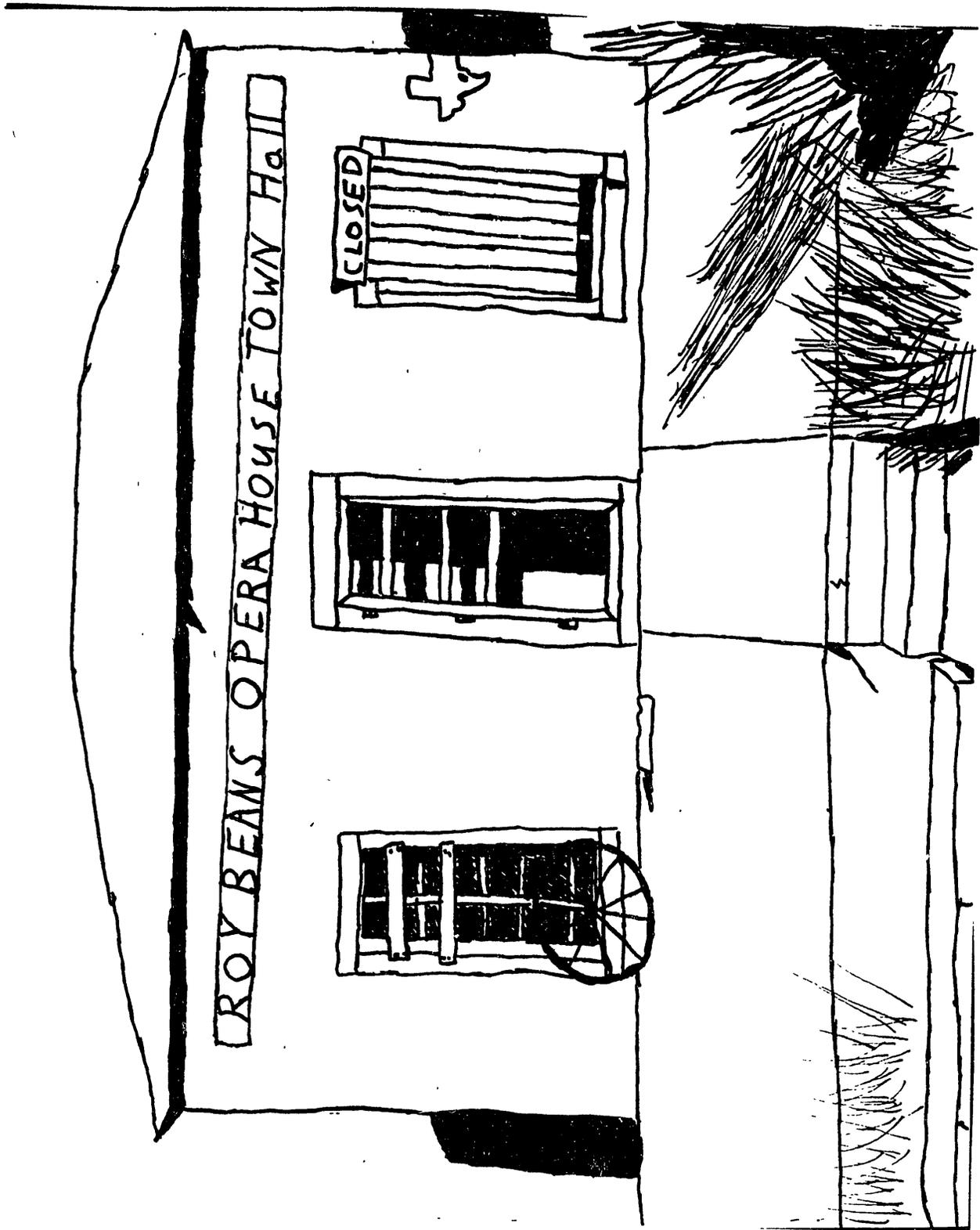
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Texas



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Proposed Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 113. Registration of Securities

• 7 TAC §113.12

The State Securities Board proposes an amendment to §113.12, concerning applicability of guidelines to add Chapter 124 of this title (relating to Administrative Guidelines for Registration of Periodic Payment Plans) to the list of guidelines set forth in the section.

Michael Northcutt, director, securities registration division, 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. Northcutt also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule proposed will be clarification that the guidelines contained Chapter 124 apply only to an offering for which an application for registration is filed with the Securities Commissioner, and not to an offering for which a securities registration exemption is available. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the Board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§113.12. Applicability of Guidelines. The guidelines listed in this rule do not apply to offerings made pursuant to an exemption under either the Securities Act (Act), §5 or §6. In other words, the requirements contained in one of the following guidelines would apply only to an offering for which an application for registration is filed with the Securities Commissioner:

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

(5) Chapter 124 of this title (relating to Administrative Guidelines for Registration of Periodic Payment Plans);

(6)[(5)] §135.5 of this title (relating to Registration of Bonds);

(7)[(6)] Chapter 141 of this title (relating to Administrative Guidelines for Registration of Equipment Programs); and

(8)[(7)] Chapter 143 of this title (relating to Administrative Guidelines for Registration of Real Estate Investment Trusts).

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-9322406

Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: June 11, 1993

For further information, please call: (512) 474-2233

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.70

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

The Railroad Commission of Texas proposed the repeal of §3.70 (Statewide Rule 80), concerning Commission Forms Required to be Filed. Section 3.70 sets forth forms to be filed by appropriate organizations under various rules. The primary purpose of the rule is to let organizations know what and when to file.

What and when to file changes frequently due to amendment of forms and rule; when they do change, a rule change is necessary to keep §3.70 updated.

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

Jim McDougal, hearings examiner, has determined that for the each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be a more efficient communication of commission procedural changes to the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim McDougal, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The repeal is proposed under the Texas Natural Resources Code, §81.052, which provides the commission with the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission.

§3.70. Forms Required.

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 4, 1993.

TRD-9322453

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

Earliest possible date of adoption: June 11, 1993

For further information, please call: (512) 463-7051

The Railroad Commission of Texas proposes §3.70 (Statewide Rules 80), concerning conservation rules and regulations. The purpose of the new rule is: to make the requirement of filing forms required to be filed by various

statewide rules have the force of a statewide rule; and to put the public on notice where a complete set of all commission forms may be found and how notices of new or amended forms will be distributed to the public.

Rita E. Percival, assistant systems analyst for the Oil and Gas Division 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.

Jim McDougal, hearings examiner, 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 as proposed will be a more efficient communication of commission procedural changes to the public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jim McDougal, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The rule is proposed under the Texas Natural Resources Code, §81.052, which provides the commission with the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission.

§3.70. Commission Forms Required to be Filed (Rule 80). Forms required to be filed at the commission will be those prescribed by the commission. These forms may be amended, deleted, or added to at the commission's discretion without having a rulemaking proceeding. A complete set of all commission forms required to be filed at the commission will be kept by the commission secretary. Notice of any new or amended forms shall be issued by the commission.

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 4, 1993.

TRD-9322454

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

Earliest possible date of adoption: June 11, 1993

For further information, please call: (512) 463-7051

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug

Synthetic Narcotic Drugs in the Treatment of Drug Dependent Persons

• 25 TAC §229.148

The Texas Department of Health (department) proposes an amendment to §229.148, concerning state operational requirements for approved drug treatment programs. The amendment will introduce stricter requirements concerning screening for tuberculosis in narcotic treatment programs. This amendment is in response to an increased incidence of tuberculosis infection and disease in the IV drug user population and the increased risk of infection to program workers. Early detection of tuberculosis infection and disease in patients and employees may result in reduced transmission of infection and more effective treatment.

Dennis E. Baker, Director, Division of Food and Drugs, has determined that for the first five-year period the rule is in effect there will be no fiscal implications on state or local government as a result of enforcing or administering the rule.

Mr. Baker 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 the rule will be the possible earlier detection and more effective treatment of tuberculosis infection and disease in a high risk population. There will be minor additional costs to small businesses and persons for annual screenings and for the added requirement to screen employees. There will be no effect on local employment.

Comments on the proposed amendment may be submitted to Mr. Dennis E. Baker, Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7248. Comments will be accepted for 30 days following the date of publication of this proposed section in the *Texas Register*. In addition, a public hearing on the proposed rule will be held at 1:00 p.m. on Friday, May 21, 1993, at the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The amendment is proposed under the Texas Health and Safety Code, §466.004, which provides the department with the authority to adopt necessary regulations pursuant to the enforcement of this Chapter; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§229.148. State Operational Requirements.

(a)-(t) (No change.)

(u) Upon admission, each patient must receive an intradermal skin test using the Mantoux technique, or, when available, a procedure of equal or better sensitivity. A patient is not required to be retested at each admission if he or she can provide documentation that a Mantoux test was performed within the previous twelve months. Patients who had negative tuberculin skin tests on admission must be retested each year. Patients with a positive skin test result of 5 millimeters or greater must be referred for diagnostic evaluation.

(v) Each employee working in a narcotic treatment program must receive an intradermal skin test using the Mantoux technique at the start of employment and annually thereafter, or present a certificate signed by a physician that states that:

(1) the employee has been tested for tuberculosis infection within the previous 90 days; and

(2) the results of the test indicates that the person does not have tuberculosis.

(w) In lieu of a screening test an employee with a history of a positive screening test must provide:

(1) documentation of that positive test result and of any diagnostic and therapeutic follow-up; and

(2) a certificate signed by a physician that states that the person does not have tuberculosis.

(x)[(u)] All notations by NTP personnel on patient files and other files kept by the NTP for purposes of this chapter shall be typed, printed, or legibly handwritten so that any regulatory authority could read the writing.

(y)[(v)] An NTP may not refuse to allow an inspection or otherwise interfere with personnel of the State Methadone Authority in the performance of their duties, including the photocopying of patient records during an inspection. It is a violation for an NTP not to fully cooperate in any inspection by the State Methadone Authority.

(z)[(w)] Each NTP shall notify the State Methadone Authority in writing of any change in the employment status of any of its program personnel. This notice shall be provided within 20 days of the event.

(aa) [(x)] NTP counselors not exempted must be licensed by the Texas Commission on Alcohol and Drug Abuse (TCADA).

(bb)[(y)] Any theft from or illegal break-in to the clinic must be reported in writing to the State Methadone Authority within 10 days of the event.

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 4, 1993.

TRD-9322478

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

Proposed date of adoption: July 24, 1993

For further information, please call: (512) 458-7248

Registration of Manufacturers of Food-Including Good Manufacturing Practices

• 25 TAC §229.182, §229.183

The Texas Department of Health (department) proposes amendments to §229.182 and §229.183, concerning registration fee and procedures; and minimum standards for registration of manufacturing of food-including good manufacturing practices. Section 229.182 provides procedures for the registration for all manufacturers of food. In addition, §229.182 enumerates those entities which are exempt from registration requirements. Section 229.183 establishes the minimum standards required for registration. The proposed amendments will establish new registration deadlines and provide for a penalty when a renewal application is submitted after the certificate of registration expiration date. The proposed amendments will also amend the statutory citations for consistency with the Texas Health and Safety Code.

The proposed amendments will enable the department to register and regulate manufacturers of food so as to ensure compliance with the federal regulations titled "Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food." The changed deadlines will enable the department to process the registrations in a more timely manner, help reduce the massive peak workload which results from processing over 9,200 food and drug applications at the same time, eliminate the need for temporary workers to assist with registration, and afford the department more time to follow up on firms that are delinquent in fee payment.

Dennis E. Baker, director, Division of Food and Drugs, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government will be an estimated reduction in the cost of \$1,120 for each of the fiscal years (FY) 1994-1997. There will be an estimated increase in revenue of \$15,000 for FY 1994; of \$32,000 for FY 1995; of \$36,000 for FY 1996; and \$21,500 for FY 1997. There will be no effect on local government.

Mr. Baker also has determined that for each year of the first five years that the rules are in effect the public benefit anticipated as a result of the rules will be more timely and efficient issuance of registration certificates. There will be no additional annual cost to small

businesses and persons. There will be no effect on local employment.

Comments on the proposed amendments may be submitted to Dennis E. Baker, Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78759 (512) 458-7248. Comments will be accepted for 30 days following the date of publication of these proposed rules in the *Texas Register*. In addition, a public hearing on the proposed sections will be held at 9:00 a.m., on Thursday, May 20, 1993, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The amendments are proposed under the Texas Health and Safety Code, §431.241, which provides the department with the authority to adopt necessary regulations pursuant to the enforcement of this chapter; §431.225 which provides the Board the authority to adopt regulations to provide that registrations may expire at different dates during the year and may prorate registration fees for the months of a year in which a registration expiration date is changed; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§229.182. Registration Fee and Procedures.

(a) Registration fee and exemptions.

(1) All manufacturers of food in Texas shall register annually [on or before September 1] with the Texas Department of Health and shall pay registration fees as follows:

(A)-(G) (No change.)

(2) (No change.)

(b)-(e) No change.

(f) Issuance of certificate of registration. The department may [shall] register and issue a certificate of registration to a manufacturer of foods who meets the requirements of this section and §229.183 of this title (relating to Minimum Standards for Registration).

(1) The initial certificate of registration shall be valid for one year from the date of issuance which becomes the anniversary date.

(2) The renewal certificate of registration shall be valid for one year from the anniversary date.

(g) Renewal of registration.

(1) Each year, the food manufacturer shall renew its registration following the requirements of this section and §229.183 of this title (relating to Minimum Standards for Registration).

(2) A person who holds a certificate of registration issued by the department under the Health and Safety Code shall renew the certificate of registration by filing an application for renewal on a form prescribed by the Department accompanied by the appropriate registration fee. A registrant must file for renewal before the expiration date of the current certificate of registration. A person who files a renewal application after the expiration date must pay an additional \$100 as a delinquency fee. [The application for renewal and fee of \$25 for each establishment shall be submitted to the department on or before September 1 in accordance with department procedures in this section.]

(3) Failure to submit the renewal annually [prior to September 1] may subject the food manufacturer to the offense provisions under the Health and Safety Code, Chapter 431 [Texas Civil Statutes, Article 4476-5, §23a. 7], and also to the provision of §229.184 of this title (relating to Refusal, Revocation, or Suspension of Registration).

§229.183. Minimum Standards for Registration.

(a) Minimum standards. All manufacturers of food in Texas shall comply with the minimum standards specified in subsection (b) of this section in addition to the existing standards contained in the following statutes, Health and Safety Code, Chapter 431 [Texas Food, Drug and Cosmetic Act, Texas Civil Statutes, Article 4476-5]; Health and Safety Code, Chapter 434 [Bakeries and Bakers Act, Texas Civil Statutes, Article 4476-1a]; and Health and Safety Code, Chapter 438 [Diseases Transmitted Through Food, Drink or Utensils Act, Texas Civil Statutes, Article 4476-10].

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

(e) Food labeling. If a person, firm or corporation labels an article of food, the label shall meet the requirements [requirement] of the Health and Safety Code, Chapter 431 [Texas Food, Drug and Cosmetic Act, Texas Civil Statutes, Article 4476-5].

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 4, 1993.

TRD-9322477

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

Proposed date of adoption: July 24, 1993

For further information, please call: (512) 458-7248

Licensing of Wholesale Distributors of Drugs—Including Good Manufacturing Practices

• 25 TAC §229.252

The Texas Department of Health (department) proposes an amendment to §229.252, concerning licensing fees and procedures for wholesale distributors of drugs—including good manufacturing practices. Section 229.252 provides the requirements for the licensure for all wholesale distributors of drugs. In addition, §229.252 enumerates those entities which are exempt from licensure requirements. The proposed amendment will establish new licensure deadlines and will provide for a penalty when a renewal application is submitted after the license expiration date.

The proposed amendments will enable the department to license and regulate wholesale distributors of drugs so as to ensure compliance with the federal regulations entitled "Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; General." The changed deadlines will enable the department to process the applications in a more timely and efficient manner, help reduce the massive peak workload which results from processing over 1,600 drug applications at the same time, eliminate the need for temporary workers to assist with registration, and afford the department more time to follow up on firms that are delinquent in fee payment.

Dennis E. Baker, Director, Division of Food and Drugs, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated reduction in cost of \$1,120 for each year of the fiscal years (FY) 1994-1997. There will be an estimated increase in revenue of \$4,900 for FY 1994; of \$8,750 for FY 1995; \$11,000 for FY 1996; and \$10,000 for FY 1997. There will be no effect on local government.

Mr. Baker 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 the rule will be more timely issuance of licenses. There will be no additional annual cost to small businesses or persons who are required to comply with the rule as proposed. There will be no effect on local employment.

Comments on the proposed rule may be submitted to Mr. Dennis E. Baker, Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7248. Comments will be accepted for 30 days following the date of publication of this proposed rule in the *Texas Register*. In addition, a public hearing on the proposed rules will be held at 2:00 p.m. on Thursday, May 20, 1993, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The amendment is proposed under the Texas Health and Safety Code, §431.241, which provides the department with the authority to

adopt necessary regulations pursuant to the enforcement of this chapter; §431.205 which provides the Board the authority to adopt regulations to provide that licenses may expire on different dates during the year and may prorate license fees payable on or before September 1 so that the licensee is required to pay only that portion of the fee that is allocable to the number of months during which the license is valid; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§229.252. Licensing Fee and Procedures.

(a) License fee. All wholesale distributors of drugs who sell drugs in Texas shall obtain a license annually [on or before September 1] with the Texas Department of Health (department) and shall pay a licensing fee for each wholesale distribution place of business operated, as follows:

(1)-(5) (No change.)

(b)-(e) (No change.)

(f) Issuance of license. The department may license a wholesale distributor of drugs who meets the requirements of this section and §229.253 of this title (relating to Minimum Standards for Licensing).

(1) The initial license shall be valid for one year from the date of issuance which becomes the anniversary date.

(2) The renewal license shall be valid for one year from the anniversary date.

(g)[(h)] Renewal of license.

(1) Each year, the wholesale distributor of drugs shall renew its license following the requirements of this section and § 229.253 of this title (relating to Minimum Standards for Licensing).

(2) A person who holds a license issued by the department under the Health and Safety Code shall renew the license by filing an application for renewal on a form prescribed by the Department accompanied by the appropriate licensure fee. A licensee must file for renewal before the expiration date of the current license. A person who files a renewal application after the expiration date must pay an additional \$100 as a delinquency fee. [The application for renewal license and fee for each place of business shall be submitted to the department annually on or before September 1 in accordance with department procedures in this section.]

(3) Failure to submit the renewal annually [prior to September 1] may subject the wholesale distributor of drugs to the enforcement provisions under [the

Health and Safety Code, Chapter 431 and also to the provision of §229.254 of this title (relating to Refusal, Revocation or Suspension of License).

(A) Amendment of license.

A license that is amended, including a change of ownership or a notification of a change in the location of a licensed place of business required under the Health and Safety Code, §431.206 will require submission of fees as outlined in subsection (a) of this section.

(B) Notification of change of location of place of business. Not fewer than 30 days in advance of the change, the licensee shall notify the Commissioner of Health (commissioner) or the commissioner's designee in writing of the licensee's intent to change the location of a licensed place of business. The notice shall include the address of the new location, and the name and residence address of the individual in charge of the business at the new location. Not more than 10 days after the completion of the change of location, the licensee shall notify the commissioner or the commissioner's designee in writing to verify the change of location, the address of the new location, and the name and residence address of the individual in charge of the business at the new address. Notice will be deemed adequate if the licensee provides the intent and verification notices to the commissioner or the commissioner's designee by certified mail, return receipt requested, mailed to the Texas Department of Health, 1100 West 49th Street, Austin.

(h)[(g)] Exemption from licensing. Persons who engage only in the following types of wholesale drug distribution are exempt from the licensing requirements of this undesignated head, to the extent that it does not violate provisions of the Texas Dangerous Drug Act, Health and Safety Code; or the Texas Controlled Substances Act, Health and Safety Code:

(1) intracompany sales;

(2) the purchase or acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(3) the sale, purchase, or trade of a drug or an offer to sell, purchase or trade a drug by a charitable organization, as described in the Internal Revenue Code of 1986, §501(c)(3), to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) the sale, purchase, or trade of a drug or an offer to sell, purchase, or

trade a drug among hospitals or other health care entities that are under common control. For the purpose of this subsection, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise;

(5) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this section, "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) the distribution of drug samples by manufacturers' representatives or distributors' representatives; or

(8) the sale, purchase, or trade of blood and blood components intended for transfusion.

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 4, 1993.

TRD-9322476

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

Proposed date of adoption: July 24, 1993

For further information, please call: (512) 458-7248

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 122. Federal Operating Permits

The Texas Air Control Board (TACB) proposes new §§122.010-112.012, 122.120, 122.122, 122.130, 122.132, 122.134, 122.136, 122.138, 122.139, 122.141, 122.143, 122.145, 122.150, 122.152-122.155, 122.161, 122.163-122.165, 122.201, 122.202, 122.204, 122.210-122.213, 122.215-122.217, 122.219-122.221, 122.231, 122.233, 122.241, 122.243, 122.310, 122.312, 122.314, 122.316, 122.410, 122.411, 122.420-122.422, 122.425, 122.427, 122.430, 122.432, 122.434, 122.435, 122.437, 122.438, and 122.440, concerning the federal operating permit program as required in new Part 70 of Chapter I, Title 40 of the Code of Federal Regulations (40 CFR 70). Title V of the 1990 Federal Clean Air Act (FCAA)

Amendments, enacted on November 15, 1990, requires the United States Environmental Protection Agency (EPA) to promulgate regulations within 12 months of enactment that require and specify the minimum elements of state operating permit programs. The new Part 70 contains these provisions. The proposed chapter is organized into five subchapters: Subchapter A, concerning Definitions; Subchapter B, concerning Permit Requirements; Subchapter C, concerning Permit Issuances, Revisions, and Renewals; Subchapter D, concerning Affected State Review, EPA Review, and Citizen Petition; and Subchapter E, concerning Acid Rain. The new Chapter 122 has been created to adopt the regulatory authority of the federal operating permit program required under §70.4(b) of 40 Code of Federal Regulations 70, regarding elements of the initial program submission. The new Subchapter A, concerning Definitions, contains the general definitions, grandfather source definitions, and acid rain definitions applicable to Chapter 122. These definitions are generally taken from §70.2 of 40 Code of Federal Regulations 70, concerning Definitions, with some modifications to enhance the operating permit program as it will function in Texas. The grandfather definitions are part of a state-only requirement to establish emission and operational limitations for grandfather facilities as required in §122.132(a)(5) of this title (relating to Application and Required Information). The new Subchapter B, concerning Permit Requirements, contains five undesignated heads and contains information applicable to obtaining a federal operating permit. The five undesignated heads are titled Applicability, Permit Application, Permit Content, Public Notification and Comment Procedures, and Miscellaneous. The new undesignated head regarding Applicability states what sources must apply for a federal operating permit and the procedures for registration of emissions. The new undesignated head regarding Permit Application lists all of the requirements for submitting a complete federal operating permit application, procedures for responding to application deficiencies, and the time limitations on TACB for application review. New §122.122 (relating to Potential to Emit) allows sources that have no federally enforceable emission limitation to voluntarily certify, and thereby restrict their potential to emit. This section will become part of the Texas State Implementation Plan. Section 122.132(a)(5) will include a state-only requirement to establish a grandfather rate for each grandfather unit at a site that is affected by the federal operating permit program. A grandfather unit is an emission unit which was constructed prior to September 1, 1971, which is the effective date for the Texas new source review program. Many industries have had difficulty obtaining operational data prior to the effective date to demonstrate that their grandfather status is still valid. A presumptive grandfather rate was established to allow use of more recent data to approximate the actual grandfather rate. This rule will benefit the public, industry, and TACB by providing a formal mechanism for establishing maximum emission rates and operational limitations for grandfather facilities. The new undesignated head regarding Permit Content contains gen-

eral and specific conditions to be included in each federal operating permit. The Federal Operating Permit Rules (40 Code of Federal Regulations Part 70) provide the state the option of allowing a permit shield in its program. The permit shield in the federal rule (40 CFR §70.6(f)) provides that compliance with the provisions of an operating permit is deemed compliance with all applicable requirements as defined in the 40 Code of Federal Regulations Part 70 Rules. The proposal does not include the permit shield in the operating permit program. However, the agency is requesting comments from the public on the following issues for consideration in determining whether or not to include a permit shield as an option in the Operating Permit Program. An issue paper discussing the permit shield question from the agency staff perspective can be obtained from the Regulation Development Division of TACB upon request.

Should a permit shield as written in 40 Code of Federal Regulations §70.6(f), or some variation of that permit shield, be part of the Federal Operating Permit Program in Texas?

How would enforceable regulatory language be written which would provide for a narrow permit shield (for example, for reinterpretation of an applicable requirement in the permit)?

In what ways is a permit shield necessary to make a proper applicability determination?

What additional planning certainty would the permit shield provide to the regulated community beyond what is currently available through proper applicability determinations?

A permit shield would only apply to the operating permit. Therefore, how would the permit shield be written such that it does not promote confusion over what applicable requirements are subject to enforcement because of their inclusion in other permits or regulations, even though they are shielded in the operating permit?

Since the Operating Permit Program is being implemented as a separate program from the pre-construction NSR program in Texas, how would the permit shield be written in order to avoid enforcement inconsistencies in a two-permit system?

How would the permit shield be written such that it would not interfere with the use of the operating permit as an enforcement tool?

How would the permit shield be written to avoid inequities in enforcement between major sources that hold operating permits and minor sources that do not hold operating permits, and consequently could not use the permit shield?

How would a permit shield affect the filing of citizen's suits or affect enforcement actions taken by local governments and the Environmental Protection Agency?

What mechanisms would be available to correct misapplication of the permit shield and provide timely compliance with applicable requirements?

How would the permit shield be written such that it would not significantly slow or affect review of operating permit applications and subsequent issuance?

How would the benefits of the permit shield outweigh the resource requirements on the part of the state to implement the permit shield?

How would the permit shield be written in order to encourage thorough applications by the regulated community?

How would the permit shield be written such that the responsibility for applicability determinations remains with the regulated community?

What mechanisms, other than a permit shield, could provide for equitable protection in enforcement due to changes in interpretation of applicable requirements?

Other issues that are germane to the implementation of a permit shield in the operating permit program. The new undesignated head regarding Public Notification and Comment Procedures describes the procedures and format for completing public notification requirements as part of the permit application review process. The new undesignated head regarding Miscellaneous contains effective dates, procedures for submitting confidential information, and certification requirements. The new Subchapter C, concerning Permit Issuances, Revisions, Reopenings, and Renewals contains four undesignated heads and contains information regarding procedures for revising or reopening a federal operating permit, requirements for a permit renewal, and conditions for issuance of a federal operating permit. The four undesignated heads are titled Permit Issuance, Permit Revisions, Permit Reopenings, and Permit Renewals. The new undesignated head regarding Permit Issuance lists all of the conditions that must be met by the applicant to obtain a federal operating permit. It also establishes a category of general permits to be created and modified in future rulemaking, and states the requirements for temporary sources to apply for a federal operating permit. The new undesignated head regarding Permit Revisions explains the procedural requirements for making changes to a federal operating permit which include administrative amendments, permit additions, and significant modifications. The new undesignated head regarding Permit Reopenings specifies the causes for reopening of a federal operating permit for additional review and public comment. The new undesignated head regarding Permit Renewals states the procedures and requirements for renewal of a federal operating permit. The new Subchapter D, concerning Affected State Review, EPA Review, and Citizen Petition, contains information concerning procedures and time frames for commenting on a federal operating permit application by other affected states, the EPA, and public petition. There is also an explanation of public hearing and comment procedures. The new Subchapter E, concerning Acid Rain, contains four undesignated heads and contains information concerning the applicability and federal operating permit requirements for acid rain sources under Title IV of the FCAA. The four undesignated heads are titled General Acid Rain Permit Requirements; Acid Rain Application; Acid Rain Permit Issuance, Revisions, and Reopenings; and Acid Rain Appeals. The new

undesignated head regarding General Acid Rain Permit Requirements states the general requirements for obtaining an acid rain permit. The new undesignated head regarding Acid Rain Application concerns the enforceability and the requirements for submitting a timely and complete permit application. The undesignated head regarding Acid Rain Permit Issuance, Revisions, and Reopenings concerns the effective dates for the various parts of the acid rain program, and the procedures for a revision or administrative amendment to an acid rain permit. The undesignated head regarding Acid Rain Appeals concerns the administrative procedures for appealing an acid rain permit.

Mr. Lane Hartsock, Deputy Director of Air Quality Planning, has determined that there will be fiscal implications to state government for the first five-year period that the federal operating permit program will be in effect. This cost is based on an anticipated 3,000 federal operating permit applications received during this five-year period. Almost all of the divisions and regional offices of the agency will be involved in administering the federal operating permit program to some degree. The total cost to the agency to implement and operate the Title V program is projected at \$36 million per year.

Mr. Hartsock also has determined that there will be fiscal implications to industry for the first five-year period that the federal operating permit program will be in effect. These costs will consist of the cost to prepare and process a federal operating permit application through to issuance. At an estimated cost of \$15,000 per permit application and a projected 3,000 applications during the first five years, the total cost to industry will be \$41 million. The projected cost to small businesses is projected as \$10,000 for each permit application due to the relatively fewer number of sources and smaller facilities in comparison to large companies. It is projected that small businesses will assume 25% of the total cost to industry, or \$10 million.

Mr. Hartsock also has determined that for the first five-year period the proposed rules are in effect, the public benefit will be improved enforcement of the applicable requirements of state and federal rules. There will also be a clearer understanding by both industry and the public of the emission standards applicable to each facility through the codification of these standards into the permit. The recordkeeping requirements that are specifically stated in each federal operating permit will provide assurance that the affected facility is in compliance with its operational and emission limitations.

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, 12118 North IH-35, Park 35 Technology Center, Building A, (Room 201S), Austin. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is

not permitted; however, a TACB staff member will be available to discuss the proposal and answer questions 30 minutes before the hearing. Written comments not presented at the hearing may be submitted to the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753 through 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, Texas 78753, and at all TACB Regional offices.

For further information, contact Gary McArthur at (512) 908-1917. Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Subchapter A. Definitions

• 31 TAC §§122.10-122.12

The rules 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.

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

Act—The Federal Clean Air Act, as amended, 42 United States Code 7401, et seq.

Affected States—May be New Mexico, Oklahoma, Arkansas, or Louisiana if either of the following criteria are met:

(A) the State's air quality may be affected by the issuance of a federal operating permit, permit modification or permit renewal; or

(B) the State noted above is within 50 miles of the site or proposed site.

Air Pollutant—For purposes of this chapter, any of the following regulated air pollutants:

(A) nitrogen oxides;

(B) volatile organic compounds;

(C) any pollutant for which a National Ambient Air Quality Standard has been promulgated;

(D) any pollutant that is subject to any standard promulgated under §111 of the Act;

(E) any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(F) any pollutant listed in §112(b) or promulgated pursuant to §112(r) of the Act.

Applicable Requirement--All of the following as they apply to the emission units at a site (including requirements that have been promulgated or approved by the United States Environmental Protection Agency (EPA) through rulemaking at the time of issuance of the permit but have future-effective compliance dates):

(A) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52. For purposes of the Federal Operating Permit Program, Texas Air Control Board Chapters 111 through 115, and 117 through 119 of this title are the only state standards that implement relevant requirements of Title I of the Act.

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Parts C (Prevention of Significant Deterioration (PSD)) or D (Nonattainment) of Title I of the Act;

(C) Any standard or other requirement under §111 (New Source Performance Standards (NSPS)) of the Act, including §111(d);

(D) Any standard or other requirement under §112 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 are Hazardous Air Pollutants (HAPS) of the Act, including any requirement concerning accident prevention under the Act, §112(r)(7);

(E) Any standard or other requirement of the acid rain provisions of the Act or the acid rain rules;

(F) Any requirements established pursuant to the Act, §504(b) or §114(a)(3) regarding Monitoring, Enhanced Monitoring, and Compliance Certification;

(G) Any standard or other requirement governing solid waste incineration, under the Act, §129 (NSPS);

(H) Any standard or other requirement for consumer and commercial products, under the Act, §183(e) (Federal Ozone Measures);

(I) Any standard or other requirement for tank vessels, under the Act, §183(f) (Tank Vessel Standards);

(J) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under the Act, §328;

(K) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless EPA has determined that such requirements need not be contained in a federal operating permit; and

(L) Any National Ambient Air Quality Standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to the Act, §504(e). Except as noted in this section, ambient air quality standards, either state or federal, are not applicable requirements under this chapter.

Deviation--Any condition that indicates that an emissions unit has failed to meet a permit requirement.

Draft Permit--The version of a federal operating permit available for purposes of public notice and affected state review under Subchapter B of this chapter (relating to Public Notification and Comment Procedures).

Emission Allowable Under the Permit--A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement, that establishes an emissions limit (including a work practice standard) in the form of the applicable requirement or a federally enforceable emissions cap that the site has assumed to avoid an applicable requirement to which the site would otherwise be subject.

Emission Unit--The smallest discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a point of origin of air pollutants as defined in this Section. A point of origin of

fugitive emissions from individual pieces of equipment, e.g. valves, flanges, pumps, and compressors, shall not be considered an individual emission unit. Such fugitive emissions shall be collectively considered as an emission unit based on their relationship to the associated process. This term is not meant to alter or affect the definition of the term "unit" for purposes of the acid rain provisions of the Act.

United States Environmental Protection Agency (EPA) or Administrator--The Administrator of the EPA or his designee.

Final Action--Issuance or denial of the proposed permit by the board or its designee.

Fugitive Emissions--Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

General Permit--A federal operating permit that meets the requirements of §122.202 of this title (relating to General Permits).

Major Source--Any site which emits or has the potential to emit air pollutants as described in subparagraphs (A), (B), or (C) of this definition.

(A) Any site which, in whole or part, is a major source under the Act, §112, which is defined as:

(i) for pollutants other than radionuclides, any site that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to §112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule; or

(ii) for radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) Any site which directly emits or has the potential to emit 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the United States Environmental Protection Agency). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major source, unless the stationary source belongs to one of the following categories of stationary sources:

(i) coal cleaning plants (with thermal dryers);

(ii) kraft pulp mills;

(iii) portland cement plants;

(iv) primary zinc smelters;

- (v) iron and steel mills;
- (vi) primary aluminum ore reduction plants;
- (vii) primary copper smelters;
- (viii) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) hydrofluoric, sulfuric, or nitric acid plants;
- (x) petroleum refineries;
- (xi) lime plants;
- (xii) phosphate rock processing plants;
- (xiii) coke oven batteries;
- (xiv) sulfur recovery plants;
- (xv) carbon black plants (furnace process);
- (xvi) primary lead smelters;
- (xvii) fuel conversion plant;
- (xviii) sintering plants;
- (xix) secondary metal production plants;
- (xx) chemical process plants;
- (xxi) fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units (BTU) per hour heat input;
- (xxii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) taconite ore processing plants;
- (xxiv) glass fiber processing plants;
- (xxv) charcoal production plants;
- (xxvi) fossil-fuel fired steam electric plants of more than 250 million BTU per hour heat input; or
- (xxvii) Any other stationary source category which as of August 7, 1980, is being regulated under the Act, §111 or §112.

(C) Any site which, in whole or in part, is a major source under Part D of Title I of the Act, which is defined as follows:

- (i) Any site with the potential to emit volatile organic compounds (VOC) or oxides of nitrogen in a quantity of 100 tpy or more in Collin, Dallas, Denton,

and Tarrant counties; 50 tpy or more in El Paso, Hardin, Jefferson, and Orange counties; and 25 tpy or more in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties;

(ii) for Victoria County, sites with the potential to emit 100 tpy or more of VOC;

(iii) for the carbon monoxide nonattainment area in El Paso County, sites with the potential to emit 100 tpy or more of carbon monoxide;

(iv) for the City of El Paso, sites with the potential to emit 100 tpy or more of inhalable particulate matter (PM-10);

(v) for the lead nonattainment area in Collin County, sites with the potential to emit 100 tpy or more of lead.

(D) Notwithstanding the preceding source categories, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this definition.

Permit—Any federal operating permit or group of federal operating permits covering a site that are issued, renewed, amended, or revised pursuant to this chapter, or general permit or group of general permits promulgated or granted pursuant to this chapter.

Permit Application—An application for a federal operating permit, permit revision, permit renewal, permit reopening, and any other such application as may be required.

Permit Revision—Any permit addition, significant modification or administrative permit amendment that meets the related requirements of Subchapter C of this chapter (relating to Permit Issuances, Revisions, Reopenings, and Renewals).

Potential to Emit—The maximum capacity of a stationary source to emit any air pollutant under its physical and operational design or configuration. Any certified registration restricting emissions or any physical or operational limitation on the capacity of a stationary source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable

by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in acid rain provisions of the Act or the acid rain rules.

Proposed Permit—The version of a federal operating permit that the Texas Air Control Board proposes to issue and forwards to United States Environmental Protection Agency for review in compliance with Subchapter D of this chapter (relating to Acid Rain).

Preconstruction Authorization—Any authorization to construct or modify an existing facility or facilities under Chapter 116 of this title (relating to Permits).

Relevant Emission Unit—Those emission units having one or more applicable requirements as defined in this chapter.

Renewal—The process by which a federal operating permit is reissued at the end of its term.

Responsible Official—One of the following:

(A) for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a federal operating permit and either:

(i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) the delegation of authority to such representative is approved in advance by the Texas Air Control Board;

(B) for a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) for a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this chapter, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the United States Environmental Protection Agency); or

(D) for affected sources:

(i) the designated representative in so far as actions, standards, requirements, or prohibitions under the acid

rain provisions of the Act or the acid rain rules are concerned; and

(ii) the designated representative for any other purposes under this chapter.

Significant Permit Modification—A revision to a federal operating permit that meets the requirements of §122.219 of this title (relating to Significant Permit Modifications).

Site—The total of all stationary sources located on one or more contiguous or adjacent properties, which are under common control of the same person or persons. A site may contain multiple relevant emission units and grandfathered emission units.

State-Only Requirement—A requirement which is not federally enforceable under the federal operating permit program.

Stationary Source—Any building, structure, facility, or installation that emits or may emit any air pollutant. Title I Modification Changes at a site that qualify as a modification under New Source Performance Standards or §112(g), or a significant permit modification under Nonattainment or Prevention of Significant Deterioration new source review in Chapter 116 of this title (relating to Permits).

§122.11. Grandfather Definitions for State-Only Requirements. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

Actual Grandfather Emission Unit—(definition used for state only requirement) An emission unit for which construction or operation started prior to September 1, 1971, at which no modification has occurred since September 1, 1971 and, therefore, for which no authorization has been required under Chapter 116 of this title (relating to Permits). Those emission units which started construction between September 1, 1971 and March 1, 1972, and which registered in accordance with the Texas Health and Safety Code, §382.060 as that section existed prior to September 1, 1991 are also considered grandfathered units.

Actual Grandfather Rate—(definition used for state-only requirement) The maximum annual emission rate or data that are related to emissions (e.g., production, fuel firing, throughput, sulfur content, etc., as appropriate) at which the emission unit actually operated and emitted prior to September 1, 1971 for 12 consecutive months.

Presumptive Grandfather Emission Unit—(definition for state-only requirement) An emission unit or method of operation for which construction or operation started prior to March 1, 1972, unless the total annual maximum emission rate or operational limits that are related to the annual emissions (e.g., production, fuel firing, throughput, sulfur content, operating

hours, etc., as appropriate) for the emission unit are established in a permit, special permit, or special exemption issued pursuant to Chapter 116 of this title (relating to Permits).

Presumptive Grandfather Rate—(definition used for state-only requirement) The maximum annual emission rate or data that are related to emissions (e.g., production, fuel firing, throughput, sulfur content, etc., as appropriate) which are selected to reasonably approximate the actual grandfather rate based upon a review of actual historical operations using the procedure outlined in §122.132(a)(5) of this title (relating to Application and Required Information).

§122.12. Acid Rain Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

Acid Rain Compliance Option—One of the methods of compliance used by an affected unit as described in a compliance plan submitted and approved in accordance with the acid rain rules or the Act, §407.

Acid Rain Permit—The legally binding portion of the federal operating permit issued by the Texas Air Control Board under this chapter including any permit revisions, specifying the acid rain requirements applicable to an affected source, to each affected unit at an affected source, and to the owners and operators and the designated representative of the affected source or the affected unit.

Acid Rain Rules—The regulations promulgated pursuant to the acid rain provisions of the Act contained in 40 Code of Federal Regulations, Part 72, et al.

Affected Source—A site that includes one or more affected units.

Affected Unit—A unit that is subject to emission reduction requirements or limitations under the acid rain rules.

Allowance—An authorization, under the acid rain rules, by the United States Environmental Protection Agency to emit up to one ton of sulfur dioxide during or after a specified calendar year.

CEM and COM—Abbreviations for continuous emission monitor(s) and a continuous opacity monitor(s), respectively.

Certificate of Representation—The completed and signed submission required by the acid rain rules, for certifying the appointment of a designated representative for an affected source or a group of identified affected sources authorized to represent the owners and operators of such source(s) and of the affected units at such source(s) with regard to matters of the acid rain requirements.

Designated Representative—The responsible individual authorized by the owners and operators of an affected source and of all affected units at the site, as evidenced

by a certificate of representation submitted in accordance with the acid rain rules, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain requirements. Such matters include but are not limited to: the holdings, transfers, or dispositions of allowances allocated to a unit, and; the submission of or compliance with acid rain permits, permit applications, compliance plans, emission monitoring plans, continuous emissions monitor (CEM) and continuous opacity monitor (COM) certification notifications, CEM and COM certification and applications, quarterly monitoring and emission reports, and annual compliance certifications. Whenever the term "responsible official" is used in this chapter, it shall refer to the "designated representative" with regard to all matters under the acid rain requirements. Unit For the purposes of the acid rain provisions of the Act, a fossil-fuel fired combustion device.

Upgraded Units—An affected unit that did not serve a generator with a nameplate capacity greater than 25 megawatts on November 15, 1990 but serves such a generator after November 15, 1990.

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 4, 1993.

TRD-9322490

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

Proposed date of adoption: August 31, 1993

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

Subchapter B. Permit Requirements

Applicability

• 31 TAC §122.120, §122.122

The new rules 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.

§122.120. Applicability. The following sites shall submit application to the Texas Air Control Board for a federal operating permit under the requirements of this chapter.

(1) Any major source as defined in §122.10 of this title (relating to General Definitions).

(2) Any affected source as defined in §122.12 of this title (relating to Acid Rain Definitions).

§122.122. Potential to Emit.

(a) For purposes of determining applicability for the Federal Operating Permit program under this chapter, stationary sources without any other federally enforceable emission limitation may limit their potential to emit by maintaining a certified registration of emissions. Emission limitations in permits, standard exemptions, other preconstruction authorizations, and emission registrations provided for under Texas Air Control Board (TACB) Chapter 116 of this title (relating to Permits) are federally enforceable emission limitations.

(b) All representations in any registration under this section with regard to emissions shall become conditions upon which the stationary source shall operate. It shall be unlawful for any person to vary from such representation unless the registration is first revised.

(c) The registration shall include documentation of the basis of emission estimates and a certification, in accordance with §122.165 of this title (relating to Certification by a Responsible Official), that the maximum emissions listed on the registration reflect the reasonably anticipated maximums for operation of the stationary source.

(d) The certified registration and records demonstrating compliance with such registration shall be maintained on site, or at an accessible designated location, and shall be provided during regular business hours to representatives of TACB or any air pollution control agency having jurisdiction.

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

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Deputy Director, Air Quality
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Texas Air Control Board

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

◆ ◆ ◆
Permit Application

- 31 TAC §§122.130, 122.132-122.134, 122.136, 122.138, 122. 139

The new rules 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.

§122.130. Responsibility to Apply.

(a) General Requirement. After the effective date of this chapter, the owner or

operator shall submit to the Texas Air Control Board (TACB) a timely and complete permit application for each site subject to the requirements of this chapter and in accordance with this section.

(b) Application Submittal Schedule for the Interim Program. The following sites are subject to the interim federal operating permit program and shall submit initial permit applications according to the following schedule.

(1) No later than six months after the effective date of the interim federal operating permit program:

(A) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to TACB no later than January 1, 1996 for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(B) Any single owner or operator shall submit no less than ten percent of their total applications for major sources located at sites classified by the following Source Identification Code and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

- (i) Petroleum and Natural Gas, 1311;
- (ii) Natural Gas Liquids, 1321;
- (iii) Electric Services, 4911;
- (iv) Natural Gas Transmission, 4922;
- (v) Natural Gas Transmission and Distribution, 4923; and
- (vi) Petroleum Bulk Stations and Terminals, 5171.

(2) No later than 12 months after the effective date of the interim federal operating permit program, the remaining major sources listed in paragraph (1)(B) of this subsection shall submit permit applications.

(c) Application Schedule for Submittal After Full Program Approval. All remaining major sources shall be subject to the fully approved federal operating permit program and shall submit initial permit applications no later than 12 months after the effective date of the fully approved federal operating permit program.

(d) Sites that become subject to this chapter after the effective date of either the interim or full program shall submit permit applications no later than 12 months after the sites applicability date. The applicability date is either on the effective date of this chapter or the issuance or approval date of preconstruction authorization required under Chapter 116 of this title (relating to Permits).

§122.132. Application and Required Information.

(a) An application shall include any information, including confidential information, deemed necessary by the Texas Air Control Board (TACB) to determine the applicability of, or to impose, any applicable requirement. The federal operating permit application shall include, but is not limited to, a General Application Form for Federal Operating Permit, all information requested by that form and the information described as follows:

(1) For each emission unit:

(A) Information identifying each emissions unit with an applicable requirement with its corresponding emission limitation and any corresponding monitoring, reporting, and recordkeeping requirements.

(B) Information identifying potentially applicable requirements for that type of emission unit and the basis for the determination that those applicable requirements do not apply.

(2) Each federal operating permit application shall contain a proposed monitoring, testing, recordkeeping, and reporting protocol for each relevant emission unit at the site.

(3) Information as requested by the nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by the acid rain rules.

(4) A statement certifying that a risk management plan, if applicable, or a schedule to submit such plan has been submitted in accordance with §112(r)(7) of the Act.

(5) (State-only requirement.) The application shall identify:

(A) Each presumptive grandfather unit at the site, regardless of whether or not that unit is a relevant emission unit.

(B) Each emission unit that would be a presumptive grandfather except for the fact that the total annual maximum

emission rate or operational limits that are related to the annual emissions (e.g., production, fuel firing, throughput, sulfur content, operating hours, etc., as appropriate) for the emission unit are established in a permit, special permit, or special exemption issued pursuant to Chapter 116 of this title.

(i) For such emission units, the application shall identify the total annual maximum emission rate or operational limits that were previously defined and documented, and the permit, special permit, or special exemption number in which this information was established and any documentation or basis for that determination.

(ii) If TACB determines that such emission rates or operational limits that were defined or documented do not reflect grandfather rates, then the application must supply the information required in (a)(5) of this section to establish the grandfather rate.

(C) The application shall provide information to define and document the presumptive grandfather rate for each unit defined in subparagraphs (A) and (B) (ii) of this paragraph at the site. Information provided in this section to define and document the presumptive grandfather rate shall include available data related to emissions prior to January 1, 1994 as follows:

(i) The documentation of the presumptive grandfather emission rate shall be based on the best available of data on the emission rate, equipment configuration, and other emissions-related data during the seven-year period prior to January 1, 1994, which best reflect the presumptive grandfather rate.

(ii) The best available data would be the average of 24 consecutive months of emissions data or data that can be related to emissions (such as production rate, fuel firing, throughput, sulfur content, etc.) from the seven year period referenced in clause (i) of this subparagraph. Less than 24 consecutive months of data may be used, upon approval by TACB, if it is more representative of the range of operations which could be reasonably expected from the existing equipment configuration.

(iii) Any other method proposed by the applicant and that the executive director approves as representative of the operations and resulting emissions which may reasonably have occurred prior to 1971 may be used to define the presumptive grandfather rate.

(D) In any event, if the applicant provides 12 consecutive months of emissions or emissions-related data from prior to September 1, 1971 documenting the

operations prior to September 1, 1971, that data shall define the actual grandfather rate for the emission unit. Less than 12 consecutive months of data prior to September 1, 1971 may be used, upon approval by the executive director, if it is determined by TACB that there is sufficient data to demonstrate that it reflects operations prior to September 1, 1971.

(E) Upon approval by the executive director, the rate established by the data submitted shall be the presumptive grandfather rate above which the unit may not operate without first receiving a permit in accordance with the requirements of Chapter 116 of this title (relating to Permits). This presumptive grandfather rate does not remove the responsibility of the applicant to obtain any necessary permit in accordance with the requirements of Chapter 116 of this title prior to making any physical changes or constructing a new facility source at the emission unit regardless of whether the presumptive grandfather rate is exceeded as a result of that physical change or construction. The establishment of the presumptive grandfather rate does not remove any liabilities or potential enforcement action for past or future exceedances of the actual grandfather rate in violation of Chapter 116 of this title.

(b) Each federal operating permit application shall include a compliance plan. Such plan shall contain the following:

(1) a description of the compliance status of the site with respect to all applicable requirements;

(2) a statement that the site will:

(A) continue to comply with the applicable requirements; and

(B) will comply with any applicable requirements that become effective during the permit term;

(3) for those emissions units not in compliance with the applicable requirements;

(A) a narrative description of how the emission unit will come into compliance with the applicable requirements,

(B) a compliance schedule containing a schedule of remedial measures, including, but not limited to, an enforceable sequence of actions; and

(C) a schedule for submission of certified progress reports. After issuance of the permit, the certified progress reports shall be submitted no less frequently than every six months.

(c) A compliance certification shall be included with the federal operating permit application consistent with the requirements of §122.143 of this title (relating to Permit Conditions).

(d) The applicant shall provide to the United States Environmental Protection Agency a copy of the permit application.

(e) A responsible official shall certify, consistent with §122.165 of this title (relating to Certification by a Responsible Official), all information submitted under this section.

§122.133. Timely Application.

(a) A timely application for a site applying for a federal operating permit for the first time is one that is submitted within 12 months after the site becomes subject to this chapter or as otherwise provided under §122.130 of this title (relating to Responsibility to Apply). Sites become subject to this chapter either on the effective date of this chapter or upon issuance or approval of preconstruction authorization required under Texas Air Control Board (TACB) Chapter 116 of this title (relating to Permits).

(b) A timely application for a significant permit modification to a federal operating permit is one filed no later than 12 months after the owner or operator has obtained any preconstruction authorization required by TACB Chapter 116 of this title.

(c) A timely application for a permit renewal is one that is submitted at least six months prior to the date of permit expiration.

§122.134. Complete Application.

(a) To be complete, an application shall provide all information required in §122.132 of this title (relating to Application and Required Information) except that applications for revision to a federal operating permit shall only be required to provide information related to the proposed change.

(b) The application shall be deemed complete, unless the Texas Air Control Board (TACB) requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt.

§122.136. Application Deficiencies.

(a) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a federal operating permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information no later than 60 days after such discovery.

(b) An applicant shall provide additional information as necessary to address

any applicable requirements as defined in this chapter that this site becomes subject to after the date it filed a complete application.

(c) If while processing an application that has been deemed to be complete, the Texas Air Control Board determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response.

§122.138. Application Shield. If the site submits a timely and complete application(s) for permit issuance, significant permit modification to a permit, or renewal, the site's failure to have a federal operating permit is not a violation of this chapter until the executive director takes final action on the permit application. This protection shall cease to apply if, subsequent to the application being deemed complete, the applicant fails to submit by the deadline specified in writing to the executive director, any additional information identified as necessary to process the application.

§122.139. Application Review Schedule. The Board shall:

(1) under an interim program, for those sites required to file initial applications within one year of the effective date of the interim program, take final action on at least one-third of those applications annually over a period not to exceed three years after such effective date;

(2) under the fully approved program, for those sites required to file initial applications prior to or within one year of the effective date of the fully approved program, take final action on at least one-third of those applications annually over a period not to exceed three years after such effective date;

(3) except as noted in paragraph (1) or (2) of this section, take final action on an application for a permit, significant permit modification, or permit renewal within 18 months of the date on which the Texas Air Control Board (TACB) deemed an application complete;

(4) take final action on any complete permit application containing an early reduction demonstration under the Act, §112(i)(5) within nine months of receipt of the complete application.

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

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TRD-9322492 Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

Permit Content

• 31 TAC §§122.141, 122.143, 122.145

The rules 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.

§122.141. Authority. Federal operating permits may contain general and special terms and conditions. The permittee shall comply with any and all such terms and conditions.

§122.143. Permit Conditions. Unless otherwise specified in the permit, the permittee shall comply with each of the following conditions:

(1) General Permit Conditions.

(A) Compliance with the federal operating permit does not relieve the permittee's obligation to comply with any other applicable Texas Air Control Board (TACB) rules, regulations, or orders.

(B) The federal operating permit shall expire five years from the issuance of the proposed permit.

(C) The permittee shall allow representatives from TACB or the local air pollution control program having jurisdiction to perform the following:

(i) enter upon the permittee's premises where an emission unit is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(ii) have access to and copy any records that must be kept under the conditions of the permit;

(iii) inspect, at any time, any emission unit, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) sample or monitor substances or parameters for the purpose of assuring compliance with the permit or applicable requirements at any time.

(D) Records required under this permit shall be provided, upon request, to representatives from TACB or the local air pollution control program having juris-

diction within a reasonable period of time.

(E) The permittee shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(F) The permit may be modified, revoked, reopened, and reissued, or terminated for cause as defined in §122.231 of this title (relating to Permit Reopenings). The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(G) The permittee shall furnish within 60 days any information that the executive director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the executive director copies of records required to be kept by the permit, including any confidential information. It may be required that such records be sent directly to the United States Environmental Protection Agency (EPA).

(H) If at the time of promulgation of a new applicable requirement the permit has three or more years remaining in its term, the permittee shall request a reopening and revision of the permit within 12 months of promulgation of a new applicable requirement not already incorporated into a permit. No such reopening is required if the effective date of the requirement is later than the permit expiration date.

(I) The permittee shall pay fees to TACB consistent with the fee schedule in §101.27 of this title (relating to Emission Fees).

(J) Each portion of the permit is severable. Permit requirements in unchallenged portions of the permit shall remain valid in the event of a challenge to other portions of the permit.

(K) The permit does not convey any property rights of any sort, or any exclusive privilege.

(2) Recordkeeping Conditions.

The permittee shall maintain records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information may include, but shall not be limited to, the data from all calibration and maintenance records and all strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. The data may be stored electronically. However, it shall be made available, within a reasonable period of time, in a readable electronic or hard copy form upon request by an authorized representative of TACB or any local air pollution control program having jurisdiction.

(3) Reporting Conditions. The permittee shall incorporate all applicable monitoring data reporting requirements as follows:

(A) After issuance of the permit, reports of any required monitoring shall be submitted to TACB every six months or more frequently if required by an applicable requirement. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official.

(B) Within two weeks after occurrence, the permittee shall report, in writing, to TACB any deviations from the permit requirements, the probable cause of such deviations, and any corrective actions or preventative measures taken.

(C) Emissions from any upset, startup, shutdown, or maintenance activities shall be reported as required under Chapter 101 of this title relating to Notification of Upset and Maintenance Requirements.

(4) Compliance Certification Conditions. After issuance of the permit, compliance certifications shall be submitted to TACB and EPA every 12 months. The compliance certification shall include at a minimum:

(A) the identification of each term, condition, or applicable requirement of the permit for which the permittee shall certify compliance;

(B) the compliance status of the relevant emission units listed in the permit relative to any applicable term, condition, or applicable requirement over the entire 12 month certification period;

(C) a statement of whether compliance was continuous or intermittent;

(D) the method(s) used for determining the compliance status of the site; and

(E) a certification by a responsible official, consistent with §122.165 of this title (relating to Certification by a Responsible Official), all the information submitted under this section.

§122.145. Other Requirements.

(a) Each federal operating permit shall contain provisions including, but not limited to, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) specifically required by a permit shall contain a certification by a responsible official.

(b) Each permit shall contain the following terms and conditions with respect to monitoring:

(1) all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any enhanced monitoring procedures and methods promulgated pursuant to the Act, §504(b) and §114(a) (3);

(2) where the applicable requirements do not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), conditions which require periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the site's compliance with the permit. Such monitoring conditions shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping may be sufficient to meet the requirements of this paragraph; and

(3) conditions, as necessary, concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods.

(c) Each permit shall contain terms or conditions that would require recordkeeping of monitoring information including, but not limited to:

(1) the date, place as defined in the permit, and time of sampling or measurements;

(2) the date(s) analyses were performed;

(3) the company or entity that performed the analyses;

(4) the analytical techniques or methods used;

(5) the results of such analyses; and

(6) the operating conditions as existing at the time of sampling or measurement.

(d) For sites with emission units not in compliance with the applicable requirements at the time of issuance, the permit shall:

(1) contain a compliance schedule consistent with §122.132(b)(3)(B) of this title (relating to Application and Required Information); and

(2) provide progress reports consistent with §122.132(b)(3)(C) of this title. The progress reports shall include:

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

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

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TRD-9322493 Lane Hartsock
Deputy Director, Air Quality
Planning
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For further information, please call: (512) 908-1451

◆ ◆ ◆
Public Notification and Comment Procedures

• 31 TAC §§122.150, 122.152-122.155

The rules 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.

§122.150. Applicability.

(a) Permit, Significant Permit Modification, or Renewals. Any person who applies for a permit, a significant permit modification, or a permit renewal shall be required to provide for public notification under the procedures in this subchapter.

(b) General Permits. General permits are not subject to the public notification and comment procedures of this section.

(c) Reopenings. Any permittee whose federal operating permit is reopened under §122.231 of this title (relating to Permit Reopenings) shall be required to provide for public notification of such reopening and revision of the permit under the procedures in this chapter.

§122.152. Public Notification Requirements.

(a) Notification by applicant. For those federal operating permits or permit applications meeting the criteria in §122.150 of this title (relating to Applicability), the Texas Air Control Board (TACB) shall direct the applicant to conduct public notice of the draft operating permit. The public notice shall be conducted in accordance with §122.153 of this title (relating to Public Notice Format).

(b) Availability of application for review. TACB shall make available for public inspection the following information related to the application: the completed application (except sections relating to confidential information), the draft federal operating permit, the compliance plan, the compliance certification and monitoring reports, if required. All such information shall be available for inspection, throughout the comment period during normal business hours, at the TACB Austin office and at the appropriate TACB regional office in the region where the site is located.

(c) TACB shall provide notice of the draft permit and the information specified in §122.153 of this title to any person upon written request.

§122.153. Public Notice Format.

(a) Publication in public notices section of newspaper. At the applicant's expense, notice of intent to obtain a federal operating permit, a significant permit modification, a reopening to a permit, or a permit renewal, shall be published in the public notice section of two successive issues of a newspaper of general circulation in the municipality in which the site is located, or in the municipality nearest to the location of the site. The notice shall contain the following information:

- (1) permit application number;
- (2) company name and address;
- (3) activity or activities involved in the federal operating permit application or reopening;
- (4) description of the location of the site or proposed location of the site;
- (5) the air pollutants involved in any significant permit modification;
- (6) location and availability of copies of the completed permit application,

the draft permit, and all other relevant supporting materials;

(7) description of the comment procedures, including the duration of the comment period and a statement of procedures to request a hearing;

(8) notification that a person who may be affected by emission of air contaminants from the site is entitled to request a hearing in accordance with TACB rules; and

(9) name, address, and phone number of the TACB regional office to be contacted for further information.

(b) Publication elsewhere in the newspaper. Another notice with a size of at least 96.8 square centimeters (15 square inches) and whose shortest dimension is at least 7.6 centimeters (three inches) shall be published in a prominent location elsewhere in the same issue of the newspaper and shall contain the information specified in subsection (a)(1)-(4) of this section and note that additional information is contained in the notice published pursuant to subsection (a) of this section in the public notice section of the same issue.

§122.154. Sign Posting Requirements.

(a) At the applicant's expense, a sign or signs shall be placed at the site declaring the filing of an application for a permit and stating the manner in which the Texas Air Control Board (TACB) may be contacted for further information. Such signs shall be provided by the applicant and shall meet the following requirements:

(1) signs shall consist of dark lettering on a white background and shall be no smaller than 18 inches by 28 inches;

(2) signs shall be headed by the words "APPLICATION FOR FEDERAL OPERATING PERMIT" in no less than two-inch bold face block printed capital lettering;

(3) signs shall include the words "APPLICATION NO." and the number of the permit application in no less than one-inch bold-face block printed capital lettering (more than one number may be included on the signs if the respective public comment periods coincide);

(4) signs shall include the words "for further information contact" in no less than 1/2-inch lettering;

(5) signs shall include the words "Texas Air Control Board," and the address of the appropriate TACB regional office in no less than one-inch bold-face capital lettering and 3/4-inch bold-face lower case lettering; and

(6) signs shall include the phone number of the appropriate TACB regional

office in no less than two-inch boldface numbers.

(b) The sign or signs shall be in place by the date of publication of the newspaper notice required by §122.153 of this title (relating to Public Notice Format) and shall remain in place and legible throughout the period of public comment provided for in §122.155 of this title (relating to Public Comment Period).

(c) Each sign placed at the site shall be located within 10 feet of each (every) property line paralleling a street or other public thoroughfare. Signs shall be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs shall be required along any property line paralleling a public thoroughfare.

(d) These sign requirements do not apply to properties under the same ownership which are noncontiguous and/or separated by intervening public thoroughfares, unless directly involved by the permit application.

§122.155. Public Comment Period.

(a) A 30-day public comment period shall be held by the Board or its designee on a federal operating permit or renewal application, or on a reopening of a federal operating permit.

(b) The Board or its designee shall receive public comment for 30 days after the last day on which notice of the public comment period is published. During the 30-day public comment period, any person may submit written comments on the draft permit or may, in writing, request a notice and comment hearing.

(c) After the public comment period, the Board or its designee shall send notice of its proposed final action on the federal operating permit, or renewal application, or reopening of a federal operating permit, to any person who commented during the public comment period. The notice shall include:

(1) the response to any comments submitted during the public comment period;

(2) identification of any change in the conditions in the draft permit and the reasons for the change; and

(3) a description of the process for citizen petitions to the U.S. Environmental Protection Agency (EPA) pursuant to §122.312 of this title (relating to EPA Review).

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 4, 1993.

TRD-9322494

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

Proposed date of adoption: August 31, 1993

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

Miscellaneous

• 31 TAC §§122.161, 122.163-122.165

The rules 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.

§122.161. Other Requirements. Unless specifically noted otherwise, requirements under this chapter do not supersede, substitute, or replace any requirement under any other rule, regulation, or order of the Texas Air Control Board.

§122.163. Effective Date.

(a) The requirements in this chapter are not effective until 30 days after the date of approval of the Texas Air Control Board (TACB) Program by the United States Environmental Protection Agency.

(b) Sites satisfying the criteria of §122.120 of this title (relating to Applicability) become subject to this chapter either on the effective date of this chapter or upon issuance or approval of a preconstruction authorization required by Chapter 116 of this title (relating to Permits), whichever is later.

(c) Notice shall be published by TACB in the *Texas Register* of the effective date of the interim federal operating permit program and the fully approved program. Failure of TACB to publish shall not affect the effective program dates.

§122.164. Confidential Information. Any information provided to the Texas Air Control Board pursuant to this chapter that relates to secret processes or methods of manufacture or production may be identified as confidential when submitted. Any information so identified is entitled to protection from disclosure to the extent already provided by law. If confidential information is submitted, an unclassified synopsis of confidential information shall be provided to ensure a complete public record file. Any information required to be submitted to the United States Environmental Protection Agency (EPA) may be submitted pursuant

to EPA's procedures governing confidential information.

§122.165. Certification by a Responsible Official. Any certification submitted pursuant to this chapter shall contain a certification of truth, accuracy, and completeness by a responsible official. Unless specified otherwise, this certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The Texas Air Control Board shall be notified of any appointment of a new responsible official.

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

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

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908-1451

Subchapter C. Permit Issuances, Revisions, Reopenings, and Renewals

Permit Issuance

• 31 TAC §§122.201, 122.202, 122.204

The rules 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.

§122.201. Permits.

(a) A federal operating permit may be issued by the Board or its designee only if all of the following conditions have been met:

(1) the Texas Air Control Board (TACB) has received a complete application;

(2) the applicant has complied with the requirements for public participation under Subchapter B of this chapter (relating to Permit Requirements);

(3) the requirements for notifying and responding to affected States under Subchapter D of this chapter (relating to Affected State Review, EPA Review and Citizen Petition);

(4) the conditions of the permit provide for compliance with all applicable requirements and the requirements of this chapter; and

(5) the United States Environmental Protection Agency has received a copy of the proposed permit, any notices required and has not objected to issuance of the proposed federal operating permit within the time period specified in Subchapter D of this chapter.

(b) All initial federal operating permits, and all subsequently issued or renewed permits, shall be issued by the Board or its designee with terms not to exceed five years from the issuance of the proposed permit.

(c) Final action by the Board or its designee on an application for a federal operating permit shall be the issuance of the proposed permit.

(d) The Board or its designee may issue more than one federal operating permit at a site.

(e) General permits shall not be required to meet the requirements of this section.

§122.202. General Permits.

(a) The Texas Air Control Board (TACB) may promulgate a general permit covering numerous similar stationary sources if the following conditions are satisfied.

(1) The conditions of the general permit provide for compliance with all applicable requirements and the requirements of this chapter; and

(2) The United States Environmental Protection Agency is provided the opportunity to object and affected state(s) are provided the opportunity to comment on the general permit prior to promulgation.

(b) The general permits shall be listed in the General Permit List filed in the Secretary of State's Office and herein adopted by reference.

(c) Each general permit shall identify the terms and conditions with which stationary sources shall comply.

(d) Stationary sources that would qualify for a general permit may apply to TACB for approval under the terms of the general permit. Those stationary sources that apply for a general permit in accordance with this section shall satisfy the requirements of §122.130 of this title (relating to Responsibility to Apply). An application for a general permit shall include all information necessary to determine qualification for, and to assure compliance with, the general permit.

(e) TACB shall grant a site's request for authorization to operate under a general permit to stationary sources that qualify. Such a grant shall not be a final action by the TACB and therefore is not subject to judicial review.

(f) TACB may adopt, revise, or repeal any general permit on the General Permit List. If the grantee's authority to operate under a general permit is affected by such action and the grantee wishes to retain authority to operate under a general permit, it shall be the responsibility of the grantee to reapply for the appropriate general permit. The grantee shall reapply within 12 months of the effective date of the adoption, revision, or repeal of the general permit.

(g) The stationary source shall be subject to enforcement action for operation without a permit if the stationary source is later determined not to qualify for the conditions and terms of the general permit.

(h) General permits shall not be authorized for affected units under the acid rain program.

§122.204. *Temporary Sources.*

(a) A temporary source is a stationary source which changes location to another site at least once during any five year period. Any major temporary source shall apply to the Texas Air Control Board (TACB) for a federal operating permit consistent with this chapter.

(b) Each temporary source which is located at a site for less than six months shall not affect the determination of major for other stationary sources at a site under this chapter nor require a permit revision. Each temporary source shall maintain records of duration of its stay at a site.

(c) Applications by temporary sources shall include all information required under Subchapter B of this chapter (relating to Permit Requirements).

(d) The Board or its designee may issue a single permit authorizing emissions from similar operations by the same temporary source at multiple temporary locations. Any permit issued to a temporary source shall meet all requirements under this chapter for issuance of a federal operating permit.

(e) The owner or operator of a temporary source shall notify the TACB at least ten days in advance of each change in location.

(f) No affected units under the acid rain program shall be permitted as a temporary source.

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 4, 1993.

TRD-9322496 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

◆ ◆ ◆ Permit Revisions

• 31 TAC §§122.210-122.213, 122.215-122.217, 122.219-122.221

The rules 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.

§122.210. *Applicability.* The permittee shall submit an application to the Texas Air Control Board for a revision to a federal operating permit under the requirements of this chapter for those changes or activities which affect or add one or more applicable requirements on any relevant emission unit. All other changes or activities at the site are not subject to the requirements of this chapter, except those administrative changes listed in §122.211 of this title (relating to Administrative Permit Amendments).

§122.211. *Administrative Permit Amendments.*

(a) A change at a site may qualify as an administrative permit amendment if the change:

(1) corrects typographical errors;

(2) identifies a change in the name, address, or phone number of any person identified in the permit, e.g. responsible official, or provides a similar minor administrative change at the site;

(3) requires more frequent monitoring or reporting by the permittee;

(4) allows for a change in ownership or operational control of a site where the Texas Air Control Board (TACB) determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the TACB;

(5) is similar to those in paragraphs (1)-(4) of this section.

§122.212. *Administrative Permit Amendment Application.* Applications for changes that qualify under this section shall be submitted by the permittee no later than

90 days after the owner or operator has obtained any preconstruction authorization required by Chapter 116 of this title (relating to Permits) or 90 days after the action prompting the administrative amendment request.

§122.213. *Administrative Permit Amendment Procedures.*

(a) The Board or its designee may make an administrative permit amendment for those changes at a site that qualify as an amendment under §122.211 of this title (relating to Administrative Permit Amendments).

(b) An administrative permit amendment shall be made by the Board or designee consistent with the following conditions:

(1) The owner or operator of the site has submitted a written request for the amendment which includes a description of the proposed change and also includes a statement that the proposed change meets the criteria for the use of the permit amendment procedures.

(2) The owner or operator has obtained any preconstruction authorization required by the Texas Air Control Board (TACB) Chapter 116 of this title (relating to Permits).

(c) TACB shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request.

(d) The site may implement the changes addressed in the request for an administrative amendment immediately upon receipt by TACB of the request, if the owner or operator has obtained any preconstruction authorization required by TACB, Chapter 116 of this title.

(e) The site shall be subject to enforcement action if the change at the site is later determined not to qualify for an administrative permit amendment.

(f) TACB shall submit a copy of the revised permit to the United States Environmental Protection Agency.

§122.215. *Permit Additions.* A change at a site may qualify as a permit addition if the change:

(1) is not addressed or prohibited by the federal operating permit;

(2) does not violate any existing term or condition of the federal operating permit;

(3) does not violate any applicable requirement defined in this chapter;

(4) does not involve removal of monitoring, recordkeeping, or reporting

terms or conditions, or a substitution in those terms or conditions promulgated pursuant to federal New Source Performance Standards or National Emissions Standards for Hazardous Air Pollution;

(5) does not require or change the Act, §112(g) or §112(j) amendments determination of an emission limitation, or a source-specific determination for temporary sources of ambient impacts, visibility analysis, or increment analysis;

(6) does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the site has assumed to avoid an applicable requirement to which the site would otherwise be subject. Such terms and conditions include:

(A) a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and

(B) an alternative emissions limit approved pursuant to regulations promulgated under the Act, §112(i)(5); and

(7) is not a Title I modification.

§122.216. Application for Permit Addition.

(a) The permittee shall submit an application requesting a permit addition that meets the requirements of §122.215 of this title (relating to Permit Additions) and shall include the following:

(1) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2) the permittee's suggested draft permit conditions;

(3) certification by a responsible official, consistent with §122.165 of this title (relating to Certification by a Responsible Official), that the proposed change meets the criteria for the use of the permit addition procedures and a request that such procedures be used.

(b) Applications for changes that qualify under this section shall be submitted by the permittee no later than 90 days after the owner or operator has obtained any preconstruction authorization required by Chapter 116 of this title (relating to Permits).

§122.217. Permit Addition Procedures.

(a) The Texas Air Control Board (TACB) shall notify the United States Environmental Protection Agency (EPA) and any affected State(s) of the requested permit addition.

(b) Within 90 days of the TACB's receipt of a complete application under §122.216 of this title (relating to Application for Permit Addition), or subsequent to the permittee obtaining or qualifying for any preconstruction authorization required by Chapter 116 of this title (relating to Permits), whichever is later, TACB shall:

(1) determine that the requested change does not meet the permit addition criteria in §122.215 of this title (relating to Permit Additions) and should be reviewed under the significant permit modification procedures; or

(2) revise the draft permit addition and transmit to EPA the new proposed permit addition as required by Subchapter D of this chapter (relating to Permit Requirements).

(c) The Board or its designee may issue a permit addition for those changes at a site that qualify as an addition under §122.215 of this title (relating to Permit Additions). The site may make the requested change prior to approval of the permit addition provided that the owner or operator has obtained any preconstruction authorization required by TACB, Chapter 116 of this title (relating to Permits) for the requested changes.

(d) The permit addition shall not become final until after EPA's 45-day review period at renewal of the permit or until EPA has notified TACB that EPA will not object to issuance of the permit addition, whichever is first.

(e) Until final, the permit addition shall be a state-only requirement of the federal operating permit.

§122.219. Significant Permit Modifications.

(a) A change at a site may qualify as a significant permit modification only if the change:

(1) is a Title I modification;

(2) does not qualify as a permit addition or as an administrative amendment;

(3) is a removal of existing monitoring, terms or conditions, or a substitution in those terms or conditions promulgated pursuant to federal New Source Performance Standards (NSPS), or National Emissions Standards for Hazardous Air Pollutants (NESHAP);

(4) is a removal of recordkeeping or reporting terms or conditions, or a substitution in a recordkeeping or reporting requirement promulgated pursuant to NSPS or NESHAP.

(b) Applications for changes that qualify under this section shall be submitted by the permittee no later than 12 months after the owner or operator has obtained any

preconstruction authorization required by Chapter 116 of this title (relating to Permits) for the change.

(c) For changes that qualify under subsection (a)(1) of this section and where the existing federal operating permit prohibits such change, the permittee shall obtain the significant permit modification before commencing any operation.

(d) Those changes that qualify as significant permit modifications and are not Title I modifications may make any corresponding changes immediately after obtaining or qualifying for any preconstruction authorization required under Chapter 116 of this title.

§122.220. Significant Permit Modification Application and Procedures. The Texas Air Control Board (TACB) may issue a significant permit modification only for those changes at a site that qualify as a significant modification and meet the following conditions:

(1) TACB has received a complete application;

(2) the applicant has complied with the requirements for public participation under Subchapter B of this chapter (relating to Permit Requirements);

(3) the requirements for notifying and responding to affected States under Subchapter D of this chapter (relating to Affected State Review, United States Environmental Protection Agency (EPA) Review and Citizen Petition);

(4) the conditions of the permit provide for compliance with all applicable requirements and the requirements of this title; and

(5) the EPA has received a copy of the proposed permit, any notices required, and has not objected to issuance of the significant permit modification within the time period specified in Subchapter D of this chapter.

§122.221. Operational Flexibility.

(a) A site may make changes within a permitted site without requiring a permit revision provided that the following conditions are met:

(1) the changes are not modifications under any provision of Title I of the Act;

(2) the changes do not exceed the emissions limitation under the permit; and

(3) the owner or operator has obtained any preconstruction authorization required by the Texas Air Control Board (TACB) Chapter 116 of this title (relating to Permits).

(b) For changes to the federal operating permit which qualify under this section, the permittee shall provide the United States Environmental Protection Agency (EPA) and TACB with written notification. The written notification shall be received by TACB at least 30 days in advance of the proposed changes unless the Board or its designee approves a shorter period but in no case shall that period be less than seven days.

(c) Written notification shall include the following information:

(1) a description of the change, the date on which the change is proposed to occur, the emissions resulting from the change, any new applicable requirements that will apply if the change occurs, and any permit term or condition that is no longer applicable as a result of the change;

(2) certification by a responsible official, consistent with §122.165 of this title (relating to Certification by a Responsible Official), that the proposed change meets the criteria for the use of operational flexibility under this section and a request that such procedures be used.

(d) The site, TACB, and EPA shall attach each such notice to their copy of the relevant permit.

(e) Changes that qualify under this section are not subject to the procedural requirements for permit revisions.

(f) Upon satisfying the requirements of this section, the permittee may make the proposed change at the expiration of the time period provided for in subsection (b) of this section.

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 4, 1993.

TRD-9322497 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

Permit Reopenings

• 31 TAC §122.231, §122.233

The rules 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.

§122.231. *Permit Reopenings.*

(a) A permit shall be opened and revised for cause only under any of the following circumstances:

(1) additional applicable requirements, adopted after issuance of the permit, become applicable for a permit with three or more years remaining prior to expiration;

(2) additional requirements become applicable to an affected unit under the acid rain program;

(3) the federal operating permit contains a material mistake or if inaccurate statements were made in establishing the emissions standards or other terms or conditions of the federal operating permit; or

(4) a determination is made by the Texas Air Control Board that the permit shall be revised or revoked to assure compliance with the applicable requirements.

(b) Reopenings for cause by the Board. The Board or its designee may terminate, modify, or revoke and reissue a federal operating permit for cause.

(c) Reopenings for cause by petition. After receipt of a petition for reopening for cause, as defined in this section, the board or its designee may terminate, modify, or revoke and reissue the permit.

(d) Reopenings for cause by the United States Environmental Protection Agency (EPA). No later than 180 days of receipt of written notification by the EPA that cause, as defined in this section, exists to terminate, modify, or revoke and reissue a permit pursuant to this section, the Board or its designee shall terminate, modify, or revoke and reissue the permit in accordance with the EPA's direction.

§122.233. *Permit Reopening Procedures.*

(a) Reopenings and revisions under §122.231 of this title (relating to Permit Reopenings) shall comply with the requirements of this chapter for permit issuance, including such requirements for application, public participation, review by affected States, and review by the United States Environmental Protection Agency. These procedures shall affect only those parts of the permit for which cause, as defined in §122.231 of this title (relating to Permit Reopenings), to reopen exists.

(b) Reopenings and revisions under §122.231(a)(1) and (2) of this title shall be completed by the Texas Air Control Board not later than 18 months after promulgation of the applicable requirement.

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

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TRD-9322498 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

Permit Renewals

• 31 TAC §122.241, §122.243

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

§122.241. *Permit Renewals.*

(a) Each federal operating permit issued or renewed by the Board shall be subject to review at least every five years after the date of issuance of the proposed permit to determine whether the authority to operate should be renewed.

(b) The Texas Air Control Board (TACB) shall provide written notice to the permittee that the permit is scheduled for review. Such notice will be provided by certified or registered United States Mail no less than 12 months prior to the expiration of the permit. The notice shall specify the procedure for filing an application. In order to qualify as a timely application, the application shall be filed by the permittee with TACB no later than six months prior to expiration of the federal operating permit. The application shield is not available to sites that do not submit a timely and complete application. Failure to receive notice as described in this subsection does not affect the applicability of the application shield or the lack thereof.

(c) A federal operating permit may be renewed by the Board or its designee only if all of the following conditions have been met:

(1) TACB has received a complete application;

(2) the applicant has complied with the requirements for public participation under Subchapter B of this chapter (relating to Permit Requirements);

(3) the requirements for notifying and responding to affected States under Subchapter D of this chapter (relating to Affected State Review, United States Environmental Protection Agency (EPA) Review, and Citizen Petition);

(4) the conditions of the permit provide for compliance with all applicable requirements and the requirements of this chapter; and

(5) the EPA has received a copy of the proposed permit, any notices required, and has not objected to issuance of the proposed federal operating permit within the time period specified in Subchapter D of this chapter.

(d) In determining whether and under which conditions a permit should be renewed, the Board shall consider:

(1) all applicable requirements as defined in Subchapter A of this chapter (relating to Definitions); and

(2) the site's compliance status with this regulation and the terms of the existing permit.

(e) The Board may not impose requirements less stringent than those of the existing permit unless the Board determines that the proposed changes will meet the requirements of this chapter.

(f) At the time of renewal, the Board or its designee may combine into a single permit any federal operating permits, including general permits, at the same site which have satisfied the requirements of this section.

§122.243. Permit Expiration. Permit expiration terminates the site's right to operate unless a timely and complete renewal application has been submitted consistent with §122.133 of this title (relating to Timely Application) and §122.134 of this title (relating to Complete Application). Subsequent to a timely and complete application submittal, the site may continue to operate under the terms and conditions of the permit until the Board or its designee has taken final action on the permit renewal.

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

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TRD-9322499 Lane Hartsock
Deputy Director, Air Quality
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Texas Air Control Board

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

◆ ◆ ◆
Subchapter D. Affected State
Review, United States Environmental Protection Agency
Review, and Citizen Petition

• 31 TAC §§122.310-122.312,
122.314, 122.316

The rules 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.

§122.310. Transmission of Information to the United States Environmental Protection Agency (EPA). The Texas Air Control Board shall provide the EPA with a copy of each proposed permit and each final federal operating permit.

§122.311. Affected State Review.

(a) The Texas Air Control Board (TACB) shall provide notice of the draft permit for permit issuance, renewal, significant permit modifications and permit reopenings to any affected state on or before the time notice is provided to the public under Subchapter B of this chapter (relating to Permit Requirements).

(b) Affected state(s) shall have 30 days from date of notification of the draft permit to comment on the draft permit.

(c) TACB shall notify the United States Environmental Protection Agency and any affected State, in writing, of its refusal to incorporate any or all recommendations into the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the TACB's reasons for not accepting any such recommendations that are not based on applicable requirements.

§122.312. United States Environmental Protection Agency (EPA) Review.

(a) After the end of the public comment period provided for by §122.155 of this title (relating to Public Comment Period), the Board or its designee shall submit the proposed permit to the EPA. Upon receipt of a proposed permit, the EPA shall have 45 days to object, in writing, to the issuance of the proposed permit by the Texas Air Control Board (TACB) if EPA determines the proposed permit is not in compliance with applicable requirements of the federal operating permit program or the rules promulgated thereunder. If EPA submits such an objection, the proposed permit shall not be issued by TACB.

(b) If the Board or its designee fails, within 90 days after the date of an objection under subsection (a) of this section, to revise the proposed permit and submit a revised permit in response to the objection, the EPA will issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of this Act.

§122.314 Public Petitions to United States Environmental Protection Agency (EPA).

(a) If the EPA does not file an objection with the Board or its designee, pursuant to §122.312 of this title (relating to EPA Review), any person, including the applicant, affected by a decision of the Board or its designee under this chapter may petition the EPA to make such an objection within 60 days of the expiration of the EPA's 45-day review period.

(b) A copy of the petition shall be provided to the Texas Air Control Board (TACB) and to the applicant by the petitioner.

(c) Petitions shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in §122.155 of this title (relating to Public Comment Period), unless the petitioner demonstrates in the petition to the EPA that it was impracticable to raise such objections within the public comment period, or unless the grounds for such objection arose after the public comment period. The petition shall identify all objections.

(d) If the EPA objects to the permit as a result of a petition filed under this section, the TACB shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection.

(e) If TACB has issued a permit prior to receipt of an EPA objection based on a citizen petition, the TACB shall have 90 days from the receipt of the EPA's objection to resolve the objection and to terminate, modify or revoke and reissue the permit. In the event additional information is needed from the permittee, TACB may request from EPA a 90-day extension to resolve the EPA objection. If TACB fails to resolve the objection, EPA will modify, terminate, or revoke such permit, and the TACB may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the site will not be in violation of the requirement to have submitted a timely and complete application.

§122.316. Hearing and Comment Procedures for Operating Permits. Any hearing regarding a federal operating permit will be conducted according to the following procedures and not under the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a);

(1) Requests for notice and comment hearing.

(A) Any person who may be affected by emissions from a federal source may request the Board or its designee to

hold a hearing on a federal operating permit or renewal application or the reopening of a federal operating permit filed on behalf of that federal source.

(B) After reviewing a request for a hearing, the Board or its designee shall decide whether to call the hearing and shall provide written notice to the affected person within a reasonable time after receipt of the hearing request. The Board or its designee is not required to hold a hearing if the basis of the request by a person who may be affected is determined to be unreasonable.

(2) Procedures for Notice and Comment Hearing.

(A) The Texas Air Control Board (TACB) shall provide 30 days advance notice of any hearing regarding a federal operating permit. In addition to publication in the *Texas Register*, notice will be sent to all persons who have made timely written requests for a hearing. The notice shall include:

- (i) a statement of the time, place, and nature of the hearing;
- (ii) a reference to the particular sections of the statutes and regulations involved; and
- (iii) a brief description of the purpose of the hearing.

(B) Whenever a hearing will be held, the Board or its designee shall designate a presiding officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(C) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period shall be automatically extended to the close of any public hearing. The hearing officer may also extend the comment period by so stating at the hearing.

(D) A tape recording or written transcript of the hearing shall be made available to the public.

(E) Any person, including the applicant, who believes that the conditions of the draft permit do not provide for compliance with all applicable requirements as defined in Subchapter A of this chapter (relating to Definitions) or any condition of a draft permit is inappropriate or that the Board or its designee's preliminary decision to issue or deny the draft permit is inappropriate, shall raise all reasonably ascertain-

able issues and submit all reasonably available arguments supporting their position by the close of the public comment period, including any public hearing. Any supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, U.S. Environmental Protection Agency documents of general applicability or other generally available reference materials.

(F) All comments received either during the public comment period or during any hearing shall be considered by and responded to by the Board or its designee. The response to comments shall be available to the public. This response shall:

- (i) specify which provisions, if any, of the draft permit have been changed in the proposed permit and the reasons for the change; and
- (ii) identify the party making the comments, and briefly describe and respond to all comments on the draft permit raised during the public comment period or during any hearing

(G) TACB shall keep a record of all comments and also of the issues raised in the public hearing. This record shall be available to the public.

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 4, 1993.

TRD-9322500 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: August 31, 1993

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

◆ ◆ ◆
Subchapter E. Acid Rain
General Acid Rain Permit Re-
quirements

• 31 TAC §122.410, §122.411

The rules 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.

§122.410. *Standard Acid Rain Requirements.* Each affected unit shall meet the standard requirements as stated in the acid rain rules regarding permitting, monitoring,

sulfur dioxide, nitrogen oxides (as applicable), excess emissions, recordkeeping and reporting, liability, and effect on other authorities.

§122.411. *Operating Permit Interface.*

(a) Unless specifically noted in this subchapter, all affected sources shall comply with the requirements of this chapter for permit issuance, revision, reopening, and renewal; including any such requirements for application, public participation, review by affected States, and review by the United States Environmental Protection Agency.

(b) To the extent that any requirements of the acid rain rules conflict with other requirements of this chapter, the acid rain rules shall take precedence and shall govern the issuance, denial, revision, reopening, renewal, and appeal of the acid rain portion of an operating permit.

(c) Notwithstanding subsections (a) and (b) of this section, to the extent that any requirements of the acid rain rules are not referenced in this chapter, each affected source shall comply with all of the requirements of the acid rain rules.

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

Issued in Austin, Texas, on May 4, 1993.

TRD-9322501 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

◆ ◆ ◆
Acid Rain Application

• 31 TAC §§122.420-122.422,
122.425, 122.427

The rules 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.

§122.420. *Enforceability of Acid Rain Permit Application.* A complete acid rain permit application shall be binding on the owners and operators and the designated representative of the affected source, all affected units at the affected source, and any other unit governed by the acid rain permit application and shall be enforceable as an acid rain permit, from the date of submission of the permit application until the issuance or denial of the acid rain permit.

§122.421. Timely Application.

(a) Applications for initial Phase II acid rain permits shall be submitted to the Texas Air Control Board no later than six months after the effective date of the interim federal operating permit program, but no later than by January 1, 1996 for sulfur dioxide, and by January 1, 1998, for nitrogen oxides pursuant to the Act, §407.

(b) The designated representative of affected units that become subject to the acid rain rules after these filing dates shall file applications no later than 12 months after the affected units become subject to those rules. For new units or upgraded units, the designated representative shall submit an application 24 months before the later of January 1, 2000, or the date the affected units commence operation or begin to serve a generator with nameplate capacity greater than 25 megawatts.

§22.422. Complete Application. The Texas Air Control Board will submit a notice of application completeness to the United States Environmental Protection Agency within ten working days following a determination that an acid rain permit application is complete.

§122.425. Acid Rain Compliance Plan. In addition to the requirements under Subchapter B of this Chapter (relating to Permit Requirements), the acid rain compliance plan shall include documentation that the affected source will meet the applicable acid rain emissions limitations and acid rain emissions reduction requirements.

§122.427. United States Environmental Protection Agency (EPA) Review. The Texas Air Control Board shall submit a copy of the draft acid rain portion of the permit to the EPA and all other relevant portions of the draft operating permit that may affect the draft acid rain portion of the permit.

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 4, 1993.

TRD-9322502 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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



Acid Rain Permit Issuance, Revisions, and Reopenings

- 31 TAC §§122.430, 122.432, 122.434, 122.435, 122.437, 122.438

The rules 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.

§122.430. Acid Rain Permit Conditions. Emissions from the affected units shall not exceed any allowances that the affected unit lawfully holds under the acid rain provisions of the Act or the acid rain rules.

(1) No revision to the federal operating permit shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(2) There is no limit placed on the number of allowances held by the affected unit. The affected unit may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(3) Any such allowance shall be accounted for according to the procedures established in the acid rain rules.

§122.432. Acid Rain Permit Issuance.

(a) In addition to the permit issuance requirements under Subchapter C of this chapter (relating to Permit Issuances, Revisions and Renewals), for acid rain permits, the applicant shall submit to the United States Environmental Protection Agency a certificate of representation for the designated representative of the source in accordance with the acid rain rules.

(b) Each Acid Rain permit shall have a fixed term of five years commencing on its effective date. Each acid rain permit issued on or before December 31, 1997, in accordance with subsection (c) of this section shall take effect by the later of January 1, 2000, or, where the permit governs a new unit or upgraded unit, the deadline for monitor certification under 40 Code of Federal Regulations 75.

(c) The Texas Air Control Board (TACB) shall issue or deny an acid rain permit on or before December 31, 1997 (if the operating permit program has received full or interim approval by July 1, 1996), to each affected source provided that the designated representative of the source submitted a timely and complete acid rain permit application and meets the requirements of

the acid rain rules and of this chapter. Otherwise, the TACB shall issue or deny an acid rain permit within 18 months of receiving a complete acid rain permit application.

§122.434. Acid Rain Permit Shield. Each affected unit operated in accordance with the acid rain permit that governs the unit and that was issued in compliance with the acid rain provisions of the Act and the acid rain rules shall be deemed to be operating in compliance with the acid rain requirements, except as provided in 40 Code of Federal Regulations 72.9(g) (6).

§122.435. Acid Rain Permit Revisions.

(a) The provisions of this section supplement Subchapter C of this chapter (relating to Permit Issuances, Revisions, and Renewals). Where the provisions of this section conflict with Subchapter C of this chapter (relating to Permit Issuances, Revisions, and Renewals), the provisions of this section shall supersede the operating permit revision procedures with regard to revision of any acid rain permit provision.

(b) No acid rain permit revision shall affect the duration of the acid rain permit to be revised. No acid rain permit revision shall excuse any violation of an acid rain requirement that occurred prior to the effective date of the revision.

(c) The existing terms of the acid rain permit shall apply while any acid rain permit revision is pending.

(d) The standard requirements contained in the acid rain rules shall not be modified or voided by an acid rain permit revision.

(e) The permittee shall not make changes that are not addressed or prohibited by the acid rain permit without first revising the acid rain permit, if such changes are subject to any requirements under the acid rain rules.

§122.437. Acid Rain Permit Revision Procedures.

(a) Permit Modifications. The following acid rain permit revisions are permit modifications and shall follow the permit issuance procedures of this chapter and Subpart G of 40 Code of Federal Regulations 72:

(1) relaxation of an excess emission offset requirement after approval of the offset plan by the United States Environmental Protection Agency (EPA);

(2) incorporation of a final nitrogen oxides alternative emission limitation following a demonstration period; and

(3) determinations concerning failed repowering projects.

(b) Administrative Permit Amendments. The following acid rain permit revisions are administrative permit amendments and shall follow the administrative permit amendment procedures of this regulation, except that the Texas Air Control Board (TACB) shall submit the revised portion of the permit to the EPA within ten working days after the date of final action on the request for an administrative amendment:

(1) activation of a compliance option conditionally approved by TACB; provided that all requirements for activation under the acid rain rules are met;

(2) changes in the designated representative or alternative designated representative; provided that a new certificate of representation is submitted;

(3) changes in the owners or operators; provided that a new certificate of representation is submitted within 30 days;

(4) termination of a compliance option in the permit; provided that all requirements for termination under the acid rain rules shall be met and this procedure shall not be used to terminate a repowering plan after December 31, 1999;

(5) changes in the date, specified in a new unit's acid rain permit, of commencement of operation or the deadline for monitor certification, provided that they are in accordance with the acid rain rules;

(6) the addition of or change in a nitrogen oxides alternative emissions limitation demonstration period, provided that the requirements of the Act, §407 are met; and

(7) incorporation of changes that the EPA has determined to be similar to those in paragraphs (1)-(6) of this subsection.

(c) The following permit revisions shall be deemed to amend automatically and become a part of the affected unit's acid rain permit by operation of law without any further review:

(1) upon recordation by the EPA, all allowance allocations to, transfers to, and deductions from an affected unit's Allowance Tracking System account; and

(2) incorporation of an offset plan that has been approved by the EPA.

§122.438. Permit Reopenings: Reopenings for Nitrogen Oxides. No later than January 1, 1999, the Texas Air Control Board shall reopen the acid rain permit to add the acid rain nitrogen oxides requirements as applicable, provided that the designated representative of the affected source submitted a timely and complete acid rain permit application for nitrogen oxides. Such reopen-

ing shall not affect the term of the acid rain portion of an operating permit.

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 4, 1993.

TRD-9322503 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

Acid Rain Appeals

• 31 TAC §122.440

The rule 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.

§122.440. Acid Rain Appeals Procedure.

(a) Appeals of the acid rain portion of an operating permit issued by the state permitting authority that do not challenge or involve decisions or actions of the United States Environmental Protection Agency (EPA) under the acid rain provisions of the Act and the acid rain rules shall be conducted according to procedures of the Texas Health and Safety Code, §382.032.

(b) Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the EPA shall follow the procedures under 40 Code of Federal Regulations 78 and the Act, §307. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

(c) Under no circumstances shall a judicial appeal of the acid rain portion of an operating permit be allowed more than 30 days following final action by the Texas Air Control Board (TACB) on such portion of a permit.

(d) TACB shall serve written notice on the EPA of any judicial appeal concerning an acid rain provision of any operating permit or denial of an acid rain portion of any operating permit within 30 days of the filing of the appeal.

(e) The Administrator may intervene as a matter of right in any permit appeal involving an acid rain permit provision or denial of an acid rain permit.

(f) TACB shall serve written notice on the EPA of any determination or order in

a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the Administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause.

(g) A failure of TACB to issue an acid rain permit in accordance with the acid rain rules shall be grounds for filing an appeal.

(h) No appeal concerning an acid rain requirement shall result in a stay of any provision of the acid rain permit for which a stay is barred under 40 Code of Federal Regulations 78.

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 4, 1993.

TRD-9322504 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 11. Design Division

Statewide Transportation Enhancement Program

• 43 TAC §§11.200-11.205

The Texas Department of Transportation proposes new §§11.200-11.205 concerning the procedures and conditions by which transportation enhancement activities may be proposed for inclusion by the Texas Transportation Commission in the Statewide Transportation Enhancement Program.

Title 23, United States Code, §133(d)(2), requires that 10% of the Surface Transportation Program funds apportioned to Texas under Title 23, United States Code, §104(b)(3), for a given fiscal year shall only be available for transportation enhancement activities as defined in Title 23, United States Code, §101(a). Title 23, United States Code, §160(e)(2), requires that 5.0% of the funds transferred by Title 23, United States Code, §160(d), to the funds apportioned to Texas under Title 23, United States Code, §104(b)(3), as reimbursement for segments of the Interstate System constructed without federal assistance shall only be available for such activities. Section 1015(d)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) requires that 5.0% of the funds added to the funds apportioned to Texas un-

der Title 23, United States Code, §104(b)(3), by subsection (a) of that section, relating to a certain "Hold Harmless" apportionment adjustment, and 5.0% of the funds transferred to the funds apportioned to Texas under Title 23, United States Code, §104(b)(3), by subsections (b) and (c) of that section, relating to a certain "90% of Payment" apportionment adjustment, shall only be available for such activities. Federal-aid highway funds apportioned to Texas under Title 23, United States Code, §104(b)(3), are administered by the Texas Department of Transportation (Department).

The commission has chosen to involve a broader group of interested parties than has traditionally participated in transportation planning in the process of identifying and selecting enhancement projects for funding through the Statewide Transportation Enhancement Program. This broader involvement in the process requires development of program rules.

Section 11.200, relating to Purpose, describes the statutory requirement for a Statewide Transportation Enhancement Program, the objective of the Texas Transportation Commission for that program, and the purpose of the proposed rules. Section 11.201, relating to Definitions, defines words and terms used in these sections. Section 11.202, relating to Project Eligibility, describes the requirements that a project proposed for the Statewide Transportation Enhancement Program must meet to be considered by the Texas Transportation Commission for allocation of program funds, to include relationship of the proposed enhancement to the intermodal transportation system, conformity to existing law, community support (including funding support), proposed use of revenues from the facility, nomination through established procedures, and the extent of the proposed undertaking. Section 11.203, relating to Project Nomination, describes the process through which the Department will call for nominations of projects to be considered, identifies those entities who may submit nominations to the Department under various circumstances, describes those parties other than the nominating entity that must be involved in the nomination of the project, the nomination form and accompanying documents, and where and when the nominating documents must be filed. Section 11.204, relating to Selection of Projects for Funding, describes how each project nominated will be screened for eligibility under federal and state law; describes how projects determined to be ineligible will be returned to the nominating entity; describes how a nominating entity may seek review of a determination of ineligibility; creates a committee to evaluate proposed projects and describes the membership of that committee; describes how eligible projects will be evaluated, scored, and ranked by that evaluation committee; describes how eligible projects are presented to the Commission; describes how the Commission selects projects for inclusion in the Statewide Transportation Enhancement Program; and describes how those eligible projects not selected will be retained for further consideration. Section 11.205, relating to Project Administration, describes the processes

necessary to prepare a selected project for implementation, to include notification of selection, inclusion of the selected project in metropolitan and statewide transportation improvement plans, negotiation of appropriate contracts and other agreements involved in project implementation, compliance with applicable laws and standards in project design and procurements, limitations on costs which may be reimbursed, and project oversight and inspection.

William A. Lancaster, P.E., Director, Division of Highway Design, has determined that there will be fiscal implications as a result of enforcing or administering the rules. Due to the wide variety and diverse nature of projects eligible for consideration under this program, it is difficult to determine precisely what administrative costs to the state will be. The level of dollars spent per year will vary. Types of costs may include salaries for additional personnel and other costs associated with project evaluation and selection. The best estimate at this time is approximately \$150,000 per year. If the state is the sponsor of a project, the state will incur the 20% non-federal match as required by federal law.

Although costs will be accrued by local governments acting as project sponsors as well as nominating entities, the actual costs to local governments are unknown. The costs may vary from minimal to substantial depending upon the types and number of projects proposed and nominated. Local governments will be responsible for the non-federal 20% match in those cases where this match is not provided by the state.

Mr. Lancaster has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the rules. It is noted that one of the criteria to be considered in evaluating proposed projects is economic benefit.

Mr. Lancaster also has determined that for each of the first five years the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the sections will be the selection of projects that will enhance the transportation system of the State of Texas. These enhancements will be beyond activities customarily incorporated into transportation projects. Projects selected will provide social, economic, and environmental benefits. In addition, a statewide enhancement program will support activities that will augment the experience of users of the state's intermodal transportation systems and facilities. Implementation of the program will allow Texas to receive approximately \$30 million per year in federal reimbursements that would otherwise not be available. There will be no effect on small businesses.

There will be costs to public and private entities who elect to sponsor projects and who thereby are required to comply with the sections as proposed. Project sponsors will incur some costs in developing and submitting proposals. Costs to sponsors may vary depending upon the scope and complexity of projects proposed.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the Department of Trans-

portation will conduct eight public hearings to receive comments concerning the proposed new sections. The public hearings will be held at 6:00 p.m. on the dates and at the locations as follows: Monday, May 24, 1993, 2 Civic Center Plaza (City Council Chambers) Second Floor, El Paso; Wednesday, May 26, 1993, Lubbock Plaza Hotel, Dallas Room, 3201 Loop 289 South, Lubbock; Tuesday, June 1, 1993, Arlington La Quinta, 825 North Watson Road, Arlington; Wednesday, June 2, 1993, Tyler Jr. College Regional Training and Development Complex, 1530 Loop 323 South Southwest, Tyler; Thursday, June 3, 1993, Holiday Inn Crown Plaza Hotel (Galleria area), 2222 West Loop South, Houston; Monday, June 7, 1993, McAllen Holiday, 200 West Expressway 83, McAllen; Wednesday, June 9, 1993, Justice Center Central Jury Room, 300 Dolorosa Street, San Antonio; Thursday, June 10, 1993, Joe C. Thompson Center, 2405 East Campus Drive, Austin.

Those desiring to make comments or presentations may register starting at 5:00 p.m. The hearing will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer oral or written comments. Questioning of those making presentations, however, will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

To assure that all persons who have registered to speak are afforded an opportunity to do so and to avoid undue hardship or inconvenience of conducting the proceedings beyond an unreasonable hour, the presiding officer may recess the hearing and reconvene at 6:00 p.m. the following evening at a location to be announced upon recess, for the limited purpose of receiving those remaining comments.

In addition or as an alternative to the public hearing process, comments on the proposed rules may be submitted in original copy or by facsimile transmission to Thomas A. Griebel, Director, Division of Planning and Policy, 125 East 11th Street, Austin, Texas 78701-2383, (FAX 512-475-2951) no later than 5:00 p.m. on June 11, 1993.

The new sections are proposed to meet the requirements of Title 23, United States Code, §133(d)(2) and §160(e)(2), and §1015(d)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) which require that 10% of certain funds apportioned to a state pursuant to Title 23, United States Code, §104(b)(3), and administered by the Texas Department of Transportation be used for transportation enhancement activities; and are also proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the conduct of the work of the Texas Department of Transportation.

§11.200. Purpose. Title 23, United States Code, §133(d)(2) and §160(e)(2), and §1015(d)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) (hereinafter, ISTEA) require that 10% of certain funds apportioned to a state pursuant to Title 23, United States Code, §104(b)(3), be used for transportation enhancement activities, as defined. The Commission will use those funds in a statewide competitive program that enhances the intermodal transportation systems and facilities within the state for the enjoyment of the users of those systems. The sections under this undesignated head prescribe the policies and procedures for the implementation of the program.

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

Allowable costs—Necessary project expenditures for environmental analysis, project planning, design, land acquisition, and construction.

Appropriate local officials—Principal elected officials of general purpose local governments.

Candidate project—A project recommended to the department by a nominating entity for the commission's consideration as a project included in the Statewide Transportation Enhancement Program.

Commission—Texas Transportation Commission.

Department—Texas Department of Transportation (TxDOT).

District office—A headquarters office for one of the department's geographical districts into which the state is divided.

In-kind contributions—That portion of the otherwise allowable (chargeable) costs of a project contributed by other governmental entities or private parties. It includes both donations of cash or property and contribution of services.

Intermodal transportation system—That network of facilities supporting

transportation in any of its various modes, including by air; by roadway, bicycle path, or footpath; by rail; or by water. The term includes aircraft take-off and landing facilities; bicycle and pedestrian ways; highways, county roads, and city streets (including bridges), whether free or toll; facilities for public transportation, to include buses and light rail transit; and railroad corridors, including high-speed rail corridors and rail corridors banked for future service.

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

Metropolitan area—That area included within the boundaries determined pursuant to Title 23, United States Code, §134(c) and/or §8(c) of the Federal Transit Act (49 United States Code, §1608(c)).

Metropolitan long-range plan—The plan required by Title 23, United States Code, §134(g) and/or §8(g) of the Federal Transit Act (49 United States Code, §1608(g)).

Metropolitan planning organization (MPO)—That entity designated by the governor in accordance with Title 1, §§5.51-5.57 (relating to Metropolitan Planning Organizations) as responsible, together with the state, for carrying out the provisions of Title 23, United States Code, §134 and/or §8 of the Federal Transit Act (49 United States Code, §1608), as required by Title 23, United States Code, §104(f)(3) and capable of meeting the requirements of §§2(a)(2), 2(e)(1), 3(a), 4(g)(1), and 4(1) of the Federal Transit Act (49 United States Code, §1602(a)(2), (e)(1), §1603(a), §1604(g)(1), and §1604(1)). MPOs are generally composed of local elected officials, the administrators of the area's major transportation systems, state officials, transit officials, and other interested parties.

Nominating entity—The state agency, agency of the state, MPO, councils of governments, city, county, or local transit operator which nominates a particular candidate project for consideration by the department, and which exercises jurisdiction over the geographic area in which that project is located.

Project—An undertaking to develop, implement, or construct a particular transportation enhancement at a specific location or locations, or, if the context so implies, the particular enhancement so developed, implemented, or constructed.

Public authority—A state agency or political subdivision of this state.

Rural—All areas of the state not included in urban areas.

Selected project—A project which the commission has elected to include in the Statewide Transportation Enhancement Program.

Sponsor—One or more individuals, partnerships, associations, private corporations, or public authorities recommending a particular project and committed to its de-

velopment, implementation, construction, maintenance, management, or financing.

State—The State of Texas.

State highway system—As defined in Texas Civil Statutes, Article 6674b, that system of highways in the state included in a comprehensive plan prepared by the department's executive director under the direction and with the approval of the commission.

Statewide Transportation Improvement Program (STIP)—The program required by Title 23, United States Code, §135(f).

Statewide long-range transportation plan—The plan required by Title 23, United States Code, §135(e).

Transportation Improvement Program (TIP)—The program required by Title 23, United States Code, §134(h), and/or §8(h) of the Federal Transit Act (49 United States Code §1608(h)).

Transportation enhancement activities—Those activities so defined in Title 23, United States Code, §101(a). That provision defines transportation enhancement activities as:

(A) provision of facilities for pedestrians and bicycles;

(B) acquisition of scenic easements and scenic or historic sites;

(C) scenic or historic highway programs;

(D) landscaping and other scenic beautification;

(E) historic preservation;

(F) rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals);

(G) preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails);

(H) control and removal of outdoor advertising;

(I) archaeological planning and research; and

(J) mitigation of water pollution due to highway runoff.

Transportation—Pertaining to the purposeful movement of people between their places of residence, employment, commerce, education, recreation, and entertain-

ment; or of goods between places of manufacture, storage, sale, maintenance, repair, salvage, and disposition.

Urban area—An urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each such state, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of Transportation of the United States of America.

USDOT—Either the Secretary of Transportation for the United States of America, the U.S. Department of Transportation, or the appropriate agency within that department.

§11.202. Project Eligibility.

(a) To be eligible for consideration for inclusion in the Statewide Transportation Enhancement Program, a candidate project must:

(1) propose one or more transportation enhancement activities that have a direct relationship of function, proximity, or impact to the intermodal transportation system, yet go beyond activities customarily incorporated into transportation projects;

(2) consist of expenditures that conform to applicable provisions of state and federal laws;

(3) present persuasive evidence of support for the candidate project from the community in which it would be implemented, to include a commitment to provide at least 20% of the allowable costs of the candidate project;

(4) propose to enhance a facility from which all revenues from its operation will be used only to pay or offset the costs of its operation and maintenance; and

(5) be nominated for consideration by an eligible nominating entity in the manner prescribed in §11.203 of this title (relating to Project Nomination).

(b) Whether proposed as an independent project or as an element of a larger

transportation project, the candidate project must be limited to a logical unit of work and must be capable of being completed within a reasonable time, as determined by the department in consultation with the nominating entity. In the absence of information suggesting that a shorter or longer period is appropriate, three years or less will be presumed to be a reasonable time.

§11.203. Project Nomination.

(a) Call for nominations. The department will call for nominations of candidate projects annually by publication in the *Texas Register*. The department will also provide notice of the call for candidate projects to all MPOs, all councils of governments (COGs), and all local transit operators in the state.

(b) Who may nominate.

(1) The department will receive and consider for funding only candidate project nominations from specific nominating entities, depending on the location of the candidate project, as outlined in the following chart:

IF THE CANDIDATE PROJECT IS LOCATED WITHIN:	THEN THE ELIGIBLE NOMINATING ENTITY IS:
One metropolitan area	The MPO
One city not within a metropolitan area	The governing body of the city
A rural area in a single county	The governing body of the county
Multiple jurisdictions consisting of any combination of metropolitan areas, cities not within a metropolitan area, or rural areas in one or more counties	Either: <ul style="list-style-type: none"> • A state agency • An agency of the state • A local transit operator • Any one MPO, the governing body of any one city or county, any one Council of Governments, or any one local transit operator

Other proponents of transportation enhancement activities may submit project ideas for application only through an appropriate nominating entity.

(2) Proposals for activities that appear to be located in multiple jurisdictions should be segmented into separate candidate projects whenever practical. In any instance where segmentation is impractical, the nominating entity indicated in paragraph (1) of this subsection for a project located in multiple jurisdictions must include documentary evidence of coordination with and support by appropriate local officials as required by federal and state law. In metropolitan areas, those officials must act through the MPO.

(c) How to nominate a project.

(1) To nominate a candidate project, the eligible nominating entity must, in the form prescribed by the department, file its nomination with the district engineer of the district office responsible for the area in which the proposed enhancement would be implemented. The nomination shall consist of information necessary for project evaluation, to the maximum extent practicable including:

(A) a clear and concise description of the proposed enhancement (The description must detail all work to be performed as part of the candidate project, the relationship between the proposed enhancement and the intermodal transportation system, any right-of-way or easements required, any special land uses planned, and any relationships between the candidate

project and any other work anticipated, planned, presently under way, or previously completed.) ;

(B) an implementation plan for the candidate project, including both a schedule of project activities and a budget (The schedule of activities must indicate any circumstances known to the nominating entity that are likely to affect commencement of work on the candidate project or the time required to complete it, including environmental and historic issues likely to affect commencement of the work. The budget must describe all proposed local financing of candidate project cost.);

(C) a map delineating the location or locations of the candidate project (The map should show project limits, high

light any areas of major work, and show all existing or proposed transportation facilities and associated rights-of-way.);

(D) original photographs of the existing project site;

(E) a site plan of the proposed construction and illustrations of the proposed work;

(F) if land is to be acquired, a description of how it is to be acquired, including estimated cost, if any, and proposed funding arrangements;

(G) if construction is proposed, a description of how it would be accomplished, including estimated cost;

(H) a description of the expected benefits from the proposed enhancement (The description must include expected use of any facilities involved, and must compare current and projected demand for use of those facilities.);

(I) appropriate documentary evidence of community involvement in development of the proposed enhancement and public support for it (At a minimum, evidence submitted must include a description of any opportunities for public participation that were included in the process of selecting candidate projects and a resolution or other official written commitment from appropriate governing bodies supporting its implementation. In metropolitan areas, this must include a written commitment from the governing body of the MPO.);

(J) a plan covering the operation and maintenance of the facility created by or benefiting from the enhancement (The plan will identify all parties responsible for operation and maintenance, estimate the annual cost to operate and maintain the facility, describe the source of those funds, identify all expected revenues from the facility, and describe the intended use of those revenues.);

(K) documentary evidence that the environmental consequences of the proposed enhancement have been fully considered, and that the proposed enhancement will comply with all applicable local, state, and federal environmental laws, regulations, and requirements (The evidence required should include sufficient facts to allow the department to determine the necessity for environmental studies according to §§11.80-11.90 of this title (relating to Environmental and Public Involvement for Highway Improvement Projects));

(L) a written statement of the relative priority ranking assigned by the nominating entity to that candidate project among all candidate projects nominated by that entity for consideration in response to the current call; and

(M) for any enhancement activity that would be implemented within a metropolitan area, a letter from the MPO stating:

(i) that the proposed enhancement is consistent with the metropolitan long-range plan for that metropolitan area;

(ii) that the MPO endorses the proposed enhancement and recommends its consideration for funding; and

(iii) a commitment from the MPO that, should funding for the candidate project be made available, it will include the candidate project in the TIP for that area, if the candidate project has not yet been included.

(2) Nominations must be received by the department no later than 90 days after publication of the call for candidate project nominations in the Texas Register.

(3) Nominating entities proposing candidate projects calling for work in multiple metropolitan areas, cities, or counties must provide copies of the nomination documents to affected local public officials.

§11.204. Selection of Projects for Funding.

(a) Eligibility and technical screening.

(1) The department will review each candidate project to determine eligibility for funding according to federal and state law and to determine that each candidate project will meet technical standards established by applicable law and accepted professional practice. In determining technical sufficiency, the department will coordinate with appropriate state and federal agencies. Eligible candidate projects, together with the results of the technical review, will be submitted to the transportation enhancement project evaluation committee as described in subsection (b)(1) of this section for evaluation of potential benefits.

(2) Each ineligible candidate project proposal will be returned to the nominating entity by certified mail, return receipt requested, with a statement explaining its ineligibility. A request for reconsideration of a finding of ineligibility may be initiated only by a letter from the nominating entity to the executive director setting forth reasons in support of a finding of

eligibility. The letter requesting reconsideration must be received by the department no later than 15 days after the nominating entity received the returned proposal, as established by the return receipt. The determination of the executive director in response to the request for reconsideration will be final.

(b) Evaluation of project benefits.

(1) Transportation Enhancement Project Evaluation Committee.

(A) The potential benefit of each eligible candidate project will be evaluated by an advisory committee, to be known as the Transportation Enhancement Project Evaluation Committee. The members of the Transportation Enhancement Project Evaluation Committee shall be:

(i) the executive director of TxDOT, or designee, who shall chair the committee;

(ii) the State Land Commissioner, or designee; and

(iii) the executive director, or designee, of each of the following state agencies: the Texas Department of Commerce, the Texas Historical Commission; the Texas Parks and Wildlife Department; and the Texas Water Commission.

(B) The transportation enhancement project evaluation committee will meet at least once annually at the call of the chair to consider and discuss the potential benefit of eligible candidate projects (including all previously submitted candidate projects not selected for funding and retained by the department pursuant to subsection (c)(5) of this section). After discussing the candidate projects, the committee will evaluate the potential benefit of each project based on the quality and scope of the project in three areas: economic benefit, environmental benefit, and social benefit. In evaluating each benefit area, the committee will consider both the quality of the benefit and the scope of that benefit, and will assign a score to each according to subsection (b)(2). The committee will prepare a list of all candidate projects with their respectively assigned scores, and will by resolution provide the project list and scores to the department. The resolution may also include comments or recommendations concerning the potential benefit of any listed project.

(C) Except as provided in this subsection, the operations and procedures of the Evaluation Committee are governed by §§180.184 of this title (relating to Advisory Committees)

(2) Project scoring. The transportation enhancement project evaluation committee will score each project as follows.

(A) The committee will evaluate the benefit of each candidate project in each of the three areas (economic benefit, environmental benefit, and social benefit) described in subsection (b)(1)(B) of this section. For purposes of this evaluation:

(i) economic benefit refers to the project's enhancement of the local, regional, or statewide economy by, for example, increased tourism, enhancement of property values, enhancement of tax base, or reduction of economic loss due to injury;

(ii) environmental benefit refers to the project's improvement of some aspect of the natural, historic, or prehistoric environment by, for example, improving or protecting air or water quality, vegetation, wildlife habitat, historic or archaeological resources, or the quality of human life; and

(iii) social benefit refers to the project's enhancement of some aspect of human life, including cultural aspects, visual or aesthetic aspects, recreational aspects, or historic aspects, whether locally, regionally, or statewide.

(B) For each benefit area, the committee will score the benefit on a scale of one to 100, with 100 being the most beneficial of the candidate projects being considered and one being the least beneficial. The committee will consider both factors of quality and scope in assigning scores in the three areas. Quality relates to the technical quality or the measurable or identifiable benefits of the project. Scope relates to the magnitude of the benefit of the project as measured by the geographical extent, population served, and duration of the benefit (long-term or short-term).

(C) The score for a candidate project is the sum of the committee's scores in each of the three benefit areas.

(c) Selection.

(1) The department will recommend for consideration by the commission a program of candidate projects. To assist the commission in its decisions concerning selection and funding, the department will, in addition to department staff recommendations, provide to the commission:

(A) the list of all eligible candidate projects and scores provided by the transportation enhancement project evaluation committee, together with any com-

ments or recommendations included in the committee's resolution;

(B) any other comments relevant to consideration of any candidate project for funding, including:

(i) any policy matters;

(ii) consistency of the candidate project with the statewide long-range transportation plan;

(iii) the candidate project's benefit-cost ratio, calculated by dividing the project score by the project's estimated cost;

(iv) the priority ranking assigned the candidate project by the nominating entity;

(v) evidence of public support for the candidate project;

(vi) willingness of sponsors to provide more than the minimum required non-federal share of project costs; and

(vii) an evaluation of proposed projects indicating the extent to which each project will meet accepted standards as established by applicable law and by accepted professional practice.

(2) The commission will select from among all eligible candidate projects those projects, if any, approved for funding. In selecting an eligible candidate project for funding, the commission may consider:

(A) the potential benefit to the state of the candidate project, including its benefit-cost ratio;

(B) the extent to which the candidate project is consistent with the statewide long-range transportation plan;

(C) the magnitude of public support for the candidate project, including the views, comments, and certifications, if any, of an MPO and the willingness of sponsors to provide more than the minimum required non-federal share of allowable project costs; and

(D) the impact of the candidate project on the economies of each county in which the project is to be located, and of the municipalities within those counties.

(3) In evaluating the potential benefit to the state of the candidate project, the commission will consider, but is not bound by, project scores and other comments included in the resolution of the transportation enhancement project evaluation committee.

(4) The commission will, by written order, designate the selected projects and specify for each the rationale for selection.

(5) The department will retain eligible candidate project proposals not selected for funding. After subsequent calls for candidate project nominations, all unselected candidate projects will be resubmitted to the Transportation Enhancement Project Evaluation Committee with any new eligible candidate projects. Prior to resubmitting unselected candidate projects to the evaluation committee, however, the department may require the nominating entity for the project to update the nomination information and to renew the evidence of public support and to re-evaluate the priority ranking of the project as required by §11.203(c)(1)(I) and (L) of this title (relating to Project Nomination).

§11.205. Project Administration

(a) When a project is selected for funding, the department will notify the nominating entity for that project of its selection. If the selected project is to be implemented in a metropolitan area, the department will request that the MPO immediately begin the process required to include the selected project in its TIP.

(b) The department will immediately begin the process required to include all selected projects in the STIP. Costs incurred prior to the inclusion of the activity in the STIP and prior to federal approval and authorization to proceed are not eligible for reimbursement.

(c) The department will implement or arrange for implementation of each selected project in accordance with statutory requisites and contracting procedures applicable to the type and character of the project.

(d) All selected projects must be developed to standards and specifications established or recognized by the department. The department may allow project plans to be developed by other public authorities or by sponsors, provided those plans are reviewed by the department and determined to have been developed according to department standards and specifications. The department will coordinate with other state and federal agencies as required by state or federal law or applicable policy.

(e) All agencies receiving federal funds for transportation enhancement activities must comply with all federal and state procedures and requirements applicable to development of federal-aid transportation projects.

(f) Before funding any right-of-way acquisition or construction activities, the commission will ensure that required oppor-

tunities for public involvement have been provided and proper environmental documentation has been completed.

(g) Except for certain right-of-way donations pursuant to Title 23, United States Code, §323, locally provided share of project costs must be in dollars, and may not be dollars from other federal programs. Private cash donations, contributions of services, and other in-kind contributions only reduce the overall cost of the project. Except where specifically permitted under federal law, the value of an activity accomplished away from the project and not directly chargeable to the project is not

allowed as credit toward the non-federal share of project costs ("soft match").

(h) The department is responsible for inspection and final acceptance of all selected projects and for certification of project completion.

(i) The department will submit all requests to USDOT for reimbursement of allowable costs. When other public authorities are authorized to incur costs in implementing selected projects, those entities will request reimbursement for those costs from the department using the forms and procedures specified by the department.

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.

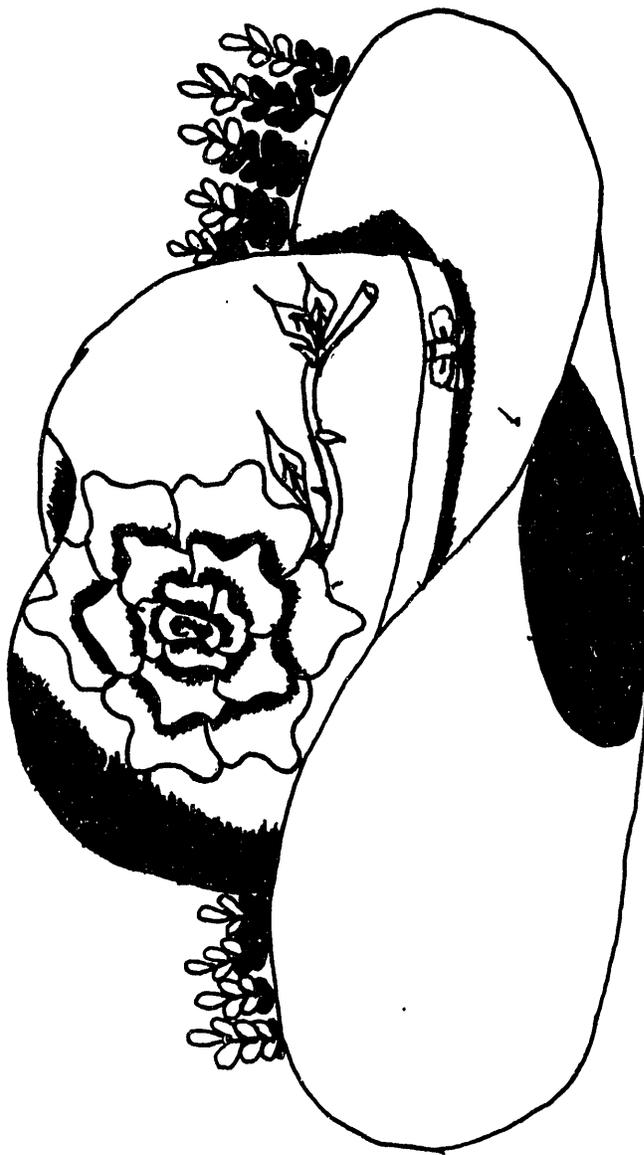
TRD-9322404

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: June 11, 1993

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

◆ ◆ ◆



Name: Rebecca Bright
Grade: 8
School: Rockdale Elementary, Rockdale ISD

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 REGULATIONS

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

- 16 TAC §3.70

The Railroad Commission of Texas has with-
drawn from consideration for permanent
adoption a proposed repealed §3.70 which
appeared in the January 19, 1993, issue of
the *Texas Register* (18 TexReg 352). The
effective date of this withdrawal is May 4,
1993.

Issued in Austin, Texas, on May 4, 1993.

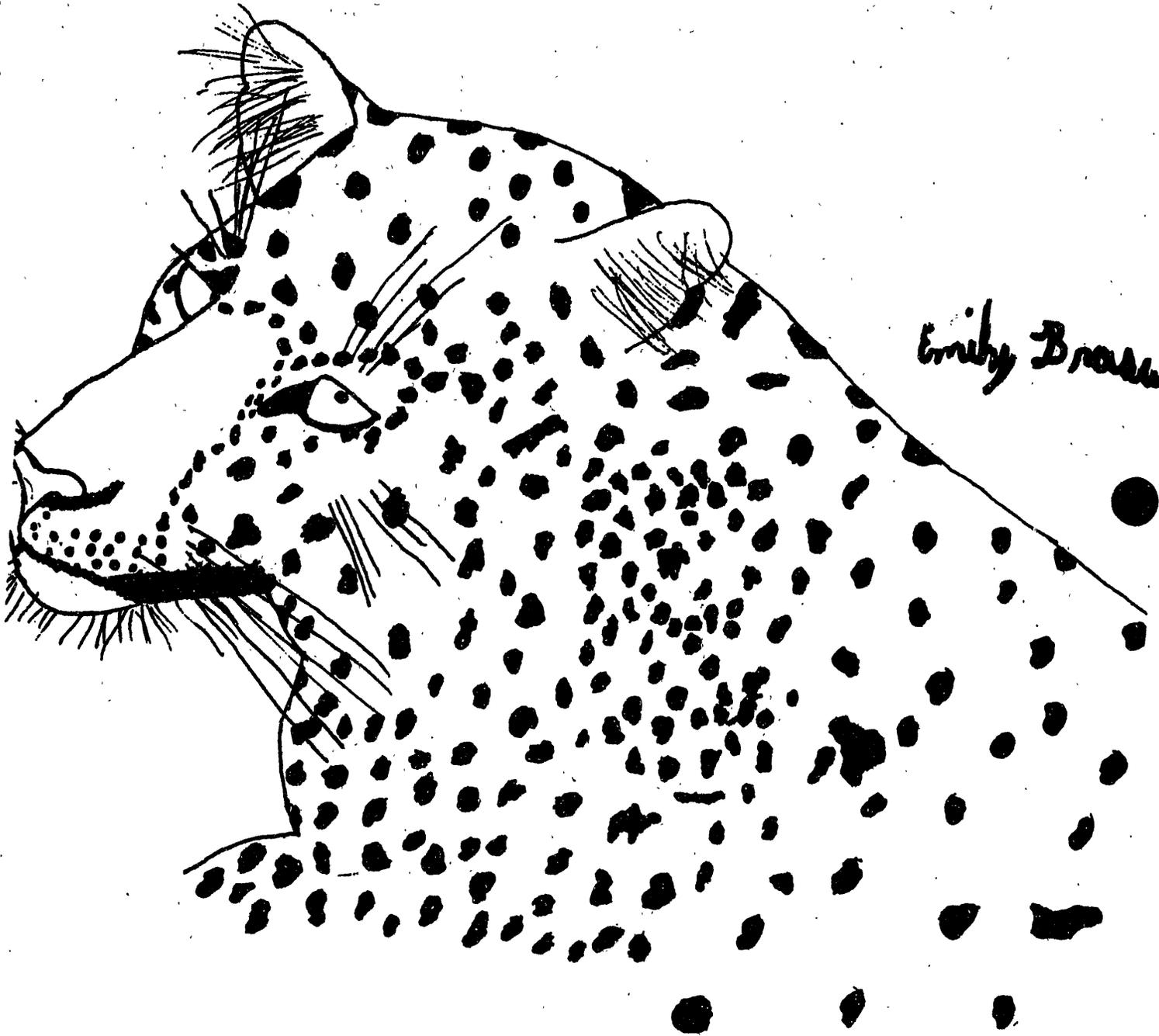
TRD-8322452

Mary Rose McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: May 4, 1993

For further information, please call: (512)
463-7051





Emily Braswell

Name: Emily Braswell
Grade: 5
School: Rockdale Elementary, 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 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.3

The State Securities Board adopts an amendment to §109.3, concerning sales to financial institutions and certain institutional investors under the Securities Act, §5.H, to expand the definition of "qualified institutional buyer" for purposes of the exemption, without changes to the proposed text as published in the February 9, 1993, issue of the *Texas Register* (18 TexReg 793).

The amendment will continue to be uniform with the Securities and Exchange Commission in regard to what is included within the definition of qualified institutional buyer for purposes of the exemption.

The amendment includes within the definition of qualified institutional buyer collective and master trusts for the investment of employee benefit plan funds as well as separate accounts of an insurance company.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the Board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 May 3, 1993.

TRD-9322405

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: May 24, 1993

Proposal publication date: February 9, 1993

For further information, please call: (512) 474-2233

Chapter 124. Guidelines for Registration of Periodic Payment Plans

• 7 TAC §§124.1-124.6

The State Securities Board adopts new §§124.1-124.6, concerning administrative guidelines for registration of periodic payment plans, with one change to the proposed text as published in the February 9, 1993, issue of the *Texas Register* (18 TexReg 794). The change is contained in the title to which the word a "administrative" has been added to make it consistent with the titles of other securities registration guidelines chapters.

The new sections foster uniformity with other states in applying requirements for registration of periodic payment plans for investing in mutual funds.

The new sections reflect the guidelines recently adopted by the North American Securities Administrators Association, Inc. (NASAA).

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the Board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§124.1. Instruction.

(a) Application.

(1) These guidelines apply to the registration and qualification of periodic payment plans (sometimes referred to as "contractual plans").

(2) Applications not conforming to the standards contained in these guidelines shall be looked upon with disfavor. However, where good cause is shown, certain guidelines may be modified or waived by the Securities Commissioner.

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

(1) Administrator—Referred to as "Securities Commissioner" throughout these guidelines.

(2) Current account—Any account in a periodic payment plan:

(A) which has not been liquidated and:

(i) which is no more than six payments in arrears; or

(ii) in which a payment has been made in the past six months; or

(B) in which the total amount deducted from all payments for sales charges or commissions is 9.0% or less of the total amount of payments made.

(3) Periodic payment plan—A plan which issues any certificate, investment contract, or other security providing for a series of periodic payments by the holder, and representing an undivided interest in certain specific securities or in a unit or fund of securities purchased wholly or partly with the proceeds of such payment.

(4) Persistency rate—The percentage of the total number of accounts in a periodic payment plan which are current accounts. For purposes hereof, the computation of the persistency rate shall not include any account which has been canceled in accordance with the cancellation right contained in the Investment Company Act of 1940, §27(f), as amended.

§124.2. Suitability Standards.

(a) No periodic payment plan may be sold unless a principal of the selling dealer has determined that the plan is suitable for the purchasing investor. Such determination shall include, but not be limited to, consideration of the following factors:

(1) the investor's age, marital status, and number of dependents;

(2) the investor's major investment goals and the time frame for achieving those goals;

(3) the investor's current and anticipated future financial status including income, and reasonably anticipated short and long term liabilities or other obligations;

(4) the reasonable likelihood of the investor's continued income;

(5) the investor's ability to address potentially burdensome financial situations (e.g., the death of a family member) through the use of insurance, savings, or other assets; and

(6) the investor's understanding of the risks inherent in investing in securities and the proper use of savings instruments or accounts for shorter term needs.

(b) The selling dealer shall retain for at least five years the documents disclosing the basis upon which the determination was reached as to each purchasing investor.

§124.3. Limitation on Commissions.

(a) In addition to the refund rights available to an investor in a periodic payment plan pursuant to the Investment Company Act of 1940, §27(d) and 27(f), as amended, in the event that an investor in a periodic payment plan shall withdraw from the plan within 28 months of the investor's initial payment, the investor shall receive the sum of:

(1) the value of his or her account, and

(2) the amount by which all sales charges, commissions, or other selling or redemption fees deducted from the investor's account exceed 15% of the gross payments made by the investor.

(b) For purposes of subsection (a) of this section, each investor shall be provided a notice setting forth his or her cancellation rights. This notice, in the form provided in §124.4 of this title (relating to Disclosure), shall be sent not less than 30 days and not more than 60 days prior to the expiration of the investor's cancellation rights. Neither the sponsor nor its agent(s) shall advise the investor against exercising his or her right to cancel the plan without first determining that such advice is suitable

for the particular investor. Such determination shall include, but not be limited to, consideration of the factors set forth in §124.2 of this title (relating to Suitability Standards), as well as of other factors indicating the likelihood that the investor will complete the plan.

§124.4. Disclosure. Each investor in a periodic payment plan shall be provided with disclosure in the form which follows. This disclosure shall be executed by the investor and by the selling dealer. The investor shall be provided with an executed copy. The dealer shall retain an executed copy for a period of at least five years.

IMPORTANT MESSAGE REGARDING YOUR (NAME OF PLAN)

Dear Investor:

You have the right within 28 months of the commencement of your plan to cancel your plan and receive a refund of all sales charges paid which are in excess of 15% of the total payments made. In determining whether or not to exercise your cancellation right, you should consider, among other things, the projected cost of your investment and your ability to make the scheduled payments over the life of your plan as they become due. If you wish to exercise your cancellation rights, you must send notice to that effect to:

by (date of expiration of cancellation rights).

Very truly yours,

(MESSAGE TO BE PUT ON ONE PAGE)

IMPORTANT MESSAGE TO PURCHASER OF A PERIODIC PAYMENT PLAN

Regarding your application for _____ name of plan) at (monthly investment amount/total number of years of program). Date (of application) _____

You are applying for an investment account which features a brokerage commission structure which concentrates the sales charge in the first 12 installments. In establishing such an account, you should most carefully consider your financial ability and personal intention to complete all of the scheduled (120 (ten years) or 180 (15 years)) payments. If you do not complete the full schedule of (120 or 180) payments, you will incur very high effective sales charges. These sales charges could cost you up to 50% of the amount you invested. You should be aware that there are many mutual funds which are available with brokerage commission structures that do not concentrate the sales charge in the early installments.

There are two points at which you may withdraw from the plan and receive a full or partial refund of the sales charges: (1) within 45 days after receiving notice of your cancellation rights, you may cancel the plan and receive a full refund of all sales charges paid; or (2) within 28 months of the commencement of the plan, you may cancel the plan and receive a refund of all sales charges paid which are in excess of 15% of the total payments made.

In evaluating your ability to invest regularly for a number of years, you should consider your income pattern, contingencies which may arise, and your willingness to invest in securities which fluctuate in value. If you have reason to doubt your ability and likelihood to complete this plan, you are urged to seek an alternative investment method.

Purchaser's Statement

I have received the above statement.

(Signature of Applicant)

(Printed Name)

(Account Number)

(Date of Signature)

I have discussed the above statement with _____ the applicant and believe that he or she understands it.

(Signature of Sales Representative)

(Printed Name)

(Date of Signature)

TRD-9322407

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: May 24, 1993

Proposal publication date: February 9, 1993

For further information, please call: (512)
474-2233

§124.5. Persistency Rate and Reports.

(a) For all fiscal years beginning on or after January 1, 1993, the issuer of securities under a periodic payment plan shall file with the Securities Commissioner within 60 days of the end of the plan's fiscal year a report disclosing the plans persistency rate for all accounts opened in the jurisdiction no less than one year nor more than five years before the last day of the fiscal year.

(b) An issuer who fails to maintain a persistency rate of 70% or higher within the jurisdiction shall furnish a report setting forth an explanation for such failure. Failure to furnish such a report or failure to provide an explanation satisfactory to the Securities Commissioner shall be grounds for the Securities Commissioner to deny, suspend, or revoke registration of the periodic payment plan. In making this determination, the Securities Commissioner may consider all relevant factors including but not limited to national persistency rates, market conditions, the number of investors in that jurisdiction, the period of time the plan has been selling in that jurisdiction, legislative and regulatory development, and any other unusual or unique circumstances.

(c) The Securities Commissioner may deny the registration of a periodic payment plan based upon low persistency rates in one or more other jurisdictions. This provision shall not apply to the renewal of the registration of any plan currently registered in the jurisdiction.

§124.6. Investment Objective. The stated investment objective of a periodic payment plan shall be a fundamental policy of the plan as defined in the Investment Company Act of 1940, §8(b), and shall be consistent with the goal of providing a long-term investment opportunity suitable for persons of relatively modest means. If a fund's investment objective is not currently a fundamental policy, it shall be made one at the next meeting of shareholders.

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 May 3, 1993.

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Chapter 139. Exemptions by Rule or Order

◆ ◆ ◆
• 7 TAC §139.4

The State Securities Board adopts new §139.4, concerning Mexican securities, without changes to the proposed text as published in the February 9, 1993, issue of the *Texas Register* (18 TexReg 799).

The new section creates an exemption from the securities registration requirements of the Securities Act for certain Mexican securities.

The new section creates an exemption under the Securities Act, §5.T, for securities either issued or guaranteed by the federal government of Mexico.

The sole commenter was in favor of the rule proposal.

Commenting in favor of the new section was the Association Mexicana de Casas de Bolsa, A.C..

The new section is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the Board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 May 3, 1993.

TRD-9322408

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: May 24, 1993

Proposal publication date: February 9, 1993

For further information, please call: (512)
474-2233

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

TITLE 16. ECONOMIC REGULATIONS

Part IV. Texas Department of Licensing and Regulation

Chapter 80. Tow Trucks

• 16 TAC §80.20

The Texas Department of Licensing and Regulation adopts an amendment to §80.20 concerning registration requirements, with changes to the proposed text as published in the *Texas Register* (18 TexReg 1986).

The amendment deletes the requirement for applicants to submit two photographs of the tow truck with the registration application. The word provided was added to the first sentence in subsection (e) for clarification.

The registration waiting time will be reduced and operators will be able to file applications as soon as the vehicle identification number is known.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6687-9b, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules to assure compliance with the Act.

§80.20. Registration Requirements.

(a)-(d) (No change.)

(e) A persons, corporation, partnership, or any other entity desiring to operate a tow truck shall file an appropriate written application with the department annually on a form provided by the department for that purpose. The written application form shall be accompanied by a certificate of insurance and the required fees. The application must be signed by the tow truck's owner or the owner's authorized agent.

(f) The following information is required in the original application:

(1)-(5) (No change.)

(6) sales tax identification number, if applicable; and

(7) a certification claiming exemption if an owner is claiming an exemption from cargo insurance coverage.

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-8322415

Jack W. Garisori
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: May 24, 1993

Proposal publication date: March 30, 1993

For further information, please call: (512) 463-3127

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

Subchapter G. Resident Assessment

• 40 TAC §19.604

The Texas Department of Human Services (DHS) adopts an amendment to §19.604, concerning Preadmission Screening and Annual Resident Review (PASARR), in its Long Term Care Nursing Facility Requirements for Licensure and Medicaid Certification, with changes to the proposed text as published in the February 12, 1993, issue of the *Texas Register* (18 TexReg 923).

The justification for the amendment is to incorporate requirements of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) which provide for alternate placement of nursing facility residents with mental illness, mental retardation, or a related condition in a setting which is better suited for providing the specialized services they need. The amendment details the policies regarding alternate placement, the responsibilities of the nursing facility, and implications for the resident.

The amendment will function by providing for more appropriate placement of nursing facility residents who need specialized services because of mental illness, mental retardation, or a related condition.

During the 30-day public comment period, DHS received comments from the United Cerebral Palsy Association of Texas; Advocacy, Inc.; the State Committee of Examiners for Speech-Language Pathology and Audiology; and a medical doctor. A summary of the comments and DHS's responses follows:

COMMENT: One commenter requested that the term "speech therapist" be changed to "speech-language pathologist" in subsection (e)(3)(C).

RESPONSE: DHS concurs and is adopting the subsection with the requested change.

COMMENT: One commenter recommended that more detailed language be included to more fully describe specialized services.

RESPONSE: DHS believes that the definition of "specialized services" in subsection (a)(26) is sufficiently detailed.

COMMENT: Two commenters objected to the term "responsible party" in the rule.

RESPONSE: DHS uses the term throughout Chapter 19 to refer to an individual who may be involved in discussions concerning specialized services but does not make alternate placement decisions. These decisions may be made by a competent person or a legal representative. DHS is retaining the term as proposed.

COMMENT: Two commenters recommended that interdisciplinary team (IDT) members, as stipulated in subsection (e)(3), be invited to participate with the consent of the resident or his legal representative.

RESPONSE: DHS believes that on occasions when a professional or IDT member has pertinent information to give the membership at large, it would be a disservice to the resident to withhold the information. DHS is adopting the subsection without the recommended change.

COMMENT: Two commenters recommended that case managers provide a monthly report in writing to the resident or legal representative.

RESPONSE: DHS requires that the case manager provide a monthly written report to the nursing facility and that this report be placed in the clinical record. The clinical record is open to the resident and/or his legal representative. DHS believes that requiring another copy to be sent to the resident creates unnecessary extra paper, especially when not everyone will want a copy when the information is already available. The rule does not prohibit individual residents and their representatives from requesting and receiving a copy from the case manager; therefore, DHS is adopting the rule without adding the recommended change.

COMMENT: Two commenters recommended that additional language be added under subsection (f)(5)(A) to clarify the responsibility of the mental health/mental retardation authorities when locating alternate placement is necessary.

RESPONSE: DHS has passed this recommendation to TXMHMR staff for consideration as an appropriate addition to their PASARR procedures manual.

COMMENT: Two commenters objected to the method DHS proposed for use in calculating the 30-month residence requirement.

RESPONSE: DHS is currently developing an amendment to this methodology which will be proposed in the near future.

COMMENT: Two commenters recommended that clarifying language be added to give residents who have a choice of residence the right to continue pursuing other alternate

placements even if they have refused all alternatives offered under subsection (f)(6)(C).

RESPONSE: DHS agrees and has added the requested clarification to subsection (f)(6)(C).

COMMENT: Two commenters recommended that subsection (f)(7)(A) be clarified to further explain the role of the mental health/mental retardation authority case manager.

RESPONSE: The role of the case manager is under the auspices of TXMHMR; therefore, DHS has passed the recommendation to that agency for consideration as an addition to TXMHMR's PASARR rules (25 Texas Administrative Code §402, subchapter (E)) and PASARR procedures manual.

COMMENT: Two commenters objected to the inclusion of "responsible party" in subsection (f)(7)(B).

RESPONSE: DHS agrees and has deleted paragraph (B) altogether.

COMMENT: Two commenters requested that the phrase "and is not granted a waiver" be added to subsection (f)(7)(C).

RESPONSE: The requested language has been added to subparagraph (D), as a result of renumbering the subparagraphs under (7).

COMMENT: One commenter requested that subsection (f)(7)(F) be changed to detail the MHR case manager's responsibility to assist an individual in filing an appeal.

RESPONSE: The role of the case manager is under the auspices of TXMHMR. DHS has passed the recommendation to that agency for consideration as an addition to TXMHMR's PASARR rules (25 Texas Administrative Code §402, subchapter (E)).

COMMENT: One commenter requested clarifying language to subsection (f)(7)(G) which would state that the alternate placement is appropriate as referenced in another section.

RESPONSE: DHS believes the language would not be appropriate as an addition to this subsection and is adopting the language as proposed.

The amendment is 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 provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

§19.604. Preadmission Screening and Annual Resident Review (PASARR).

(a)-(d) (No change.)

(e) Specialized Services.

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

(3) An interdisciplinary team will be constituted by the case manager in order to develop a plan for specialized services. This team will identify those additional services required for specialized services that are not already being provided by the nursing facility and covered in the

nursing facility daily vendor rate. The following persons must be invited to participate on the team:

(A) the Director of Nurses or another appropriate nursing facility representative;

(B) (No change.)

(C) other professionals deemed appropriate, such as, but not limited to, an occupational therapist, physical therapist, or speech-language pathologist;

(D) the individual and/or his guardian, legal representative, or responsible party; and

(E) family members, if the individual or legal representative agrees.

(4)-(12) (No change.)

(f) Alternate Placement.

(1) The Texas Department of Mental Health and Mental Retardation (TXMHMR) contracts with the local MHMR authority to procure alternate placement services for residents who are determined by TXMHMR to need specialized services and require alternate placement.

(2) The local MHMR authority assigns a case manager for those residents who require alternate placement.

(3) An interdisciplinary team as described in subsection (e)(3) of this section will be constituted.

(4) The case manager must provide a monthly written report to the nursing facility regarding alternate placement activities as described in 25 Texas Administrative Code §402, subchapter (E). This report must be retained in the resident's nursing facility medical record.

(5) For those residents who have been determined to be appropriately placed in a nursing facility and to need specialized services and who desire alternate placement, the following alternate placement activities occur.

(A) The MHMR authority may locate alternate placement in consultation with the resident or his legal representatives.

(B) The resident or his legal representative must approve the alternate placement.

(C) If the resident or his legal representative refuse all alternate place-

ment options, the resident may remain in the nursing facility and receive specialized services there until an acceptable option is found.

(6) For those residents who have been determined to be inappropriately placed and to need specialized services and who have 30 continuous months of nursing facility residence, the following alternate placement activities occur.

(A) The MHMR authority must locate alternate placement in consultation with the resident or his legal representatives.

(B) The resident or his legal representative must approve the alternate placement.

(C) Until the resident or his legal representative approve, an alternate placement, the resident may remain in the nursing facility and receive specialized services there.

(7) For those residents determined to be inappropriately placed in a nursing facility and to need specialized services but who do not have 30 months continuous residence, the following alternate placement activities occur.

(A) The MHMR authority must present a specific placement alternative after notification. The resident or his legal representative must approve the alternate placement. If the resident or his legal representative does not approve the placement, the authority must present another. If the second placement is rejected, then a third placement is offered. The MHMR authority must present all three specific placement alternatives within six months after notification unless a waiver of the six months is granted by the TXMHMR PASARR Determination Program Office in accordance with 25 Texas Administrative Code §402.159(d)(3).

(B) If the resident or his legal representative refuses all three alternate placement options and is not granted a waiver, then the TXMHMR PASARR Determination Program Office notifies the resident of the potential for discharge and loss of Medicaid benefits and the procedure for requesting a fair hearing.

(C) The case manager must provide to the nursing facility with documentation of the basis for refusing the alternate placement options.

(D) If the resident or his legal representative refuses all alternate placement options and is not granted a waiver,

then the nursing facility must begin discharge planning procedures with the MHMR case manager and other interdisciplinary members unless a request for a fair hearing has been filed, as described in paragraph (7)(B) of this subsection. The nursing facility is responsible for discharging the resident, according to §19.302 of this title (relating to Transfer and Discharge).

(E) Any resident or his legal representative not in agreement with the decision described in paragraph (7)(B) of this subsection may file a request with TXMHMR to receive a DHS fair hearing according to Chapter 79 of this title (relating to Legal Services). If the resident files a request for a fair hearing within 10 days of the notice, he may continue to reside in the nursing facility and receive specialized services pending the fair hearing results.

(i) If the fair hearing results do not support the resident's or his legal representative's position:

(I) the resident must accept the alternate placement offered, if it is still available, or the next alternate placement offered; or if refused;

(II) the Medicaid eligibility worker is informed by TXMHMR that alternate placement is refused, and the 30-day discharge notice period begins.

(ii) If the fair hearing results support the resident's or his legal representative's position, the resident may remain in the nursing facility and receive specialized services until the case manager locates an alternate placement. The resident or his legal representative may appeal alternate placement decisions until the resident or his legal representative agrees upon an alternate placement, or the fair hearing results support the location of an alternate placement.

(g) Nursing facilities who admit or retain individuals that have not been screened by TXMHMR or who admit or retain individuals for whom nursing facility placement has been found to be inappropriate and who require specialized services will not be reimbursed for that individual as described in §19.1708 of this title (relating to Limitations on Provider Charges to Patients).

(h) Nursing facilities must provide discharge planning services to all residents who are to be alternately placed as described in this section and provide residents those rights described in §19.302 of this title (relating to Transfer and Discharge).

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 May 4, 1993.

TRD-9322437

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

Effective date: June 15, 1993

Proposal publication date: February 12, 1993

For further information, please call: (512)
450-3785

Chapter 48. Community Care for Aged and Disabled

Medicaid Waiver Program for Persons with Related Condi- tions

• 40 TAC §48.2103

The Texas Department of Human Services (DHS) adopts an amendment to §48.2103 concerning client eligibility criteria; with changes to the proposed text as published in the March 5, 1993, issue of the *Texas Register* (18 TexReg 1401).

The justification for the amendment is to revise the Community Living Assistance and Support Services (CLASS) program income and resource limit, and to specify that CLASS participants cannot receive CLASS and other Community Care for Aged and Disabled services at the same time.

The amendment will function by providing more people with an opportunity to receive CLASS services.

No comments were received regarding adoption of the amendment. DHS, however, has initiated minor changes to subsection (a)(4)(A) and (B). To provide a better explanation of Medicaid eligibility, DHS has added subparagraphs (A)(iv) and (B)(i)(IV).

The amendment is 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.

§48.2103. Client Eligibility Criteria.

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

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

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

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

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

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

(A) Spousal impoverishment provisions.

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

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

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

(iv) DHS applies post-eligibility treatment of income rules to individuals eligible under a special income level, as specified in 42 Code of Federal Regulations §435.726, for use only by states that do not use the 209(b) option. For individuals receiving home and community-based services who are subject to the post-eligibility treatment of income rules, the Medicaid payment to the provider for home and community-based services will be reduced by the amount that remains after deducting the appropriate amounts from the individual's income. The DHS Copayment Worksheet form is used to calculate the client copayment amount.

(B) Calculation of participant copayment.

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

(I) the cost of the participant(s) maintenance needs, which must equal the special institutional income limit

for eligibility under the Texas Medicaid program;

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

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

(IV) the cost of the maintenance needs of the participant's spouse. This amount is equivalent to the amount of the SSI federal benefit rate, less the spouse's own income.

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

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

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

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

This agency hereby certifies that the 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 May 4, 1993.

TRD-9322438

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

Effective date: June 1, 1993

Proposal publication date: March 5, 1993

For further information, please call: (512)
450-3785

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, 9:00 a.m. The Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the revised 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) and §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); discussion of Rule 501.44 (Soliciting); 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: J. Randell Hill, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: May 4, 1993, 1:40 p.m.

TRD-9322458

Texas Department of Agriculture

Wednesday-Thursday, May 19-20, 1993, 1:00 p.m. and 8:00 a.m. respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet at Huie Palace Restaurant, 2424 Wilbarger

Street, Vernon. According to the agenda summary, on Wednesday, the board will call the meeting to order; discuss and possibly act on: report from the Agriculture Commissioner; approval of the minutes of the February meeting; 1992-1993 year ending and 1993-1994 year beginning financial report; results of the board election; report of USWA and NAWG March meetings in Washington; report on Texas Agri Forum; report of conference; guest reports; quarterly activity reports; accept resignation of a board member; accept nomination for appointing a replacement board member four-year term; recognize and award out-going board members; swear in and seat newly elected, newly appointed, and re-elected board members; meeting recess; board reception; and adjourn. On Thursday, observation tour session; depart Sunday House Motel; trailer observation tour of wheat research plots; barbecue lunch with producers attending Annual Wheat Field Day; and quarterly board meeting ends.

Contact: Bill Nelson, 2201 Civic Circle, Suite 803, Amarillo, Texas 79109, (806) 352-2191.

Filed: May 4, 1993, 2:20 p.m.

TRD-9322467

Texas Commission on Alcohol and Drug Abuse

Wednesday, May 12, 1993, 1:00 p.m. The Criminal Justice Issues Committee of the Texas Commission on Alcohol and Drug Abuse will meet at 300 East Travis Street, San Antonio. According to the complete agenda, the committee will call the meeting to order; discuss approval of minutes; criminal justice assistance briefing; substance abuse management information systems up-

date; construction report on substance abuse facilities; legislative update; client selection process; update on in-prison therapeutic communities; update on 12,000 bed substance abuse facilities; aftercare; discuss pending business; new business; and adjourn.

Contact: Ted Sellers, 720 Brazos Street, Suite 403, Austin, Texas 78701, (512) 867-8132.

Filed: May 4, 1993, 3:56 p.m.

TRD-9322483

The State Bar of Texas

Thursday-Saturday, May 13-15, 1993, 9:00 a.m., 8:30 a.m., and 9:00 a.m. respectively. The Commission for Lawyer Discipline of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Rooms 206/207, Austin. According to the agenda summary, the commission will call the meeting to order; make introductions; discuss pending litigation pursuant to Article 6252-17(2)(e); presentations with respect to disciplinary matters/review minutes of prior meetings/review status reports; discuss commission's compliance with State Bar Act, Texas Rules of Disciplinary Procedure and orders of the Supreme Court; review budget and operations of the General Counsel-Chief Disciplinary Counsel; discuss grievance committee operations/discuss special counsel program; discuss use of complaint forms; presentations by trial staff regarding their docket; discuss commission's budget and operations; discuss pending litigation cases pursuant to Article 6252-17(2)(e); discuss matters before evidentiary panels of grievance committees pursuant to Article 6252-17(2)(e); discuss special counsel as-

signment; discuss personnel matters; discuss pending litigation; discuss matters before evidentiary panels of grievance committees; consider assignment of special counsel; discuss future meetings; discuss other matters as appropriate; hear public comment; and adjourn.

Contact: Anne Dorris, P.O. Box 12487, Austin, Texas 78711, (512) 463-1481.

Filed: May 4, 1993, 4:31 p.m.

TRD-9322505

Texas Commission for the Blind

Thursday, May 13, 1993, 4:00 p.m. The Board Policy Committee of the Texas Commission for the Blind will meet at the Texas Commission for the Blind Administrative Building, Suite 320, Austin. According to the complete agenda, the committee will hold a work session on board policies regarding meeting dates and times, proposed new rules concerning self-employment, proposed amendment to memorandum of understanding concerning coordination of services for multi-problem children and youth, and creation of a state rehabilitation advisory council.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: May 4, 1993, 11:31 a.m.

TRD-9322449

Friday, May 14, 1993, 8:00 a.m. The Board Audit Committee of the Texas Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the complete agenda, the committee will hold a work session on annual audit plan.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: May 4, 1993, 11:31 a.m.

TRD-9322448

Friday, May 14, 1993, 9:00 a.m. The Texas Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the agenda summary, the board will call the meeting to order; make introductions; discuss approval of the minutes from February 12, 1993; meet in executive session pursuant to Article 6252-17, §2(G) to discuss personnel, and §2(E) to discuss pending legal matters with attorney; discussion about and approval of executive director's report on agency activities; board committee reports: legislative, audit, and policy; discussion and possible action on proposing new §163.32 concerning self-employment services within the vocational rehabilitation program; discussion and possible action on proposing an amendment to §171.3 cooper-

ative activities, concerning coordination of services for multi-problem children and youth; discuss board meeting dates and times; discuss and possibly act on creation of a State Rehabilitation Advisory Council to comply with 1992 amendments to the Rehabilitation Act.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: May 4, 1993, 11:30 a.m.

TRD-9322447

Texas Department of Criminal Justice

Wednesday, May 12, 1993, 1:00 p.m. The Board of Criminal Justice Subcommittee on Substance Abuse of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the agenda summary, the subcommittee will call the meeting to order; discuss approval of minutes; criminal justice assistance briefing; substance abuse management information systems update; construction report on substance abuse facilities; legislative update; client selection process; update on in-prison therapeutic communities; update on 12,000 bed substance abuse facilities; discuss after-care; prior pending business; new business; and adjourn.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342, (409) 294-2931.

Filed: May 4, 1993, 2:48 p.m.

TRD-9322473

Wednesday, May 12, 1993, 3:30 p.m. The Board of Criminal Justice Subcommittee on Construction of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the agenda summary, the subcommittee will discuss current project status; 2, 250 man units; psychiatric unit; Alberti Units; prevailing wage issue; review of construction projects for board approval; status of contract construction program; date and location of next meeting; and other items.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 4, 1993, 2:48 p.m.

TRD-9322474

Thursday, May 13, 1993, 8:00 a.m. The Texas Board of Criminal Justice Subcommittee on Windham School System of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will discuss and give an update of the Windham School Audit and its recommendations.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:12 p.m.

TRD-9322539

Thursday, May 13, 1993, 8:30 a.m. The Texas Board of Criminal Justice Subcommittee on County Relations of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the agenda summary, the subcommittee will discuss construction schedule for state jails, prisons and other facilities; site determination for state jails, prisons and other facilities; allocation formula, emergency amendment for 1993, proposed amendment for prison admissions for 1994, proposed distribution of operating funds for Community Supervision and Corrections Departments for 1994 (contingent upon anticipated statutory amendments).

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:12 p.m.

TRD-9322538

Thursday, May 13, 1993, 9:30 a.m. The Texas Board of Criminal Justice Subcommittee on Site Selection of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will review and discuss TDCJ staff's negotiation with private vendors for 4-500 bed facilities; and discuss site recommendations for the 4-500 bed facilities for full board consideration.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:12 p.m.

TRD-9322537

Thursday, May 13, 1993, 10:30 a.m. The Texas Board of Criminal Justice Subcommittee on Health Care of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will make opening comments; introduce new staff; managed health care update; discuss physician liability issues; interactive video update; women's health care issues; employee health care issues; state audit briefing; staffing and facility update; discuss pending business; new business; and adjourn.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342, (409) 294-2931.

Filed: May 5, 1993, 3:12 p.m.

TRD-9322536

Thursday, May 13, 1993, 1:00 p.m. The Texas Board of Criminal Justice Subcommittee on Finance and Audit of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will discuss annual audit plan for 1994; and give appropriations update.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:12 p.m.

TRD-9322535

Thursday, May 13, 1993, 2:00 p.m. The Texas Board of Criminal Justice Subcommittee on Personnel/Employee Matters of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the agenda summary, the subcommittee will hold regular session to discuss policies and procedures relating to sexual harrasment; meet in executive session to discuss legal matters made confidential under State Bar Code of Professional Responsibility.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:11 p.m.

TRD-9322534

Thursday, May 13, 1993, 2:30 p.m. The Texas Board of Criminal Justice Subcommittee on Parole Division of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will give a report on Parole Division; presentation by Pat McCoy, Chairman of the Committee on the Family's Role in Reducing Recidivism.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:11 p.m.

TRD-9322533

Thursday, May 13, 1993, 3:00 p.m. The Texas Board of Criminal Justice Subcommittee on Institutional Division of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will give an overview and discuss Agriculture Program; and industry program.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:11 p.m.

TRD-9322532

Thursday, May 13, 1993, 3:00 p.m. The Board of Criminal Justice of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the agenda summary, the board will call the meeting to order, convene Texas Board of Criminal Justice; meet in executive session to discuss with board attorneys agency litigation; and discuss other matters made confidential under State Bar Code of Professional Responsibility.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 4:32 p.m.

TRD-9322546

Thursday, May 13, 1993, 4:00 p.m. The Texas Board of Criminal Justice Subcommittee on Minority Relations of the Texas Department of Criminal Justice will meet at the St. Anthony Hotel, 300 East Travis Street, San Antonio. According to the complete agenda, the subcommittee will discuss agency purchasing procedures; construction and architect/engineer selection procedures; promotion and hiring procedures; and other items.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: May 5, 1993, 3:11 p.m.

TRD-9322531

◆ ◆ ◆
**Office of the Governor,
Criminal Justice Division**

Monday, May 17, 1993, 9:00 a.m. The Texas Crime Stoppers Advisory Council of the Criminal Justice Division of the Office of the Governor will meet at the Capitol La Quinta Inn, 300 East 11th Street, Room 310, Austin. According to the complete agenda, the council will call the meeting to order; discuss approval of minutes; 1993 state conference committee report; state director's report; appointment of 1994 state conference committee; 1993-1994 training curriculum and schedule; and adjourn.

Contact: David Cobos, P.O. Box 12428, Austin, Texas 78701, (512) 463-1784.

Filed: May 4, 1993, 3:38 p.m.

TRD-9322480

◆ ◆ ◆
Texas Department of Insurance

Wednesday, May 12, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at

333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the request by Buck's Awning and Guttering for a hearing on revision of experience modifier applicable to worker's compensation insurance.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1993, 3:50 p.m.

TRD-9322482

Friday, May 14, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Commercial Risk Insurance Services, Inc., Houston, who holds a Local Recording Agent's license.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1993, 3:49 p.m.

TRD-9322481

Friday, May 14, 1993, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment of the Articles of Incorporation of Texas Life Insurance Company, Waco, increasing the authorized capital stock.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1993, 3:56 p.m.

TRD-9322484

Monday, May 17, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Reglam, Inc. to acquire control of National Unity Insurance Company, San Antonio.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1993, 3:56 p.m.

TRD-9322485

Texas Department of Licensing and Regulation

Tuesday, June 8, 1993, 9:00 a.m. The Inspections and Investigations: Air Conditioning of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Chuck Morse doing business as Compliance Air Systems for violation of Texas Civil Statutes, Annotated Article 8861, 16 TAC §75.1(b) and §75.90(f), and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: May 4, 1993, 4:12 p.m.

TRD-9322486

Thursday, June 10, 1993, 9:00 a.m. The Inspections and Investigations: Air Conditioning of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Stanley O. Mann doing business as A/C and Heating, Inc. for violation of Texas Civil Statutes, Annotated Article 6687, 16 TAC §75.90(a) and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: May 4, 1993, 4:12 p.m.

TRD-9322487

Tuesday, June 15, 1993, 9:00 a.m. The Inspections and Investigations: Tow Trucks of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Juan M. Lara doing business as Amigo Auto Salvage for violation of Texas Civil Statutes, Annotated Article 6687-9b, §2 and §3, 16 TAC §80.20 and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 475-2899.

Filed: May 4, 1993, 4:13 p.m.

TRD-9322488

Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Wednesday, May 12, 1993, 10:00 a.m. The Audit Committee of the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association will meet at 301 Congress Avenue, Suite 500, Conference Room, Austin. According to the agenda summary, the committee will consider and possibly act on: approval of minutes; independent auditor reports; agreed-upon procedures; meet in executive session; matters discussed in executive session; use of independent consultants to assist in development of internal policies and control procedures; review of classifications and methodology for 1993 Association budget; write off certain loans receivable; monthly financial statement formats; and set next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, Austin, Texas 78701, (512) 476-5101.

Filed: May 4, 1993, 1:20 p.m.

TRD-9322455

Wednesday, May 12, 1993, 1:00 p.m. The Assessment Committee of the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association will meet at 301 Congress Avenue, Suite 500, Conference Room, Austin. According to the agenda summary, the committee will consider and possibly act on: prior assessments; policies, procedures and planning for future assessments; meet in executive session; matters discussed in executive session; delinquent assessments and issuance of certificates of contribution; and set next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, Austin, Texas 78701, (512) 476-5101.

Filed: May 4, 1993, 1:20 p.m.

TRD-9322456

Texas Council on Offenders with Mental Impairments

Monday, May 17, 1993, 10:00 a.m. The Executive Committee of the Texas Council on Offenders with Mental Impairments will meet at the Texas Department of Criminal Justice, Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will call the meeting to order; hear introductions; hear public comments; discuss approval of the minutes of previous meeting; discuss committee issues/assignments; council projects/programs; council agenda; hear executive director's report; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: May 5, 1993, 10:23 a.m.

TRD-9322514

Board of Nurse Examiners

Tuesday-Wednesday, May 25-26, 1993, 8:00 a.m. The Board of Nurse Examiners will meet at 1812 Centre Creek Drive, Room 203, Austin. According to the agenda summary, the board will receive the minutes from the March 1993 meeting; discuss financial statements for February, March, April; consider ANP petitions; receive survey visit reports as well as annual report summaries from nursing programs; receive a report from the educational rules task force and consider curriculum proposals for two nursing programs. The board will also receive the executive director's report; legislative update; reports from outside agency committees; hold an open forum at 1:30 p.m. on May 25, 1993 to receive input from interested parties; consider adoption of three rule changes; consider requests for exceptions to board orders; consider ratification of proposed board orders; and meet in executive session to consider pending litigation.

Contact: Erlene Fisher, P.O. Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: May 5, 1993, 9:06 a.m.

TRD-9322507

Texas Optometry Board

Wednesday-Thursday, May 12-13, 1993, 10:00 a.m. and 8:30 a.m. respectively. The Texas Optometry Board will meet at the Sheraton Austin Hotel, 500 North IH-35, Austin. According to the agenda summary, on Wednesday, the board will hold informal conferences of the Investigation-Enforcement Committee; Continuing Education Committee and Investigation-Enforcement Committee; Rules Committee; and all remaining Committees. On Thursday, the board will consider reports of Secretary-Treasurer; legal counsel; executive director; committee chairpersons; legislative and sunset matters; International Association of Boards of Examiners in Optometry (IAB) matters; report on IAB; Southwest Regional meeting; general office matters; hear public comments (time-certain of 10:00 a.m.); meet in executive session to be held in compliance with Article 6252-17, Texas Civil Statutes, §2(e), to discuss pending litigation with board attorney between Royal, Cole, Lenscrafters and Texas Optometry Board as well as Texas Optometry Board and LensExpress.

Contact: Lois Ewald, 9101 Burnet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: May 4, 1993, 10:44 a.m.

TRD-9322446

Texas Department of Protective and Regulatory Services

Friday, May 14, 1993, 9:00 a.m. The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st Street, Commissioner's Conference Room and Public Hearing Room, Austin. According to the complete agenda, the board will hold a work session on the process used to review agency policy; following work session the board will move to the public hearing room at 11:15 a.m. for approval of minutes of April 16-17, 1993; discuss excused absences of board members; hear public testimony; chair's comments and announcements; comments and announcements from the board; recognition of Harris County Family Preservation Unit; hear executive director's report on tracking of board items, role of CPS in Waco situation, LAR, PRS publications, and relocation of PRS offices; appointments to advisory committee on child care administrators and facilities; report on board review of advisory committees; approval of PRS policy review process; mid-year budget review; progress report on PRS community partnerships; and legislative report.

Contact: Michael Gee, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030, (512) 450-3645.

Filed: May 6, 1993, 8:44 a.m.

TRD-9322553

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 revised agenda summary, the board will not consider board resolution authorizing an escrow swap to achieve maximum possible savings; and will consider a resolution amending that certain Resolution of the Texas Public Finance Authority dated November 22, 1992 with respect to the issuance and sale from time to time of Master Lease Purchase Program Tax-Exempt Commercial Paper Revenue Notes, Series B.

Contact: Michell Frazier, 300 West 15th Street, Austin, Texas 78701, (512) 463-5544.

Filed: May 5, 1993, 3:21 p.m.

TRD-9322540

Texas Department of Public Safety

Wednesday, May 12, 1993, 10:00 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at the DPS Regional Office, 2405 South Loop 250 West, Midland. According to the complete agenda, the commission will discuss approval of minutes; discuss budget matters; internal audit report; personnel matters; pending and contemplated litigation; real estate matters; miscellaneous and other unfinished business.

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Extension 3700.

Filed: May 4, 1993, 2:36 p.m.

TRD-9322469

Public Utility Commission of Texas

Friday, May 14, 1993, 10:00 a.m. The Hearings Division of the Public Utility Commission 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 11513-petition of Dickens Electric Cooperative, Inc. for modification of load retention rate.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 4, 1993, 2:58 p.m.

TRD-9322475

Friday, May 14, 1993, 1:00 p.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 11972-petition of Texas Utilities Electric Company to show commercial operation date for Comanche Peak Steam Electric Station Unit 2.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 5, 1993, 3:32 p.m.

TRD-9322542

Thursday, June 24, 1993, 10:00 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 11840-joint petition of Southwestern Bell Telephone Company and GTE Southwest, Inc. to provide extended area service to certain communities in the Lower Rio Grande Valley.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 5, 1993, 3:32 p.m.

TRD-9322543

Monday, September 13, 1993, 10:00 a.m. (Rescheduled from Monday, August 9, 1993, 10:00 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 11776-application of Gulf States Utilities Company for approval of a joint venture cogeneration project and treatment of revenues (Remand).

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 5, 1993, 3:31 p.m.

TRD-9322541

Texas Guaranteed Student Loan Corporation

Friday, May 15, 1993, 10:00 a.m. The Finance Committee of the Texas Guaranteed Student Loan Corporation will meet at 500 Jefferson Street, Suite 1400, Houston. According to the complete agenda, the committee will discuss approval of minutes of January 21, 1993; compensation/pension plan review; internal audit position; response to management audit report; and meet in executive session to discuss senior management compensation.

Contact: Peggy Irby, P.O. Box 15996, Austin, Texas 78761, (512) 835-1900.

Filed: May 6, 1993, 9:07 a.m.

TRD-9322554

Texas State Technical College

Friday, May 14, 1993, 9:00 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Harlingen Short Course Center, Harlingen. According to the agenda summary, the board will discuss and review the following TSTC Policy Committee minute orders and re-

ports: Committee of the Whole; Policy Committee for Instruction and Student Services; Policy Committee for Human Resource and Development; Policy Committee for Fiscal Affairs; Policy Committee for Facilities; and Committee of the Whole.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 4, 1993, 2:41 p.m.

TRD-9322472

Saturday, May 15, 1993, 8:00 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Harlingen Short Course Center, Harlingen. According to the agenda summary, the board will discuss and act on the following minute orders: expanded statement of purpose; budget change requests; payment of tuition and fees by installment; emergency loans to students; Fiscal Year 1994 tuition and fees; student housing rental rates service charges and deposits; emoluments; board plan rates; loan for student recreation and health recreational centers; lease with FAA, Texas AMC, Inc., RPT Corporation, excess property sale; lease with City of Marshall; award contract for student apartments and aviation technology building; Shiver-Megert as architect for student center; lease and renewal of lease with Abilene, sympathy to the family of Sarah Wilkins; employee leaves and holidays; and TSTC Foundation Annual Operating Plan and Bylaws.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 4, 1993, 2:41 p.m.

TRD-9322471

Saturday, May 15, 1993, 8:15 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Harlingen Short Course Center, Harlingen. According to the agenda summary, the Board of Regents will convene into executive session in accordance with Article 6252-17, Section 2, Subsection (e) and (f).

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 4, 1993, 2:40 p.m.

TRD-9322470

Texas Water Commission

Thursday, May 20, 1993, 10:00 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 236, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on an appeal filed by

Heatherwilde III, Limited, and Bill Palmer Homes, Inc. requesting a review of Windermere Utility Company, Inc.'s costs to provide water and sewer utility service to Heatherwilde, Section III in Travis County. Docket Number 9996-X.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 4, 1993, 2:12 p.m.

TRD-9322459

Wednesday, May 26, 1993, 9:00 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 hold a hearing on B and S Gator Farm, Inc.'s Application Number TA-7028 for a permit to divert and use a total of 160 acre-feet of water for a one-year period from Elm Bayou, tributary of the East Bay Bayou, tributary of East Galveston Bay, Neches-Trinity Coastal Basin, for irrigation and industrial purposes (rice farming and shrimp raising) in Chambers County. The proposed point of diversion is from Elm Bayou, approximately two miles upstream of FM 1941 crossing of the bayou, 15 miles east of Anahuac, Chambers County.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 475-4584.

Filed: May 4, 1993, 2:12 p.m.

TRD-9322461

Friday, May 28, 1993, 10:00 a.m. The Office of Hearings Examiners 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 hearing on the City of Ennis' application for a water certificate of convenience and necessity to allow it to provide water utility service in Ellis County. The City of Ennis has also applied to decertify a portion of the City of Palmer's CCN Number 11066. The proposed service area (East Campus of the Superconducting Super Collider) is approximately 1.5 miles southwest of downtown Palmer, and includes approximately 763 acres and no current customers. Docket Number 9923-C.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 4, 1993, 2:12 p.m.

TRD-9322462

Wednesday, June 2, 1993, 9:00 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 hold a hearing on El Paso County Water Improvement District Number One's application requesting the com-

mission to grant a water right permit, recognizing specific water rights. The applicant asserts in its application that without waiving any, and while still preserving all, of its legal and "equitable" rights under federal and state law, the Texas Water Commission recognize that El Paso County Water Improvement District Number One has those rights to that portion of the facilities and water of the Rio Grande Project and the Rio Grande and its tributaries which have been appropriated by or for the benefit of the district and its predecessors and beneficial users or which otherwise have been provided to them by law, equity or contract.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 475-4586.

Filed: May 4, 1993, 2:13 p.m.

TRD-9322464

Monday, June 7, 1993, 10:00 a.m. The Office of Hearings Examiners 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 commission will hold a hearing on Vacation Village Water Supply System, Inc.'s change in water and sewer rates effective February 1, 1993, for its service area located in Denton County. Docket Numbers 9894-R (water) and 9895-R (sewer).

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 4, 1993, 2:12 p.m.

TRD-9322460

Wednesday, June 23, 1993, 9:00 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 hold a hearing on Beechnut Municipal Utility District of Harris County's application for authority to adopt and impose a standby fee on undeveloped property in the District. The nature and purpose of standby fees is to distribute a fair portion of the cost burden for financing capital costs of the district facilities to owners of property who have not constructed improvements but have water and/or wastewater facilities or capacity available. Any revenues collected from the standby fees shall be used to pay debt service on the bonds. The amount of the standby fee requested is \$20 per month per allocated equivalent single-family connection (BSFC).

Contact: Jim Herbert, P.O. Box 13087, Austin, Texas 78711, (512) 908-6161.

Filed: May 4, 1993, 2:13 p.m.

TRD-9322463

Texas Workers' Compensation Commission

Thursday, May 13, 1993, 9:00 a.m. The Texas Certified Self-Insurer Guaranty Association of the Texas Workers' Compensation Commission will meet at the Southfield Building, Rooms 910-911, 4000 South IH-35, Austin. According to the agenda summary, the association will call the meeting to order; discuss approval of minutes; discuss and possibly act on the following applicants: Dayton Hudson Corporation doing business as Target Stores and Subsidiaries, Marshall Field Stores, Inc., and Mervyn's; Roadway Express, Inc.; Occidental Chemical Corporation; Morrison Restaurants, Inc. and Subsidiaries and Kmart Corporation and Subsidiaries; discuss future public meetings; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-3973.

Filed: May 5, 1993, 2:26 p.m.

TRD-9322524

Regional Meetings

Meetings Filed May 4, 1993

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One Board of Directors met at 226 Highway 132, Natalia, May 10, 1993, at 8:00 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 663-2132 or (210) 415-7186. TRD-9322468.

The Brazos Valley Development Council Executive Committee will meet at the Council Offices, 3006 East 29th Street, Suite #2, Bryan, May 12, 1993, at 1:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9322489.

The Galveston Bay National Estuary Program Scientific/Technical Advisory Committee will meet at the University of Houston, Clear Lake, 2700 Bay Area Boulevard, Bayou Building, Room 1111, Webster, May 13, 1993, at 9:00 a.m. Information may be obtained from Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937. TRD-9322465.

The Grand Parkway Association will meet at 5757 Woodway, Suite 140 East Wing, Houston, May 12, 1993, at 8:15 a.m. Information may be obtained from Jerry L. Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9322466.

The High Plains Underground Water Conservation District Number One Board of Directors will meet at 2930 Avenue Q,

Conference Room, Lubbock, May 11, 1993, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9322516.

The Hunt County Appraisal District Appraisal Review Board will meet at 4801 King Street, Board Room, Greenville, May 17-21, 21-28, 1993, at 8:30 a.m. Information may be obtained from Shirley Gregory, 4801 King Street, Greenville, Texas 75403, (903) 454-3510. TRD-9322450.

Meetings Filed May 5, 1993

The Aqua Water Supply Corporation met at Aqua Water Supply Corporation Office, 305 Eskew, Bastrop, May 10, 1993, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Box P, Bastrop, Texas 78602, (512) 321-3943. TRD-9322521.

The Austin Transportation Study Policy Advisory Committee will meet at the Joe C. Thompson Conference Center, Room 2.102, 26th and Red River Streets, Austin, May 11, 1993, at 6:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9322551.

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One (Revised Agenda.) Board of Directors met at 226 Highway 132, Natalia, May 10, 1993, at 8:00 a.m. Information may be obtained from John W. Ward, III, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9322547.

The Bi-County WSC will meet at the Bi-County WSC Office, FM Road, Pittsburg, May 11, 1993, at 7:00 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9322510.

The Callahan County Appraisal District Board of Directors met at the Appraisal District Offices, 130-A West Fourth Street, Baird, May 10, 1993, at 8:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165. TRD-9322527.

The Colorado County CAD Board of Directors will meet at the Colorado County Courthouse, 400 Spring, Columbus, May 11, 1993, at 1:30 p.m. Information may be obtained from Billy Youens, P.O. Box 10, Columbus, Texas 78934, (409) 732-8222. TRD-9322528.

The Canyon Regional Water Authority Board met at the Guadalupe Fire Training Facility, Route 2, Lakeside Pass Drive, New Braunfels, May 10, 1993, at 7:00 p.m. Information may be obtained from David Davenport, P.O. Box 118, Marion, Texas

78124, (210) 420-2323. TRD-9322520.

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District Office, 502 North Main Street, Linden, May 10, 1993, at 7:00 p.m. Information may be obtained from Janell Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9322522.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway Street, Abilene, May 25, 1993, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79602, (915) 676-9381. TRD-9322506.

The Concho Valley Council of Governments Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, May 12, 1993, at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9322545.

The Fisher County Appraisal District Board of Directors met at the Fisher County Appraisal/Tax Office, Roby, May 10, 1993, at 7:30 p.m. Information may be obtained from Betty H. Mize, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9322509.

The North Plains Groundwater Conservation District Number Two Board of Directors met at 603 East First Street, Dumas, May 10, 1993, at 1:00 p.m. Information may be obtained from Richard Bowers or Carla Gray, 603 East First Street, Dumas, Texas 79029, (806) 935-6401. TRD-9322517.

The San Antonio-Bexar County Metropolitan Planning Organization Special Steering Committee met at the International Conference Center, Hemisfair Plaza of the Convention Center Complex, San Antonio, May 10, 1993, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main Street, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9322515.

The Hansford Appraisal District Regular Board will meet at 709 West Seventh Street, Spearman, May 12, 1993, at 9:00 a.m. Information may be obtained from Alice Peddy, P.O. Box 519, Spearman, Texas 79081, (806) 659-5575. TRD-9322523.

The Hays County Appraisal District Appraisal Review Board will meet at 632 A. East Hopkins, Municipal Building, San Marcos, May 11, 1993, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 632 A. East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9322519.

The Limestone County Appraisal District Board of Directors will meet in the Board Room, Ground Floor, Limestone County

Courthouse, Groesbeck, May 11, 1993, at 1:00 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9322530.

The Lower Rio Grande Valley Tech Prep/Associate Degree Consortium Board of Directors of Tech Prep of the Rio Grande Valley, Inc. will meet at the TSTC Short Course Center, Harlingen, May 12, 1993, at 3:00 p. m. Information may be obtained from Pat Bubb, Executive Director, Tech Prep, TSTC Short Course Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9322518.

The South Franklin Water Supply Corporation Board of Directors will meet at the Office of South Franklin Water Supply Corporation, Highway 115 South, Mount Vernon, May 11, 1993, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9322508.



Meetings Filed May 6, 1993

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, May 10, 1993, at 7:00 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9322561.

The Colorado River Municipal Water District Board of Directors will meet at 400 East 24th Street, Big Spring, May 13, 1993, at 10:00 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9322557.

The Dallas Central Appraisal District Board of Directors will meet at 2949 North Stemmons Freeway, Dallas, May 12, 1993, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9322552.

The El Oso Water Supply Corporation Board of Directors will meet at their office, FM 99, Karnes City, May 11, 1993, at 8:00

p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9322556.

The Panhandle Quality Work Force Planning Committee will meet at the Mesquite Room, Fine Arts Building, Frank Phillips College, Borger, May 12, 1993, at 3:00 p.m. Information may be obtained from David T. McReynolds, Suite 1020, Plaza II, Amarillo, Texas 79101, (806) 371-7577 or FAX (806) 371-9519. TRD-9322558.

The San Patricio County Appraisal District Board of Directors will meet at 1146 East Market Street, Sinton, May 13, 1993, at 10:00 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9322560.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, May 20, 1993, at 8:15 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9322559.



Closing Date for Receipt of Applications. The original and seven copies of the proposal must be received at the Governor's Office, Automobile Theft Prevention Authority by 5:00 p.m., June 15, 1993, or postmarked by June 15, 1993. Applications must be mailed to the contact person listed above.

Selection Process. Applications will be rated to the standard point system in the application kit by the ATPA executive director and by an Application Review Committee composed of seven members appointed by seven members of the Automobile Theft Prevention Authority. The Application Review Committee will make recommendations to the full board of the Automobile Theft Prevention Authority.

Grants will be awarded on or before September 1, 1993.

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

TRD-932244/ David A. Talbot, Jr.
General Counsel
Office of the Governor

Filed: May 4, 1993

Texas Department of Health Correction of Errors

The Texas Department of Health adopted the repeal of 25 TAC §§145.1, 145.2, 145.11-145.25, 145.31-145.43, 145.51-145.70, 145.81-145.90, 145.92-145.97, 145.101, 145.102, 145.111, 145.131, 145.141-145.147, 145.161-145.174, 145.191-145.195, 145.211-145.217, 145.251-145.265. The notice of repeal was serialized in the April 20 and April 23, 1993, *Texas Register* (18 TexReg 2557 and 2626).

Due to an error in the agency's submission, the effective date for the repeal was incorrectly printed as September 31, 1993, in the April 20 *Texas Register* and September 1,

1993, in the April 23 *Register*. The correct effective date is August 31, 1993.

The Texas Department of Health adopted the repeal of 25 TAC §37.180 and new §37.180, concerning basic midwifery education and continuing education. The rule appeared in the April 2, 1993, *Texas Register* (18 TexReg 2192).

Due to an error in the agency's submission the second paragraph of the adoption preamble contained language from the proposed preamble concerning a comment period. The agency is no longer accepting comments because the rule was adopted. The second paragraph of the preamble should read as follows.

"The department is adopting the new section for two purposes: to permit midwives the ample time to meet the new education and examination requirements for the purposes of seeking exemption from the mandatory basic education program requirement."

Texas Department of Housing and Community Affairs

Announcements of Contract Awards

The Texas Department of Housing and Community Affairs announces that the following units of general local government have been selected as contract recipients for Planning/Capacity Building Funds under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413(501), §2.07.

A contract is not effective until executed by the unit of general local government and the Executive Director of the Texas Department of Housing and Community Affairs.

GRANTEES UNDER THE 1992 PLANNING/CAPACITY BUILDING FUND

GRANTEE	FUNDED AMOUNT
ARP	\$14,100
BLUE RIDGE	\$20,950
BOYD	\$20,950
BRONTE	\$15,700
BROOKSHIRE	\$24,913
COMMERCE	\$38,200
CONO	\$15,700
CRANFILLS GAP	\$13,600
DOOD CITY	\$16,350
ECTOR	\$16,350
HILLSBORO	\$37,500
HONDO	\$40,000
IREDELL	\$16,350
KIRBYVILLE	\$18,950
LULING	\$40,000
NEWCASTLE	\$15,500
PORT ISABEL	\$6,225
REFUGIO	\$39,200
RIO BRAVO	\$28,500
ROBERT LEE	\$24,650
SAINT JO	\$30,350
SINTON	\$26,700
THROCKNORTON	\$24,650
VAN ALSTYNE	\$5,700
-----	-----
Total:	\$551,088

Issued in Austin, Texas, on May 4, 1993.

TRD-9322511

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: May 5, 1993

ment have been selected as contract recipients for Colonia Funds under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413(501), §2.07.

A contract is not effective until executed by the unit of general local government and the Executive Director of the Texas Department of Housing and Community Affairs.

The Texas Department of Housing and Community Affairs announces that the following units of general local govern-

GRANTEES FUNDED UNDER THE 1992 COLONIA FUND

GRANTEE	FUNDED AMOUNT
BROOKS COUNTY	\$486,700
CAMERON COUNTY	\$500,000
CAMERON COUNTY	\$71,600
HIDALGO COUNTY	\$440,615
HUDSPETH COUNTY	\$20,000
KLEBERG COUNTY	\$500,000
LIVE OAK COUNTY	\$396,000
MAVERICK COUNTY	\$73,500
PRESIDIO COUNTY	\$500,000
REEVES COUNTY	\$375,000
SAN PATRICIO COUNTY	\$444,800
TERRELL COUNTY	\$56,750
WEBB COUNTY	\$235,420
WEBB COUNTY	\$35,750
WILLACY COUNTY	\$281,976
ZAPATA COUNTY	\$500,000
ZAVALA COUNTY	\$46,500
ZAVALA COUNTY	\$374,921
-----	-----
Total:	\$5,339,532

Filed: May 5, 1993

Issued in Austin, Texas, on May 4, 1993.

TRD-9322513

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

The Texas Department of Housing and Community Affairs announces that the following units of general local government have been selected as contract recipients for Community Development Funds under the Texas Community

Development Program established pursuant to Texas Civil
Statutes Article 4413(501). 42.07

A contract is not effective until executed by the unit of
general local government and the Executive Director of
the Texas Department of Housing and Community Affairs.

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

----- GRANTEE	----- FUNDED AMOUNT
ALPINE	\$112,824
ANDREWS COUNTY	\$190,000
ANSON	\$250,000
BECKVILLE	\$249,727
BELTON	\$145,000
BIG WELLS	\$63,611
BOGATA	\$250,000
BOWIE	\$113,300
BRACKETTVILLE	\$85,060
BRADY	\$99,900
BRAZOS COUNTY	\$210,867
BRIDGE CITY	\$229,000
BRONTE	\$97,975
BUFFALO	\$233,762
CAMERON COUNTY	\$142,471
CARMINE	\$250,000
CARRIZO SPRINGS	\$127,222
CARTHAGE	\$250,000
CENTERVILLE	\$198,750
CLARKSVILLE	\$161,700
CLUTE	\$350,000
COLORADO COUNTY	\$350,000
COMBES	\$142,471
COOPER	\$250,000
COTTONWOOD SHORES	\$250,000
CRANFILLS GAP	\$245,000
CROWELL	\$100,000
CUNEY	\$247,972

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

GRANTEE	FUNDED AMOUNT
DEAF SMITH COUNTY	\$250,000
DUVAL COUNTY	\$199,977
EAGLE PASS	\$296,217
EDGEWOOD	\$249,000
EDNA	\$250,000
ELDORADO	\$199,000
ELECTRA	\$98,500
EUSTACE	\$185,000
EVANT	\$250,000
FALLS CITY	\$250,000
FLORESVILLE	\$250,000
FLOYDADA	\$197,000
FORT STOCKTON	\$282,000
FREEPORT	\$350,000
FREER	\$300,000
FRIONA	\$82,873
GEORGE WEST	\$300,000
GILMER	\$250,000
GLADEWATER	\$250,000
GONZALES	\$250,000
GRANDFALLS	\$107,500
GRANGER	\$250,000
GREGORY	\$300,000
HAMLIN	\$119,850
HIGGINS	\$160,000
HOLIDAY LAKES	\$350,000
HONDO	\$250,000
HOWE	\$250,000

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

GRANTEE	FUNDED AMOUNT
-----	-----
HUDSPETH COUNTY	\$250,000
IOWA PARK	\$113,400
IREDELL	\$250,000
JASPER	\$250,000
JEFF DAVIS COUNTY	\$203,371
JIM HOGG COUNTY	\$288,922
KARNES CITY	\$250,000
KENNARD	\$244,785
LA FERIA	\$142,471
LA GRULLA	\$288,922
LA SALLE COUNTY	\$114,434
LADONIA	\$243,039
LEONARD	\$243,000
LEXINGTON	\$250,000
LIBERTY	\$350,000
LOCKHART	\$238,000
LONETA	\$250,000
LOS FRESNOS	\$142,471
LYFORD	\$142,471
MARFA	\$143,990
MATHIS	\$300,000
MAVERICK COUNTY	\$296,217
MEMPHIS	\$187,560
MENARD	\$149,999
MERKEL	\$250,000
MIDLAND COUNTY	\$300,000
MORGAN	\$250,000
MORTON	\$157,500

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

GRANTEE	FUNDED AMOUNT
MOULTON	\$246,000
MOUNT VERNON	\$243,000
MUNDAY	\$250,000
MURCHISON	\$185,000
HAZARETH	\$250,000
NEW BOSTON	\$237,500
NEWCASTLE	\$104,500
OAKWOOD	\$208,181
OLNEY	\$90,000
ORANGE COUNTY	\$250,000
PARIS	\$250,000
PLAINS	\$250,000
POLK COUNTY	\$209,809
PORT ISABEL	\$142,471
POTEET	\$250,000
POTH	\$250,000
PRESIDIO	\$250,000
PRESIDIO COUNTY	\$250,000
PRIMERA	\$142,471
RALLS	\$195,734
RANKIN	\$130,760
RAYMONDVILLE	\$142,471
REAL COUNTY	\$74,231
RIO BRAVO	\$288,922
RIO HONDO	\$142,471
ROBERT LEE	\$99,000
ROCKSPRINGS	\$103,899
ROGERS	\$250,000

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

GRANTEE	FUNDED AMOUNT
ROMA	\$288,922
ROPESVILLE	\$233,700
ROSCOE	\$213,000
RUNGE	\$250,000
SABINAL	\$219,754
SAINT JO	\$108,000
SAN PATRICIO COUNTY	\$220,335
SAN PERLITA	\$142,471
SANTA ROSA	\$142,471
SEYMOUR	\$100,000
SHEPHERD	\$250,000
SOCORRO	\$250,000
STARR COUNTY	\$288,922
SUDAN	\$175,400
TAYLOR	\$250,000
TEAGUE	\$250,000
TENAHA	\$250,000
TERRELL COUNTY	\$300,000
THRALL	\$250,000
TYLER COUNTY	\$250,000
VAL VERDE COUNTY	\$324,737
VEGA	\$242,458
VIDOR	\$241,000
WALKER COUNTY	\$350,000
WALLIS	\$350,000
WARREN CITY	\$250,000
WEBB COUNTY	\$288,922
WHARTON COUNTY	\$319,650

GRANTEES FUNDED UNDER THE 1992 COMMUNITY DEVELOPMENT FUND

GRANTEE	FUNDED AMOUNT
-----	-----
WILLACY COUNTY	\$142,471
WILLIS	\$318,217
WILLIS POINT	\$250,000
WINTERS	\$220,000
WOODVILLE	\$250,000
ZAPATA COUNTY	\$288,922
ZAVALA COUNTY	\$252,162
-----	-----
Total:	\$32,222,015

Issued in Austin, Texas, on May 4, 1993.

TRD-9322512

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: May 5, 1993

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**Texas Department of Insurance
Company Licensing**

The following applications have been filed with the Texas Department of Insurance and are under consideration:

1. Application for name change in Texas for Omaha Financial Life Insurance Company, a foreign life insurance company. The home office is in Minneapolis, Minnesota. The proposed new name is Corporate Health Insurance Company.
2. Application for name change in Texas for The International Insurance Company of Takoma Park, Maryland, a foreign fire insurance company. The home office is in Rockville, Maryland. The proposed new name is General Security Insurance Company.
2. Application for Admission in Texas for International Guaranty Insurance Corporation, a foreign fire insurance company. The home office is in Richmond, Virginia.
3. Application for Name Change in Texas for SantaFe Insurance Company, a foreign life insurance company. The home office is in Pensacola, Florida. The proposed new name is AmeriFirst Insurance Company.
4. Application for Admission in Texas for Employer's Agency, Inc., (assumed name for Employer's Underwrit-

ers, Inc.), a foreign third party administrator. The home office is in Decatur, Alabama.

5. Application for Admission in Texas for Network Administration, Inc., (assumed name for Network Management, Incorporated), a foreign third party administrator. The home office is in Mercer Island, Washington.

6. Application for Admission in Texas for T A G, (assumed name for Third Party Administration Group, Inc), a foreign third party administrator. The home office is in Lincoln, Nebraska.

Issued in Austin, Texas, on May 4, 1993.

TRD-9322479

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

Filed: May 4, 1993

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**Nortex Regional Planning Commission
Request for Proposal**

The Nortex Regional Planning Commission is requesting proposals for assisting in public education efforts to increase awareness of and participation in solid waste reduction through source reduction, waste reduction, reuse, recycling, litter and illegal dumping prevention and used oil collection. Communication and education shall be by means of public meetings held in the region, literature distribution, and media transmission.

Targeted audiences shall include city/county governments, civic organizations, business/industry, educators, law enforcement agencies, media organizations, and concerned citizens. Depending upon budget availability, a minimum of four regional meetings are to be held prior to August

31, 1993. The total region is comprised of 11 counties and 32 cities.

Scope of Work. The subsequent contract will encompass all project related services to the Nortex Regional Planning Commission, including, but not limited to the following: design workshop meetings, compiling a list of visual aids, literature handouts and demonstration materials; identify and invite participation of other government/private agencies and/or individuals with expertise in the subject matter; assist Nortex in publication of notices and promotion of public meetings; conduct meeting/workshops at a minimum of four locations within the Nortex region.

Statement of Qualifications. The Nortex Regional Planning Commission is seeking to contract with a competent firm or individual that has had experience compiling and presenting materials related to solid waste reduction, including source reduction, waste reduction, reuse, recycling, litter and illegal dumping prevention and use oil collection. The firm and/or individual should have access to and provide related literature on these topics for distribution to participants in the meetings.

A request for proposal form may be obtained by contacting C. E. Holt, P.E., Director of Physical Planning, Nortex Regional Planning Commission, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. All proposals must be received no later than 5:00 p.m. Central Standard Time, May 24, 1993. Proposals received after that date and time will not be considered.

This RFP does not commit NRPC to pay any costs incurred prior to execution of a contract. Issuance of this RFP in no way obligates NRPC to award a contract.

Issued in Wichita Falls, Texas, on April 30, 1993.

TRD-9322412 Dennis Wilde
Executive Director
Nortex Regional Planning Commission

Filed: May 3, 1993

Railroad Commission of Texas Invitation for Bids

The Railroad Commission of Texas, Surface Mining and Reclamation Division (hereinafter referred to as the commission), is soliciting bids for the closure of 19 mine openings at the Christmas Mountains Abandoned Mine Land (AML) site. The site is located in Brewster County, approximately 70 miles south of Alpine, Texas off Highway 118.

As the designated state agency for implementation of the Texas Surface Coal Mining and Reclamation Act, Texas Civil Statutes, Article 5920-11 (Vernon Supplement 1979) and Texas Uranium Surface Mining and Reclamation Act, Title 4, Chapter 131, Natural Resources Code, the commission will award a lump sum, fixed price contract to the lowest and best bidder for completion of this work. Sealed bids will be received until 2:00 p.m., June 17, 1993, at which time the bids will be publicly opened and read at the address given below. A mandatory pre-bid conference will be held at the site at 10:00 a.m., June 2, 1993. Construction items will include: mobilization; ten-re-bar closures; two-re-bar/beam/screen closures; one-re-bar/screen closures; and six-backfill closures.

Copies of the specifications, drawings and other contract documents are on file in Austin at the address shown

below. The complete bid package may be obtained from the following mailing address: Christmas Mountains AML Project; Surface Mining and Reclamation Division; Railroad Commission of Texas, P.O. Box 12967; Austin, Texas 78711-2967; Attention: Melvin B. Hodgkiss, P.E. Director. All questions concerning the work or bid document must be received by 5:00 p.m., June 7, 1993.

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

TRD-9322451 Mary Ross McDonald
Assistant Director, Legal Division-Gas
Utilities/LP Gas
Railroad Commission of Texas

Filed: May 4, 1993

Texas Water Commission Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 26-30, 1993.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Angelina and Neches River Railroad Company; a creosote based wood treatment facility; approximately 0.25 mile east of the intersection of State Highway 103 and FM Road 326 on the north side of State Highway 103 in Angelina County; amendment; 03253.

Bacliff Municipal Utility District; wastewater treatment facilities; approximately 1 1/2 miles north of the intersection of State Highway 146 and FM 517, 1 1/2 miles east of State Highway 146, at the south boundary of the District in Galveston County; renewal; 10627-01.

Billy Mack Chamness Dairy, Inc.; a dairy; on the south side of County Road 1196, approximately 1/4 mile west of the intersection of State Highway 254 and County Road 1196 in Hopkins County; new; 03525.

Browning-Ferris, Inc.; the closed BFI-Hutchins Landfill and a truck hauling facility; approximately 1.3 miles east

of the Interstate Highway 45 in the City of Hutchins in Dallas County; amendment; 02907.

City of Dallas; the East Side Water Treatment Facilities; approximately 300 yards east of Lawson Road and approximately 200 yards south of Scyene Road at the Kaufman/Dallas County line in Kaufman, County; renewal; 10060-03.

Elf Atochem North America, Inc.; a mercaptans and sulfides manufacturing plant; approximately 2.5 miles east of the intersection of U.S. Highway 90 and State Highway 380 and between the Mobil Oil Refinery and P D Glycol near the City of Beaumont, Jefferson County; amendment; 01872.

Fort Bend County Municipal Utility District Number 106; the Fort Bend County Municipal Utility District Number 106 Regional Wastewater Treatment Facilities; approximately 3,000 feet east of Crabb River Road, approximately one mile south-southeast of the intersection of U.S. Highway 59 and Crabb River Road and east of Tara Boulevard on the north bank of Rabbs Bayou in Fort Bend County; minor amendment; 13355-01.

Gulf States Utilities Company; the Lewis Creek Steam Electric Station; off Longstreet Road, approximately 2.6 miles west-northwest of the City of Willis, Montgomery County; renewal; 01966.

Hatheway Patterson Corporation; a groundwater treatment unit from a site that formerly was a wood treatment facility; at 6809 Irvington Boulevard in the City of Houston, Harris County; new; 03572.

Houston Hempstead Highway Center Nine; wastewater treatment facilities; approximately 0.3 mile southwest of the intersection of Fisher Road and Southern Pacific Railroad, on the south bank of Cole Creek in Harris County; renewal; 12222-01.

City of Kaufman; wastewater treatment facilities; on U.S. Highway 175 approximately one mile southeast of the intersection of U.S. Highway 175 and State Highway 34 in Kaufman County; amendment; 12114-01.

Kelly Lane Utility Company; wastewater treatment facilities; approximately 2,500 feet east of FM 685, and approximately 1,600 feet north of Kelly Lane in Travis County; minor amendment; 13219-01.

Peyton Martin; wastewater treatment facilities; approximately 3,500 feet northwest of the intersection of FM Roads 518 and 1128 and 2,500 feet north of FM Road 518, approximately 3.4 miles due west of the City of Pearland central business district in Brazoria County; renewal; 13307-01.

Milky Way Farm Inc.; a dairy; on the east side of an unnamed county road, approximately four miles southeast of the intersection of State Highway 8 and FM Road 2149 in the City of Old Boston in Bowie County; new; 03538.

Mobil Chemical Company, Inc.; a petrochemical plant manufacturing olefins and aromatics; a site between State Highway 347 and the Neches River which is southeast of the City of Beaumont, Jefferson County; renewal; 00462.

Montgomery County W.C.I.D. Number 1; wastewater treatment facilities; approximately 11 miles south of the City of Conroe, three miles west of the Interstate Highway 45 crossing of Spring Creek and at the south end of Glen Loch Drive in the Timber Ridge-Timber Lake Subdivision in Montgomery County; renewal; 10857-01.

North Mission Glen Municipal Utility District; wastewater treatment facilities; at a point approximately 1/2 mile west of Gaines Road, approximately 3/4 mile south of the intersection of Addicks Clodine Road and Beechnut Street in Fort Bend County; amendment; 12379-01.

John Roof; a dairy; on the west side of County Road 1226, approximately four miles north of the intersection of County Road 1226 and State Highway 67 in Johnson County; minor amendment; 03277.

City of Santa Anna; the surface water treatment facilities; in the vicinity of Lakes Sealy and San Tana, approximately 3.5 miles northeast of the City of Santa Anna in Coleman County; renewal; 10274-02.

Schenectady International, Inc.; an alkyl phenol/petrochemical plant; on FM Road 523, approximately 0.5 mile southwest of the intersection of FM Road 523 and State Highway 332 (at 702 FM Road 523) in the City of Freeport, Brazoria County; amendment; 01961.

City of Seguin; a Surface Water Treatment Plant; 150 feet upstream from the State Highway 123 bridge on the Guadalupe River in the City of Seguin in Guadalupe County; renewal; 10277-02.

T and N Lone Star Warehouse Company; wastewater treatment facilities; approximately three miles northeast of the intersection of U.S. Highway 259 and Ranch Road 250, approximately 2.5 miles east of the City of Lone Star in Morris County; renewal; 13326-01.

City of Texarkana; the New Regional South Wastewater Treatment Facilities; along the east bank of Days Creek adjacent to the west side of State Line Road, approximately one mile south of the intersection of Phillips Lane and State Line Road in South Texarkana in Bowie County; amendment; 10374-05.

Texas Department of Transportation; the Interstate Highway 35E Rest Area Southbound Wastewater Treatment Plant; along and within the right-of-way of Interstate Highway 35, at a point approximately eight miles south of the City of Waxahachie central business district and 1.4 miles north of FM Road 329 in Ellis County; renewal; 11958-01.

Texas Department of Transportation; the Bowie County Rest Area Wastewater Treatment Facilities; on the right-of-way of Interstate Highway 30 at a point one mile west of FM Road 990 in Bowie County; renewal; 11987-01.

Texas Utilities Mining Company; the Forest Grove Lignite Mine; within a 20-mile radius of Forest Grove Reservoir, approximately seven miles northwest of the City of Athens, Henderson County; renewal; 02698.

Wagner Utility Company, Inc.; the Brentwood Manor Subdivision Wastewater Treatment Facilities; within the Brentwood Manor Subdivision, approximately 0.4 miles south of U.S. Highway 59 and immediately east of Marcado Creek, 2.0 miles due west of the intersection of U.S. Highway 59 and State Highway Loop 175 in Victoria County; renewal; 10742-01.

Weston Municipal Utility District; wastewater treatment facilities; approximately 0.60 miles east of Mason Road and 0.40 miles north of Interstate Highway 10 in Harris County; renewal; 11632-01.

West Texas Utilities Company, Inc.; the Rio Pecos Electric Station; adjacent to the Pecos River and about one-half mile north of U.S. Highway 67 in Crockett, County (Sec-

tion II, Block 31, H and TC RR Survey) approximately three miles northeast of the Town of Girvin in Pecos County; amendment; 00961.

Mobil Oil Corporation; a land disposal facility for the management of Class I hazardous and non-hazardous, Class II and Class III wastes; on a 1120-acre tract of land at the end of Burt Street in the City of Beaumont, Jefferson County; amendment; HW50139-000; 45-day.

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

TRD-9322417 Gloria A. Vasquez
 Chief Clerk
 Texas Water Commission

Filed: May 3, 1993



1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Friday, January 1	Monday, December 28	Tuesday, December 29
2 Tuesday, January 5	Wednesday, December 30	Thursday, December 31
3 Friday, January 8	Monday, January 4	Tuesday, January 5
4 Tuesday, January 12	Wednesday, January 6	Thursday, January 7
5 Friday, January 15	Monday, January 11	Tuesday, January 12
6 Tuesday, January 19	Wednesday, January 13	Thursday, January 14
Friday, January 22	1992 ANNUAL INDEX	
7 Tuesday, January 26	Wednesday, January 20	Thursday, January 21
8 Friday, January 29	Monday, January 25	Tuesday, January 26
9 Tuesday, February 2	Wednesday, January 27	Thursday, January 28
10 Friday, February 5	Monday, February 1	Tuesday, February 2
11 Tuesday, February 9	Wednesday, February 3	Thursday, February 4
12 Friday, February 12	Monday, February 8	Tuesday, February 9
13 Tuesday, February 16	Wednesday, February 10	Thursday, February 11
14 *Friday, February 19	Friday, February 12	Tuesday, February 16
15 Tuesday, February 23	Wednesday, February 17	Thursday, February 18
16 Friday, February 26	Monday, February 22	Tuesday, February 23
17 Tuesday, March 2	Wednesday, February 24	Thursday, February 25
18 Friday, March 5	Monday, March 1	Tuesday, March 2
19 Tuesday, March 9	Wednesday, March 3	Thursday, March 4
20 Friday, March 12	Monday, March 8	Tuesday, March 9
21 Tuesday, March 16	Wednesday, March 10	Thursday, March 11
22 Friday, March 19	Monday, March 15	Tuesday, March 16
23 Tuesday, March 23	Wednesday, March 17	Thursday, March 18
24 Friday, March 26	Monday, March 22	Tuesday, March 23
25 Tuesday, March 30	Wednesday, March 24	Thursday, March 25
26 Friday, April 2	Monday, March 29	Tuesday, March 30
27 Tuesday, April 6	Wednesday, March 31	Thursday, April 1
28 Friday, April 9	Monday, April 5	Tuesday, April 6
29 Tuesday, April 13	Wednesday, April 7	Thursday, April 8
Friday, April 16	FIRST QUARTERLY INDEX	
30 Tuesday, April 20	Wednesday, April 14	Thursday, April 15

31 Friday, April 23	Monday, April 19	Tuesday, April 20
32 Tuesday, April 27	Wednesday, April 21	Thursday, April 22
33 Friday, April 30	Monday, April 26	Tuesday, April 27
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY 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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